

Court File: IMM-2977-17

**FEDERAL COURT**

BETWEEN:

**CANADIAN COUNCIL FOR REFUGEES, AMNESTY INTERNATIONAL,  
CANADIAN COUNCIL OF CHURCHES, ABC,  
DE [BY HER LITIGATION GUARDIAN ABC],  
and FG [BY HER LITIGATION GUARDIAN ABC]**

Applicants

- and -

**THE MINISTER OF IMMIGRATION, REFUGEES AND CITIZENSHIP and  
THE MINISTER OF PUBLIC SAFETY AND EMERGENCY PREPAREDNESS**

Respondents

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Court File: IMM-2229-17

**FEDERAL COURT**

BETWEEN:

**NEDIRA JEMAL MUSTEFA**

Applicant

- and -

**THE MINISTER OF IMMIGRATION, REFUGEES AND CITIZENSHIP and  
THE MINISTER OF PUBLIC SAFETY AND EMERGENCY PREPAREDNESS**

Respondents

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Court File: IMM-775-17

**FEDERAL COURT**

BETWEEN:

**MOHAMMAD MAJD MAHER HOMSI, HALA MAHER HOMSI,  
KARAM MAHER HOMSI, and REDA YASSIN AL NAHASS**

Applicants

- and -

**THE MINISTER OF IMMIGRATION, REFUGEES AND CITIZENSHIP and  
THE MINISTER OF PUBLIC SAFETY AND EMERGENCY PREPAREDNESS**

Respondents

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**AFFIDAVIT OF CHRISTINA FIALHO**

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I, CHRISTINA FIALHO, of the City of LOS ANGELES in the State of CALIFORNIA in the United States of America, MAKE OATH AND SAY AS FOLLOWS:

1. I currently serve as the co-founder and co-executive director of Freedom for Immigrants, formerly Community Initiatives for Visiting Immigrants in Confinement (CIVIC). I have served in this role since 2012. I am an attorney, and a member of the California State Bar. I also have been awarded the 2016 Ashoka Fellowship and the 2012 Echoing Green Fellowship for my work with Freedom for Immigrants, and I am recipient of the 2018 James Irvine Leadership Award and the 2013 Rockwood Fellowship for a New California. I graduated from Santa Clara University Law School.
2. In my capacity as co-Executive Director of Freedom for Immigrants, I oversee independent monitoring of immigration detention facilities in the United States through a network of community volunteers.
3. Freedom for Immigrants is a national organization, officially founded in 2012. We visit and monitor 55 immigration detention facilities, and we run the largest national hotline that allows people in all 200+ immigration detention facilities to call us at no cost to them. Through these two windows into the immigration detention system, we are able to monitor for human and civil rights abuses and use the data and stories to push for systemic change.
4. Freedom for Immigrants runs the following programs: We run a national network of immigration detention visitation programs. Each of the programs is independently run by either local nonprofits or, as is usually the case, groups of volunteer community members. The visitation program volunteers visit people in immigration detention one-on-one as a way to end their immediate isolation and also document abuse. We also run a national multi-lingual hotline, staffed by a team of highly trained volunteers who answer calls in two-hour shifts from people in immigration detention who are reporting abuse or are in need of outside support.
5. Freedom for Immigrants visitor volunteers undergo a standard training program. Freedom for Immigrants provides visitation program coordinators with a training to educate them on the best way to train volunteers. We also have standardized training material on our website that each visitation program coordinator and volunteer can access. Freedom for Immigrants hotline volunteers also undergo a standard training program, provided by our National Hotline Coordinator. When an abuse is reported to a volunteer, the abuse is reported through a standardized process to the program coordinator. If the program coordinator cannot address the issue, the complaint is escalated to our national staff. All of our hotline volunteers and many of our visitation programs are documenting and tracking this abuse in a format that Freedom for Immigrants has designed. All of the complaints are categorized by type of complaint, such as medical neglect, and we are able to track trends in human and civil rights abuses at each facility, regionally, and nationally over a period of time.
6. I have been provided a copy of the June 2006 Monitoring Report on the Canada – United States Safe Third Country Agreement, prepared by the UNHCR. In particular, I have

been provided with Appendix 10 of that report, which lists some of the facilities holding individuals affected by the Safe Third Country Agreement. Freedom for Immigrants has affiliated visitation programs at a number of facilities where STCA returnees are detained, including the Northwest Detention Center, the Monroe County Jail, the Calhoun County Jail, Buffalo Federal Detention Center and the Elizabeth Detention Facility.

7. Of these facilities, the Elizabeth Detention Facility is one of, if not the, most problematic facilities in terms of abuse. Freedom for Immigrants and our affiliated visitation programs are currently working with 286 people, which is almost the entire population at the Elizabeth Detention Facility in New Jersey. The Elizabeth Detention Facility in New Jersey is run by the for-profit prison company Corrections Corporation of American (CCA)/CoreCivic. The very first visitation program in the country was started at the Elizabeth Detention Center before Freedom for Immigrants was formed, and we now have three affiliated visitation programs that visit there. We also have a very active hotline at the facility, accounting for ability to be in conversation with nearly every person at the facility. People at the Elizabeth Detention Facility have reported a range of mistreatment, from inadequate medical care to lack of access to basic necessities such as toilet paper and soap. For example, one man had gallstones and received no treatment, another man had rashes and hives that went unaddressed by the medical unit, and another man was constipated for a week without any medication. We also have documented lack of access to clean drinking water for hours as well as lack of access to an adequate supply of toilet paper and soap.
8. Through FOIAs and our own documentation, we have tracked sexual abuse at many of these facilities to which STCA returnees are sent, in addition to at least 85 other immigration detention facilities. For example, we prepared a detailed complaint to the Department of Homeland Security's Office of the Inspector General (OIG), Immigration & Customs Enforcement, and the Office for Civil Rights & Civil Liberties on behalf of 27 individuals reporting sexual abuse or harassment in immigration detention. In preparing that complaint, we interviewed each of the complainants at length over the phone or in person, we collected from them any supporting documentation such as responses to their own complaints lodged with the facility, and we allowed them to review the text of the complaint before submission to ensure accuracy. In forming the final multi-individual complaint, we also analyzed data we obtained through a Freedom of Information Act (FOIA) request, which is a federal open records law. We found that between January 2010 and July 2016, Homeland Security's Office of the Inspector General received over 33,000 complaints of sexual assault or physical abuse against DHS's component agencies. But the Inspector General investigated less than 1 percent of these cases. Of those complaints, the OIG received at least 1,016 reports of sexual abuse or assault filed by people in detention between May 28, 2014 and July 12, 2016. This means that the OIG received on average more than one complaint of sexual abuse or assault from people in detention per day during this time period. Prior to May 28, 2014, the OIG had no way to categorize its data based on whether or not the complaint was coming from someone in immigration detention.

9. In addition, through FOIA results we analyzed from complaints lodged directly with ICE through the Detention Reporting & Information Line (DRIL), the rate of sexual assault complaints per average population at the Northwest Detention Facility is 1 complaint for every 69 people, making it the 4<sup>th</sup> worst detention facility in the country for sexual assault. The rate of complaints per average population at the Elizabeth Detention Facility is 1 complaint for every 54 people, the Buffalo Federal Detention Center (also known as the Batavia Processing Center) is 1 complaint for every 51 people. The complaint filed in April 2017 as a result of this analysis is attached here as **Exhibit A**.
  10. In 2017, we also began to notice a trend in the complaints reported by people in immigration detention about abuses motivated by hate. In fact, between January 20, 2017 and June 2018, Freedom for Immigrants has documented at least 800 complaints of abuse motivated by hate or bias in 34 immigration detention jails and prisons. These complaints were collected through our visitation programs and our hotline. The affected individuals come from 62 countries speaking 22 languages. The majority of complaints came from men (71.01 percent), while 28.4 percent from women. Freedom for Immigrants also filed a Freedom of Information Act (FOIA) request with the Department of Homeland Security (DHS) for incident of and responses to complaints or grievances related to “hate crimes” or incidents motivated by prejudice in ICE-contracted immigrant prisons and jails from fiscal year 2010 through July 19, 2017. On October 19, 2017, we received a response with a total of only 86 reported complaints in this nearly seven-year period, indicating that DHS is clearly not properly categorizing or tracking abuse motivated by hate and bias. Some examples of these complaints: An officer said to A.B. at Bristol County House of Corrections, North Dartmouth, MA. “*No one will believe baboon complaints;*” and a guards at the Pinal Cunt Jail in Florence, Arizona, said to L.R., “*[Go] look in the mirror to see King Kong.*” That report is attached here as **Exhibit B**.
  11. We receive more complaints on medical neglect than on any other issue. Sometimes the medical neglect contributes to or is directly related to the death of people in immigration detention. Although ICE is required to report each death in custody, we also have documented ICE “releasing” terminally ill patients on their deathbed at an outside hospital before they die. In March 2016, we filed a complaint with DHS’s Office for Civil Rights & Civil Liberties about the death of Teka Gulema, a middle-aged Ethiopian man whose death was never reported by ICE. My organization met Mr. Gulema in November 2013 in immigration detention at the Etowah County Detention Facility in Alabama. In 2015, Mr. Gulema became paralyzed from the neck down due to what we believe was an infection contracted at the immigration detention facility. Despite our advocacy for medical attention, he died at the Riverview Medical Center in Gadsden, Alabama. The total number of people who have died after being “released” at an outside hospital by ICE is unknown.
  12. The lack of adequate medical care we document is systemic. In 2017, we released a report with Human Rights Watch called “Systemic Indifference: Dangerous & Substandard Medical Care in Immigration Detention.” The report reveals systemic medical failures, such as unreasonable delays in care and unqualified medical staff. The report is based on independent medical experts’ analyses of records from ICE’s own
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investigations into 18 deaths in detention from 2012 to 2015, and the medical records of 12 additional people from 10 privately and publicly operated facilities across the country. The medical experts agreed that substandard care was evident in 16 out of 18 deaths, and subpar care contributed to the deaths of at least 7 of these individuals. The medical experts found numerous incidents of substandard and dangerous medical care, including: Failure to follow up on symptoms that required attention; Medical personnel apparently practicing beyond the scope of their licenses and expertise; Severely inadequate mental health care; The misuse of solitary confinement for people with mental health conditions; and sluggish emergency responses. I have been informed that this report has been submitted in evidence as an exhibit to the affidavit of Clara Long from Human Rights Watch.

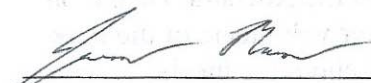
13. In terms of the volume of complaints we receive, medical neglect is followed by nutrition issues. Freedom for Immigrants has received complaints where the food is described as “not clean,” the plates as “dirty with food from the previous meal and dirty water on the plate as if it was never dried,” the cups of juice come with some type of “oil floating on top of the juice.” One person in detention described the food in the following way: “There wasn’t a day when the food didn’t come with hairs, roaches sometimes metal or pieces of wood. Sometimes the food came burnt or undercooked, and sometimes the meat came green and they would just say that, that is how it’s supposed to be. I cut open the green meat and inside something like puss came out.” Other people have filed complaints with us on more than one occasion about maggots in the food at the Adelanto Detention Facility in California. On an inspection tour conducted by visitor volunteers of the Polk County Detention Center in Texas, volunteers noted complaint about the meals sometimes being provided with 14-hour gaps in between. One man brought a sample of the food in a plastic bag and showed the visitor volunteers on the tour a bug present in the food. He and others also complained that pieces of wire brushes from the kitchen were sometimes found in the food.
14. Freedom for Immigrants has documented complaints by Muslim immigrants in detention because some of the facilities do not have a halal diet. A halal diet is one that follows the rules of the Islamic faith, concerning what foods are prohibited, and how some foods should be prepared. At facilities that do not offer halal diet or do not make them available to Muslims, the Muslims in these facilities explain that they are given only rice and beans for nearly every meal. Due to these issues of malnutrition, volunteers document that the people they visit visibly lose weight while they are in detention. Freedom for Immigrants also questions the motivations of these facilities because small meal sizes, large gaps in meal times, or uneatable food means that immigrants in detention are then forced to buy food from the commissary.
15. Another frequent complaint we receive concerns prolonged detention. In fact, Freedom for Immigrants works mostly with people who have been in immigration detention beyond one month. Approximately 48 percent of people we work with are held in immigration detention for 2 to 4 years, although about 5 percent of people are held in immigration detention for over 4 years. Only about 7 percent of people we work with in immigration detention are held for less than 6 months. We tend to work with people who

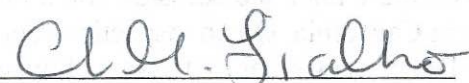
are in immigration detention for longer periods of time than what the federal government reports is the average length of stay. The top 10 facilities that hold people the longest include the Northwest Detention Center and the Buffalo Federal Detention Facility. This is supported by federal government data obtained by the Immigrant Legal Resource Center, which also indicates that, on average, immigration detention facilities are holding people for longer periods of time under the Trump administration than under the Obama administration.<sup>1</sup>

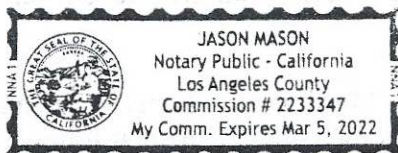
16. We also have received complaints about legal and law library access issues, hunger strikes that have led to physical and psychological abuse, abuse of family visitors, phone access, physical abuse, detainee works issues, religious freedom violations, among other issues.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct to the best of my knowledge and belief.

Sworn before me in the city of Los Angeles,  
in the state of California, in the  
United States of America,  
this 26 day of July 2018.

  
\_\_\_\_\_  
Notary

  
\_\_\_\_\_  
Christina Fialho



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<sup>1</sup> See November 2017 ICE Detention Facility Lists, data obtained by the Immigrant Legal Resource Center and made available by the National Immigration Justice Center, available at: [https://www.scribd.com/document/373733514/November-2017-ICE-Detention-Facility-Lists#from\\_embed](https://www.scribd.com/document/373733514/November-2017-ICE-Detention-Facility-Lists#from_embed).