

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

INTERNATIONAL REFUGEE
ASSISTANCE PROJECT,
as Next Friend of JOHN DOE

Petitioners,

v.

JOHN F. KELLY, in his official capacity as
Secretary, U.S. Department of Homeland
Security; KEVIN K. MCALEENAN, in his
official capacity as Acting Commissioner, U.S.
CUSTOMS AND BORDER PROTECTION
("CBP"); MICHAEL FIRING, in his official
capacity as Chief, Enforcement Branch
Passenger Operations Division
Port of New York/Newark Office of Field
Operations, CBP; and ADELE FASANO, in
her official capacity as Newark Port Director,
CBP,

Respondents.

CASE NO. 2:17-cv-1709

**DECLARATION OF JEANNE
LOCICERO IN SUPPORT OF
EMERGENCY MOTION FOR
TEMPORARY INJUNCTIVE
RELIEF**

I, Jeanne LoCicero, being of full age, hereby declare and state the following:

1. I am an attorney licensed to practice law in New Jersey and New York. I am employed as the Deputy Legal Director of the American Civil Liberties Union of New Jersey Foundation ("ACLU-NJ") located in Newark, New Jersey.

2. On March 14, 2017, at approximately 4 p.m., I spoke with Farrin Anello about the petitioner in this action. During that call and subsequent contacts, I learned from her that the petitioner is an Afghan man who had arrived on a Special Immigrant Visa on March 13, 2017, on Lufthansa Flight 402 which landed at

approximately 7:19 p.m. Ms. Anello advised me that he had been detained at the Newark Liberty International Airport (“EWR”) by Customs and Border Protection (“CBP”) but it was unclear whether he was still in CBP custody.

3. At approximately 5 p.m., I advised Ms. Anello that the ACLU-NJ would co-counsel with her in seeking the petitioner’s release.

4. Shortly thereafter, Ms. Anello asked another attorney, Jason Scott Camilo, to appear pro bono on the petitioner’s behalf to determine his whereabouts. Mr. Camilo reported that he contacted detention facilities where CBP detainees are sometimes transferred and could not locate the petitioner. Mr. Camilo reported that he faxed to CBP a G-28 (Notice of Entry of Appearance) form for the petitioner, and spoke with a CBP supervisor at approximately 7 p.m. who would not confirm or deny whether the petitioner was in custody.

5. I drove to EWR and, at approximately 8:30 p.m, arrived at the Customs and Border Protection (“CBP”) office at Terminal B of EWR.

6. I advised a CBP officer that I was an attorney, that I had a completed G-28 form and was prepared to represent the petitioner.

7. I was directed to wait and shortly thereafter, CBP Deputy Chief Friedman and CBP Deputy Chief Trudeau arrived to meet with me.

8. I told them that I was an attorney and wanted to meet with the petitioner.

9. DC Friedman confirmed that the petitioner was at the airport. He also told me that the petitioner had no legal right to representation.

10. DC Friedman did not permit me to meet with the petitioner.

11. I asked the Deputy Chiefs to tell the petitioner that I was present at the airport on his behalf. They told me they would not do so.

12. I asked the Deputy Chiefs for a copy of the petitioner's visa. They declined to provide it.

13. Deputy Chief Friedman confirmed that the petitioner had not been turned over to any other agency.

14. In response to several questions about his status, the Deputy Chiefs used different terms to describe the petitioner, including that he was "in secondary," "in custody," and "being processed."

15. During our conversation, I referenced petitioner's Special Immigrant Visa. Though they did not explicitly confirm it, the Deputy Chiefs' responses to my inquiries indicated that the petitioner did have such a visa.

16. The Deputy Chiefs told me that they could not tell me any logistics or details regarding their plans for the petitioner. I specifically asked:

- How long the petitioner had been in custody?
- How much longer he would be in custody?
- Whether he would be put on a plane?
- Whether he would be released?
- Whether he would be turned over to Immigration and Customs Enforcement?
- Whether CBP had any concerns about his visa? and
- What concerns they had regarding his entry into the United States?

I did not learn the answers to any of these questions.

17. Before leaving, I handed the G-28 form to Deputy Chief Friedman, circled my cell phone number on it, and asked that he contact me if CBP decided to allow the petitioner access to counsel. I told them that I could come back at any hour. I also provided both Deputy Chiefs with my business card.

18. I also reminded the Deputy Chiefs that a Special Immigrant Visa was created for people from Afghanistan who assisted U.S. military and, as a result of

their assistance, placed their lives at risk in their home country. I explained that we had serious concerns about the petitioner's life should he be returned to Afghanistan. I urged them to contact CBP supervisors and the military officers who supported the petitioner's application for an SIV as they made decisions about the petitioner.

I certify under penalty of perjury that the foregoing is true and correct.

Dated: March 14, 2017

/s/ Jeanne LoCicero

JEANNE LOCICERO