

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

USAMA JAMIL HAMAMA, et al.,	:	
	:	Case No. 2:17-cv-11910
v.	:	Hon. Mark A. Goldsmith
	:	Mag. David R. Grand
REBECCA ADDUCCI, et al.	:	
	:	Class Action

DECLARATION OF WILLIAM B. PEARD

I, William B. Peard, make this statement under the penalties of perjury of the laws of the United States and if called to testify I could and would do so competently based upon my personal knowledge as follows:

1. I currently hold the position of Staff Attorney with the nonprofit law firm ACLU Foundation of Arizona (ACLU of Arizona).
2. I have been employed by the ACLU of Arizona since May 1, 2017. Prior to my current position, I worked as a staff attorney for a nonprofit legal aid organization in Springfield, Massachusetts, where I provided pro bono immigration representation to indigent immigrants.
3. I currently work and reside in Tucson, Arizona.
4. Beginning on Friday, June 30, 2017, I began making visits to the Florence Correctional Center (FCC) located in Florence, Arizona with the goal of meeting with immigration detainees who belong to the class in *Hamama v. Adducci*, 2: 17-cv-11910-MAG-DRG (E.D. Mich.).
5. FCC is a large facility with several hundred beds. It houses both immigration detainees who are under the custody of ICE and criminal detainees who are under the custody of the U.S. Marshal Service.
6. FCC is located in the town of Florence, Arizona. Florence is located approximately 30 miles from the nearest interstate highway, 63 miles from downtown Phoenix, and 80

miles from downtown Tucson. Florence is surrounded by miles of desert landscape and cotton fields in all directions, and there are no other sizeable towns in the region.

7. In my experience, a one-way trip to FCC from my workplace in Tucson is 1 hour and 20 minutes in good traffic.
8. According to an online search that I conducted on July 9, 2017 using the State Bar of Arizona "Find a Lawyer" online search tool, there are 84 Arizona licensed attorneys with Florence addresses. Because the Pinal County seat is located in Florence, a significant number of these 84 lawyers are county employees. Thus, the pool of private attorneys located in or around Florence who may be able and willing to assist with pro bono immigration representation is quite small.
9. Based on my knowledge and understanding, it is necessary to look to attorneys based in Phoenix or Tucson in order to recruit volunteers able and willing to assist with indigent immigration detainees housed in Florence. This sometimes proves difficult because of the distance to Florence.
10. Based on my several one-on-one conversations with immigration detainees at FCC since June 30, I believe that there are approximately 80 individuals currently housed at FCC who are under the belief that ICE intends to remove them to Iraq. Many of these 80 individuals were born in Iraq and are certainly Iraqi nationals. Others, however, were not born in Iraq, and their nationality is unclear. I will refer to both groups together as the Hamama class members.
11. This is based on my understanding from talking with FCC guards and with detainees that there are approximately 40 detainees housed in each "pod" of the prison and that there are two pods currently occupied by Hamama class members. This approximation is also consistent with the numbers of detainees that my colleagues and I have visited face-to-face and the numbers of detainees that we believe we've yet to see.
12. Since June 30, 2017, I have traveled from Tucson to Florence on six occasions with the express purpose of visiting the Hamama class members. Additionally, my ACLU of Arizona colleague Kathryn Huddleston has traveled from Phoenix to Florence twice and my ACLU of Arizona colleague Brenda Munoz Furnish has traveled from Phoenix to Florence once during the week of July 3, 2017. Additionally, pro bono attorneys from the private law firm Perkins Coie LLP agreed to assist the ACLU of Arizona and have made two visits from Phoenix to Florence during the week of July 3.
13. In total, I estimate that since June 30, attorneys from the ACLU of Arizona and Perkins Coie LLP have devoted approximately 48 hours conducting one-on-one interviews of Hamama class members. This estimate is based upon my personal observations, as I worked alongside all of the colleagues mentioned in the above paragraph at all times beginning on June 30.

14. The above estimate does not include additional time spent driving, coordinating, and organizing our notes back in the office. Additionally, this does not include time spent by attorneys employed by the Florence Immigrant and Refugee Rights Project, who have also been working during the past two weeks to assess possible immigration claims of Hamama class members.
15. In total, attorneys with the ACLU of Arizona and Perkins Coie LLP have interviewed approximately 30 Hamama class members. These one-on-one interviews have been conducted in order to assess each detainee's possible immigration legal options and connecting them with an appropriate attorney if they do not already have one.
16. In order to thoroughly assess each detainee's possible forms of individual immigration relief, it is necessary to spend the appropriate time delving into various aspects of the detainee's life history. I have learned since June 30 that when it comes to interviewing this group of individuals who are Iraqi or who believe they are slated for removal to Iraq, one should not make assumptions about basic facts that we — as immigration attorneys — may be accustomed to making in other cases. For example, I have learned that an attorney should not assume that a detainee's citizenship is Iraq even if that individual was told by an ICE official that the U.S. government intends to remove him to Iraq. I have gotten into the habit of asking detailed questions related to a detainee's citizenship, place of birth, citizenship of the parents, etc. This is because even when a detainee tells me that ICE wants to remove him to Iraq, oftentimes that detainee was not born in Iraq. These additional lines of questioning require additional attorney time — time that one may not be accustomed to with other immigration cases.
17. Because the ACLU of Arizona has limited resources, our goal is to collect the relevant information from each Hamama class member housed at FCC with a view to working with the nationwide group of advocacy organizations and pro bono lawyers who are trying to connect each unrepresented individual with an attorney. Because in many cases the outside attorney will be working on a pro bono basis, the ACLU of Arizona seeks to provide that attorney with as much relevant detail as possible in order to make his or her experience as smooth as possible. In order to do so, the attorneys in Arizona endeavor to spend adequate time during each interview.
18. Having personally interviewed approximately 12 Hamama class members, it is my personal experience that these detainees housed at FCC are finding it difficult to locate an individual immigration attorney to work on their case.
19. With the exception of one or two individuals, all of the approximately 30 detainees that my colleagues and I have met with are from states other than Arizona. For example, I have yet to speak with a Hamama class member at FCC who has received a personal visitor at the prison from among his family or personal friends. The lack of proximity to family and community makes it more difficult to connect with possible lawyers.
20. While a large number of the Florence-based Hamama class members call Michigan home, the group is rather geographically diverse. My colleagues and I have met with

detainees in Florence who have permanent residences in Virginia, Montana, Georgia, Nevada, Idaho, New Mexico, and Kansas, among other states.

21. This geographic variety adds complexity to the task of connecting detainees with attorneys because we must seek out possible counsel in a large number of places. It is preferable to locate an attorney in the home state, as the relevant documents such as criminal records, immigration court records, and letters from family will also be found in the home state. In many cases, a detainee can only seek to re-open his removal case in the Immigration Court where he first received his final order of removal. Most often, in my experience, that Immigration Court is located in the detainee's home state.
22. It is also useful and perhaps necessary—for counsel to be able to interview their clients in person, both to conduct a full discussion of the case and to get the client's necessary signature on various releases and filings. Finding a lawyer who can both appear in the relevant Immigration Court and interview someone in Florence, Arizona is an extremely difficult task.
23. Detainees' efforts to seek out individual counsel have additionally been frustrated by frequent re-location from one immigration detention center to another during the past six weeks. For example, I have spoken with at least five detainees in Florence who spent periods of time in three different detention centers prior to being re-located to Florence. In many cases, for example, a detainee will have been arrested in Michigan, housed in two locations within Michigan, subsequently transferred to Ohio, then Louisiana, then finally Arizona.
24. Based on my conversations with the detainees and with the FCC guards since June 30, it is my understanding that no other attorneys have visited the Hamama class members in Florence aside from the attorneys I describe within this declaration.
25. Additionally, the detainees' efforts to locate attorneys by phone has proven somewhat challenging. Based on my conversations with detainees and with FCC guards, it is my understanding that the phone system in at least one of the pods in which Hamama class members are housed was out of service for several days during the last week of June 2017. Based on my conversations with one of the FCC guards, it is my understanding that the prison decided to change phone service providers due to ongoing phone problems with the original provider. It is my understanding that the switchover took place during the week of July 3 and that phones are now functional.
26. Even when the prison phones are fully functional, an inmate at FCC can only use the phone if he has money on a prison phone account or where the recipient of the call is able to accept the call collect. This requires that the inmate's friend or family member deposit money onto their prison account.
27. Since June 30, I have handed out my personal cell phone number to at least a dozen detainees. I have received phone calls from family members, with whom the detainees

shared my number. In some instances, the family members indicated to me that they were calling me rather than the detainee calling me due to the high cost of making phone calls.

28. On one occasion, a detainee called me directly from FCC. The automated phone system instructed me on how to accept the call. I was initially pleased to learn from the automated voice that the system permitted one free "complimentary" call and that future calls would charge. I connected with the detainee and we spoke for 30 seconds before the system cut us off and instructed me to create a pay account to talk further.
29. Although ICE has internal regulations permitting ICE detainees to make free phone calls to attorneys, it appears that this regulation is either not being implemented at FCC or the FCC guards are not ensuring that detainees are aware of this right and necessary processes.
30. It is my understanding from talking with FCC guards and detainees that there is no internet access at the facility and that detainees are not permitted to have personal smart phones or devices.
31. Even our own experiences as attorneys at the FCC facility has proven challenging. For example, the facility does not allow attorneys to enter with smart phones or portable printers. Sometimes, for example, a detainee will have a relevant document to share with us. We are unable to scan or take a smart phone photo of the document. We then have to leave the facility and either take a photo of the document in the parking lot of the facility or drive the document to a nearby office where we can borrow the use of a scanner. I say "borrow" the use of a scanner because the nearest ACLU office is 60 miles from Florence.
32. The same is true if we need to prepare a document on a word processor for the detainee to sign. We cannot print within the facility, and so we must print elsewhere and later return to the facility in order for the detainee to sign. All of these small details add time to our interview process.

I declare under penalty of perjury, pursuant to 28 U.S.C. 1746, that the foregoing is true and correct to the best of my knowledge.

Executed this 12th day of July, 2017 in Tucson, Arizona.



William Peard
Staff Attorney, ACLU of Arizona