

**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
REBECCA ADDUCCI, et al.	:	
	:	Mag. David R. Grand
	:	
	:	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. 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.).
3. Since June 30, 2017, I have made seven visits to the FCC with the express purpose of visiting the *Hamama* class members. In total, I estimate that I have had lengthy one-on-one conversations with at least 17 *Hamama* class members who are currently housed at FCC. Since June 30, my colleagues and I have conducted intake interviews with approximately 43 *Hamama* class members who are housed at FCC.
4. During this time, I have spoken with *Hamama* class members who are both Muslim and Christian, and *Hamama* class members who are represented by immigration counsel and those who are still seeking immigration counsel. In short, I have spoken with *Hamama* class members representing a wide range of life situations and procedural positions.
5. In addition to speaking at length with several of the detainees since June 30, I have also spoken with several family members of the *Hamama* class members and with at least four immigration attorneys who have been recently retained by certain of the *Hamama* class members.
6. During my conversations with *Hamama* class members, I have had several opportunities to listen to the detainees' various frustrations and grievances related to the conditions of

the detention facility. Chief among these grievances is the limited access to communicate with the outside world.

7. In its Response in Opposition to Petitioners' Request for a Preliminary Injunction (Doc. 81 of 2:17-cv-11910), the Government asserts that "ICE's national detention standards ensure that detainees – regardless of their detention location – have the opportunity to maintain ties with their families, communities, legal representatives, and government agencies by providing them reasonable and equitable access to telephone services[.]" Doc. 81 at 12. The Government's reference is to ICE's 2011 Performance-Based National Detention Standards (PBNDS 2011), which includes a detailed section addressing detainees' access to telephones.
8. Based on my many conversations with *Hamama* class members housed at FCC, my understanding is that the vast majority of class members have found it difficult to make phone calls for the purpose of securing legal representation or for the purpose of advancing their immigration case with an existing immigration attorney.
9. For example, the PBNDS 2011 Standards referenced by the Government allow for detainees to "be able to make free calls to the ICE/ERO-provided list of free legal service providers for the purpose of obtaining initial legal representation[.]" The ICE/ERO-provided list of free legal service providers in Florence, Arizona consists of only three nonprofit immigration legal service providers. One of those three providers – Catholic Charities – does not provide any services to detained immigrants at FCC. The other two providers – the University of Arizona School of Law and the Florence Immigrant and Refugee Rights Project – have limited resources and accept only a small number of new intakes. Thus, ICE's policy of allowing detainee access to free phone calls "for the purpose of obtaining legal representation" is meaningful to only a small percentage of the *Hamama* class members housed at FCC.
10. The PBNDS 2011 Standards do not allow for free phone calls to immigration attorneys who are not on ICE's list of free legal service providers. For example, immigration detainees at FCC are unable to make free calls to the ACLU of Arizona, even though the ACLU of Arizona is a free legal service provider. The same is true of private immigration attorneys who have stepped up to offer *pro bono* services to *Hamama* class members. The same is also true of nonprofit legal service providers located in Michigan and other states where *Hamama* class members reside and where they obtained their final order of removal from an immigration judge. In short, *Hamama* class members housed at FCC are required to pay for virtually any phone call they wish to place to an immigration attorney.
11. Based on my conversations with detainees and family members, it is my understanding that large numbers of *Hamama* class members housed at FCC do not have enough credit on their phone accounts to make phone calls to family members and attorneys. The per minute charge for an immigration detainee at FCC is between 21 and 25 cents per minute.
12. Two *Hamama* class members housed at FCC have told me that they asked the guards for permission to call me using a free attorney line. Although the PBNDS 2011 Standards

allow detainees to request free phone calls to attorneys who are not on the list of free service providers, in both instances the detainees were denied by guards and told that the free attorney line is available to call only approved service providers.

13. On at least two occasions, *Hamama* class members and family members of *Hamama* class members have personally asked me to add money to their phone accounts in order that the detainees may communicate with their legal representatives.
14. On at least two occasions, private immigration attorneys in other parts of the U.S. who are currently representing *Hamama* class members have asked me advice on how to contact their clients at FCC. In both instances, the immigration attorneys were retained by family members to file motions to reopen but the immigration attorneys could not figure out how to establish direct communication with their client at FCC.
15. As I explained to both of the immigration attorneys, the regulations do not allow attorneys to call and speak directly with their detained clients at FCC. Rather, an attorney must contact the visitation office at FCC and request that the guards communicate with the detained client. The client, once he receives the message from the guard, can then call his attorney. The client in most instances will be required to pay between 21 and 25 cents per minute in order to return his attorney's phone call.
16. One immigration attorney who currently represents a *Hamama* class member expressed to me that she believes she could have prepared a more thorough motion to reopen had her client not been transferred from the home state to Florence. This particular detainee was transferred by ICE to FCC while the attorney was still in the process of collecting information and documents in support of the motion to reopen. Among other things, this particular attorney was unable to finalize the Form I-589 (application for asylum) on account of her client's sudden transfer out of state. This particular attorney is unable to pay to fly to Arizona.
17. I have spoken with at least seven *Hamama* class members housed at FCC who believed that they were represented by an immigration attorney located in their home state but have yet to speak directly with their attorney. In these instances, the detainee was told by family members that the family member had retained counsel on the detainee's behalf. Despite the detainees' efforts to communicate with their attorneys, the FCC phone system has proven too difficult to communicate with law offices that oftentimes have voice mail phone trees and require clients to leave messages for attorneys.
18. In order to expedite the detainees' efforts to file individual motions to reopen before the immigration courts and the Board of Immigration Review, the law firm of Latham & Watkins, LLP (Latham) has volunteered to assist *Hamama* class members in Arizona. *Pro bono* lawyers from Latham are working this week to prepare motions to reopen for as many of the Arizona *Hamama* class members as possible. Latham has sent more than 12 attorneys to Florence from their various offices throughout the United States. In addition to the attorneys on the ground this week, Latham has assigned several dozen other attorneys to provide support back in the home offices by drafting motions and researching other details in support of the motions. In total, Latham has offered the *pro*

bono services of at least 50 of its attorneys during the week of July 17. Despite this surge in resources on behalf of *Hamama* class members in Arizona, it is unlikely that the Latham team will be able to finalize its motions to reopen before the expiration of the current TRO at midnight on July 24, 2017.

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 20th day of July, 2017 in Tucson, Arizona.

A handwritten signature in cursive script that reads "Billy Peard".

William Peard
Staff Attorney, ACLU of Arizona