

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS**

Souleymane Dembele, *et al.*,

Petitioners-Plaintiffs,

v.

Bill Prim, *et al.*

Respondents-Defendants.

Case No. _____

Hon. _____

**DECLARATION OF PETITIONER CLAUDIA VALENZUELA
IN SUPPORT OF PETITIONERS' EMERGENCY PETITION
FOR A WRIT OF HABEAS CORPUS AND MOTION FOR A TEMPORARY
RESTRAINING ORDER AND/OR PRELIMINARY INJUNCTION**

I, Claudia Valenzuela, make the following declaration based on my personal knowledge and declare under the penalty of perjury pursuant to 28 U.S.C. § 1746 that the following is true and correct.

1. My name is Claudia Valenzuela and I am an attorney at the American Immigration Council (Council). Prior to joining the Council in February of 2019, I served as the Detention Project Director at the National Immigrant Justice Center (NIJC), a program of Heartland Alliance, a position I held since approximately 2013. Before that, I had been employed with NIJC since 2002 and have worked with individuals in Department of Homeland Security (DHS) custody since that time, for nearly 18 years. Throughout my time at NIJC, I provided direct services to individuals detained in U.S. Immigration and Customs Enforcement (ICE) custody, as well as providing supervision to attorneys and paralegals serving this population.

2. I have knowledge of the following information relating to the conditions facing migrants in immigration detention centers, and I can testify to it if needed.

3. The following is based on my knowledge and personal observations of the McHenry County Jail and on information that I have learned from working with clients and other individuals detained at the facility, as well as publicly available information about the facility. I have visited the McHenry County Jail approximately 20 to 25 times over the past 18 years, primarily to provide educational presentations to individuals, but also to meet with clients. My most recent visit was on April 22, 2019.

4. The McHenry County Jail is located around 58 miles from downtown Chicago, approximately a one hour and twenty-minute drive from downtown.

5. The facility is run by the McHenry County Sherriff's Department. It has a total average daily population of 325-380 individuals, including those detained by ICE and those in U.S. Marshal as well as McHenry County custody. About 150 of the individuals detained at McHenry are in county custody; the remainder are in ICE or U.S. Marshal custody. I believe the majority of those in federal custody are in the custody of ICE.

6. The majority of detained immigrants at the McHenry County Jail live in housing blocks. Each housing block contains two housing units, commonly known as pods, an officer station outside the pods, and a gym.

7. Often two or more of these pods are filled exclusively with detained noncitizens. When I and other NIJC staff first started providing legal education presentations to detained noncitizens at the McHenry County Jail, sometime in 2003, the presentations would occur directly in the pods. Subsequently, from approximately 2009 to 2014, we conducted legal presentations mostly in the library, but also on occasion, in the gym and pods. In 2014, we began conducting legal presentations only in the library.

8. There is a separate block for women. Because the detained population of immigrant females is smaller, at least one of the pods within the female block contains women in both ICE and county custody.

9. Each pod, whether in the blocks for men or women, consists of a living area surrounded by two levels of cells. Each cell is designed to house two individuals and can be closed off from the living area with an automatic locking door. Each cell contains a toilet that is shared by the detained individuals housed in each cell.

10. There are also smaller pods with two levels of individual cells with two cells on each level that share a communal table and bathroom. One of these smaller pods is designated for females.

11. The "living area" in each pod consists of several tables and television sets. There are shared showers accessible from the living area. There are also several shared monitors for video visitation, as well as phones, which detained individuals share to call family members and attorneys, or to try to seek free legal representation. The detained immigrants eat their meals in the living area at the tables. Detained individuals are assigned, in part, to cook, serve food, and clean for the facility.

12. Based on my direct observation of a pod, I do not believe it would be possible for a detained person to maintain a distance of six feet from other individuals in the pods. Additionally, based on my direct observation of a cell, I do not believe it is possible for a detained person to maintain a distance of six feet from a cellmate in an individual cell. I do not have reason to believe that the layout of the pods and cells at McHenry have changed since I last observed them.

13. Guards typically escort individuals to attorney conference rooms, attorney calls and for medical care. I have also seen guards escorting individuals with laundry and food carts,

as well as groups moving between blocks. There are automatic locking doors when moving from area to area. There are also elevators, which I believe are only used by staff or visitors that are small in size and fit no more than four or five individuals comfortably.

14. Each block has a separate area designated as a “gym” available to individuals in ICE custody in the facility.

15. On a typical day, the detained immigrants will only be in their cells, the common area in front of the cells, and, when allowed, the gym. There is no outdoor recreation, or meaningful circulation of fresh air, available to detained individuals at McHenry. While ICE Detention Standards require facilities to provide outdoor recreation to detained individuals in certain circumstances, ICE has maintained that the practice of opening windows in the recreational or “gym” areas constitutes “outdoor” recreation. My recollection is that McHenry engaged in such a practice.

16. Legal visitations take place in one of three small rooms, in which the individual and his or her counsel are separated by a wall of plexiglass. These visitation rooms are separated from the area where the pods are located, such that a detained individual must be transported to the visitation room for a visit. Attorneys and their clients speak to each other by phone. Legal research is done from the legal library, which consists of a single set of computers.

17. There are approximately six individual cells available for medical isolation which are located near the booking area. To my knowledge, these are not negative air-flow rooms nor do I believe there is space in McHenry to accommodate significant isolation beyond these six rooms.

18. In the many years that I worked with detained immigrants on a regular basis, it was frequent for my clients and others to report a lack of access to appropriate hygiene products and/or cleaning supplies. I have had clients report, for example, about not having enough soap and having to share small bars with other detained individuals.

19. I often had concerns about the adequacy of initial medical screenings at McHenry, which is problematic at many ICE-contracted facilities. I believe that McHenry continues to contract its medical care services to Wellpath (formerly known as Correct Care Solutions of Nashville), which has been the contractor since approximately 2015.

20. There have been contagious or infectious disease outbreaks on a handful of times throughout the years that I have visited the facility. We would learn of these outbreaks because jail staff would notify us that individuals were in quarantine.

21. From time to time, clients would also report being sick with less serious illnesses, such as colds or the seasonal flu, and state that all the individuals in their pod were sick.

22. I learned after my most recent visit to McHenry County jail in April of 2019, that there had been a series of outbreaks at the jail beginning approximately that same month through

the beginning of October 2019 involving chicken pox and mumps outbreaks. As such, McHenry was not able to accommodate legal education presentations for nearly half the year last year.

23. Given my memory of the physical layout of the McHenry facility and my knowledge of detention practices and staffing there, I do not believe it would be possible to maintain a distance of six feet from other individuals, and I do not believe it would be possible for the facility to adequately isolate individuals whom they believe to have been infected with a contagious disease.

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

Executed on the 13th day of April, in the year 2020, in the city of Chicago, Illinois.

/s/ Claudia Valenzuela

Claudia Valenzuela