



HAND DELIVERED AND FIRST CLASS MAIL

Bryan Brandenburg
Administrator
Northern Oregon Regional Correctional Facility
201 Webber Street
The Dalles, OR 97058

November 1, 2017

Re: Refused entry of ACLU language interpreter

Mr. Brandenburg,

On Monday, October 30, 2017, two ACLU of Oregon volunteers attempted to attend scheduled visits with a number of detainees NORCOR is holding on behalf of Immigration and Customs Enforcement (ICE). One of the volunteers is an attorney, and the second volunteer is a Spanish language interpreter needed to allow the detainees and attorney to communicate. You denied entry to that interpreter, Ms. Amber Orion, in contravention of both the United States Constitution and the 2000 National Detentions Standards applicable to NORCOR's detention of ICE detainees.

As we described in our demand letter, dated September 12, 2017, the First and Fifth Amendment guarantees all held in custody the right to access the courts. *See, e.g., Bounds v. Smith*, 430 U.S. 817, 828 (1977). That right includes the right to unimpeded attorney-client communications. *See, e.g., Procunier v. Martinez*, 416 U.S. 396 (1974). The Ninth Circuit has made clear that prohibiting the use of translators can impinge that right, even when a client in custody is deemed proficient in English and the attorney speaks English. *U.S. v. Mikhel*, 552 F.3d 961, 963 (9th Cir. 2009).

Additionally, we understand that you are required to abide by the outdated 2000 INS National Detention Standards ("NDS"). Those standards provide: "The facility shall permit interpreters to accompany legal representatives and legal assistants on legal visits." NDS: Visitation § III.I.3.c. The only restrictions the NDS impose is a requirement that the interpreter

undergo security clearance and be subject to search. NDS: Visitation § III.I.3. There is no requirement of any person other than the attorney to present proof of credentials. *Id.*

Many of the persons our volunteer attorneys are interviewing for purposes of potential representation in a civil rights lawsuit speak only Spanish or Spanish with very little English. It is imperative to our ability to communicate with, advise and represent these persons that we have the ability to meet with a Spanish-speaking interpreter. Ms. Orion has volunteered her time to ensure the rights of ICE detainees are safeguarded through assisting our attorneys in their communications. She presented an official letter from our Staff Attorney recognizing her formal partnership with the ACLU in this work on our letterhead as required by your own visitation policy 1010, yet you refused her entry based on a purported lack of proof that she was a “certified interpreter.” Such a requirement cannot be found in policy 1010 and is in direct conflict with Section 1010.9 of the policy, which clearly requires that staff not interfere with attorney visits except for legitimate safety reasons.

We are also concerned about the timing and nature of this refusal. On Friday, October 27, we sent a follow up letter related to the demands for NORCOR to create constitutionally adequate conditions for those in its custody. It is concerning to us that a volunteer was denied entry on the heels of that letter. We are also concerned that only Ms. Orion has been denied entry despite her having presented the same letter that others have presented and who were not denied entry. Our volunteers also perceived that you treated them rudely and dismissively in the process.

Moreover, we have spoken to numerous defense attorneys in the area who have confirmed that they have never been required to have, or show proof of, certifications for interpreters during attorney-client visits. The inconsistent application of this policy is deeply suspect and would subject your institution to additional legal scrutiny should we litigate this issue.

Please provide us with written assurances that Ms. Orion and other interpreters the ACLU retains forthwith will be allowed entry with our attorneys. While we appreciate your apology to the attorney that was with Ms. Orion, it is important to us that all of our volunteers are treated in a respectful, professional manner.

Thank you,

A handwritten signature in black ink, appearing to read 'M-D Santos'.

Mat dos Santos
Legal Director