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UNITED STATES DEPARTMENT OF JUSTICE
 EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
 OFFICE OF THE IMMIGRATION JUDGE
 JENA, LOUISIANA

In the Matter of:
 MAHMOUD KHALIL,
 In Removal Proceedings.
 File No.:

MOTION FOR ACCESS TO ELECTRONICS FOR RESPONDENT’S COUNSEL

I. Introduction

Respondent Mahmoud Khalil hereby moves this Honorable Court to allow his counsel, who appear in person at any upcoming hearing, access to their electronics while seated at counsel table. It is clear from Executive Office of Immigration Review (“EOIR”) policy that such access

should be granted. It was nevertheless denied to Mr. Khalil's counsel (but not Department of Homeland Security ("DHS") counsel) for reasons unknown to Respondent and his attorneys at the April 11, 2025 hearing. Accordingly, Mr. Khalil formally moves this Court to permit his counsel who appear in person at any upcoming hearing to have access to their electronics, in the same manner as such access is permitted to DHS counsel.

II. Statement of Facts

This Court has, to date, held three hearings in Mr. Khalil's case: on March 21; on April 8; and on April 11, 2025. At the April 11, 2025 hearing, this Court did not permit counsel appearing in person for Mr. Khalil access to electronics. The Court indicated off the record that access to electronics was being denied by the facility (where Mr. Khalil is detained and where the hearing occurred), and that any issue with that determination needed to be taken up with the facility. *See* N. Ahmed Decl. at ¶ 11.

Denial of access to electronics in the courtroom for counsel of record in an immigration case is contrary to standing EOIR policy. Specifically, EOIR Policy Memorandum 19-10, EOIR Security Directive: Policy for Public Use of Electronics in EOIR Space ("EOIR Mem."), provides:

Attorneys or representatives of record and attorneys from the Department of Homeland Security representing the government in proceedings before EOIR *will be permitted to use electronic devices* in EOIR courtrooms for the limited purpose of conducting immediately relevant court and business-related activities (e.g., scheduling). . . .[.]

Id. at 1-2 (emphasis added). In short, it is taken for granted that counsel "will" have access to electronics to conduct "immediately relevant court and business-related activities." The policy does not appear to provide for facility administrators to prevent such access.

At the April 11 hearing, the Court told counsel for Mr. Khalil that the facility administrator had made a determination that counsel for Respondent was prohibited access to electronics despite

such access for DHS counsel remaining unaffected. *See* N. Ahmed Decl. at ¶ 11. Counsel for Mr. Khalil asked, but was not permitted by, the Court to contact the facility administrator prior to the formal commencement of the proceedings to clarify the facility's guidance, as it contradicted counsel's prior conversation with the facility administrator earlier that day. *Id.* at ¶ 12.

Following the hearing, counsel for Mr. Khalil spoke with the facility administrator. *Id.* at ¶ 13. As far as undersigned counsel recollects, the facility administrator explained that he was already in contact with the court administrator, as the Court appeared to misstate the facts when placing the onus of the prohibition of electronics for Mr. Khalil's counsel on the facility. *Id.* Counsel for Mr. Khalil followed up with the facility administrator by email on April 16, 2025. *Id.* at ¶ 14. She received a prompt reply that he was out of the office, but would return the following week and follow up with the court administrator. *Id.* at ¶ 15. On Monday, April 21, 2025, counsel followed up with the facility administrator again, inquiring as to whether he and the court administrator had an opportunity to speak. *Id.* at ¶ 16. On Tuesday, April 22, 2025, counsel received a response; she was informed that the two had a short discussion the day prior and had plans to meet that day in person pending any setbacks. *Id.* at ¶ 17. On Thursday, April 24, 2025, counsel touched base with the facility administrator again, asking whether there was an update on the situation. *Id.* at ¶ 18. She received a response later that day indicating that the facility administrator was working to get a time with EOIR Leadership to discuss the issue and was hoping to have an answer by close of business on Friday, April 25, 2025. *Id.* at ¶ 19.

On the evening of April 25, 2025, counsel for Mr. Khalil received an email from the facility administrator. The email explained that he had met with EOIR leadership, and that the facility would permit laptops and cellphones for attorneys with an E-28 on file. The Court, he noted, would, however, still have the authority to order removal of any electronic device that is a

distraction or not being utilized for the purpose of representing the client. *Id.* at ¶ 20.

III. Argument

Counsel for Mr. Khalil at an in-person immigration hearing is entitled to use electronics “for the limited purpose of conducting immediately relevant court and business-related activities.” EOIR Mem. at 1-2. That policy was contravened on April 11, 2025, when Mr. Khalil’s counsel was, with the Court’s approval, denied access to electronics, while such access for DHS counsel remained unaffected. The denial implicates issues of fundamental fairness in these proceedings and was particularly troubling because it occurred at a hearing of such enormous consequence for Mr. Khalil. *See Santos-Alvarado v. Barr*, 967 F.3d 428, 439 (5th Cir. 2020) (stating “[t]he Fifth Amendment’s Due Process Clause protects individuals in removal proceedings” (quoting *Okpala v. Whitaker*, 908 F.3d 965, 971 (5th Cir. 2018))); *Matter of M-A-M-*, 25 I&N Dec. 474, 479 (BIA 2011) (“Included in the rights that the Due Process Clause requires in removal proceedings is the right to a full and fair hearing.”); *see also* *Matter of R-C-R-*, 28 I & N Dec. 74, 82 (B.I.A. 2020) (noting malfunctioning or defective video equipment or other “technical deficiencies” had the potential to form a basis for establishing prejudice in denying a respondent a full and fair hearing).

As no safety, security, or other reason appears to have animated the denial of electronic access to Respondent’s counsel, Mr. Khalil formally requests an order from this Court providing for electronic access to any of his counsel who appear in person at future hearings, provided their usage of said devices accord with EOIR policy. *See Nunez v. Boldin*, 537 F. Supp. 578, 581-82 (S.D. Tex.), *dismissed*, 692 F.2d 755 (5th Cir. 1982) (stating “prison officials must not only refrain from placing obstacles in the way of communications between prisoners and their attorneys, but are obligated to affirmatively provide prisoners with legal assistance” and “[r]estrictions which are not reasonably related to orderly administration cannot stand”).

IV. Conclusion

Counsel for Mr. Khalil, who appeared in person at the April 11, 2025 hearing, was wrongly denied access to electronics. This denial contradicted EOIR policy and greater notions of fundamental fairness that animate our legal system. To have DHS attorneys sitting at counsel table next to Mr. Khalil's counsel table, typing away on their laptops—all the while denying such access to Mr. Khalil's attorney—appeared to set the scales of justice against Mr. Khalil before the hearing even started. At bottom, any policy concerning electronic access should apply equally to all counsel, no matter which party they represent.

In accordance with EOIR policy, Mr. Khalil respectfully asks this Court to issue a formal order granting his counsel who appear in person on this matter access to electronic devices during all future hearings, provided their usage of said devices accord with EOIR policy.



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DECLARATION OF NORA AHMED

I, Nora Ahmed, under penalty of perjury, declare as follows:

1. At around 11:50 a.m. on Friday, April 11, 2025, I approached the string gate blocking entry to the LaSalle Court and spoke with several facility personnel, including Facility Administrator Rice (“Warden Rice” or the “Warden”).
2. After my license plate and the information on my driver’s license and attorney bar card were recorded, I confirmed with Warden Rice that, because I had filed my notice of appearance the previous night in Mr. Khalil’s case, I would be allowed to bring electronics into the courtroom for Mr. Khalil’s 1:00 p.m. hearing that day. We clarified that I understood that, in any prior meeting with Mr. Khalil, at the detention center proper, which I had scheduled for 12:00 p.m. that day, I would not be allowed to bring in any electronics.
3. After meeting with Mr. Khalil at the detention center, around 12:30 p.m., I returned to my vehicle. There, I picked up my purse, including my laptop, phone, and watch.
4. Purse and electronics in hand, I was allowed entry to the courthouse through two gates, and finally a door, which led to the courthouse foyer. I clarified for facility staff at every gate and door that I was counsel of record for Mr. Khalil and thus had the right bring electronics into the courthouse for proceedings in his case that day.
4. At around 12:40 p.m., after a security check, which included showing facility staff my electronics, I sat down in the waiting area.
5. A few minutes later, I was informed by facility staff that the Judge in Mr. Khalil’s case had indicated that I would not be allowed to bring my electronics into the courtroom. I asked whether I could be given the opportunity to speak with her about this, considering

Executive Office of Immigration Review (EOIR) rules provide for me to have access to electronics in the courtroom. That request was denied.

6. Stuck in a bind, I handed over my purse, including all electronics to facility staff, taking only a single notebook and a pen.
7. Free of my purse and electronics, I was allowed entry into the courthouse. While I was allowed to stand at the front of a single-file line as counsel of record in Mr. Khalil's case, I was not permitted early entry into the courtroom, despite Department of Homeland Security (DHS) attorneys and Mr. Khalil having already entered the courtroom.
8. At around 12:58 a.m., facility staff led me and approximately 22 individuals into the courtroom.
9. I took my seat next to Mr. Khalil and asked the Court whether I could ask a brief question off the record.
10. I was granted permission to speak, at which time I inquired about the Court's denial of electronics to Mr. Khalil's counsel in the courtroom.
11. The Court responded that the denial came from the facility and that any issues I have with that determination had to be taken up with the facility.
12. I asked for a brief recess to address the issue with Warden Rice, who was in the room. That request was denied.
13. After the hearing concluded, and as I waited to meet with Mr. Khalil in the detention center portion of the grounds, I encountered Warden Rice. I asked him whether he had a few minutes to speak about the denial of electronics as I was under the impression that he both knew about, and had approved, my bringing electronics into the courthouse. He indicated that he was in contact with the courthouse administrator Jason Burke on the

issue as the Judge appeared to contradict herself when she placed the onus of the denial on the facility.

14. I followed up with the Warden by email on April 16, 2025. I thanked him for taking the time to speak with me on April 11, 2025 concerning the Court's statement that it was the facility—not the Court—that determined it was appropriate to deny Mr. Khalil's counsel access to electronics in the courtroom. I asked the Warden whether he had received any follow-up from the court administrator and expressed my concern that the denial of electronic access contravened EOIR policy.
15. I received a timely response from the Warden indicating he would be out until the following week, but had plans to follow up with the court administrator upon his return.
16. On Monday, April 21, 2025, I followed up with the Warden again, inquiring into whether he and the court administrator had an opportunity to speak about the electronic access issue.
17. On Tuesday, April 22, 2025, Warden Rice informed me that he and the court administrator had spoken briefly the day before and planned to meet in person by the end of the day, pending any setbacks.
18. On Thursday, April 24, 2025, I touched base by email with the Warden again, asking for an update on any discussions with the court administrator.
19. That same day, I received an email from Warden Rice indicating that he was working to get a time with EOIR Leadership to discuss the issue and was hoping to have an answer by close of business on Friday, April 25, 2025.
20. At close of business on April 25, 2025, Warden Rice indicated by email that he had met with EOIR leadership, and that the facility would permit laptops and cellphones for

attorneys with an E-28 on file; the Court would, however, still have the authority to order removal of any electronic device that is a distraction or not being utilized for the purpose of representing the client.

Signed this 28th day of April, 2025, New Orleans, Louisiana.

A handwritten signature in blue ink, appearing to read 'Nora Ahmed', is positioned above the printed name.

NORA AHMED

CERTIFICATE OF SERVICE

On April 28, 2025, I, Nora Ahmed, caused the enclosed document to be served on the U.S. Department of Homeland Security via the EOIR Courts and Appeals System (ECAS). This document was electronically filed through ECAS and both parties are participating in ECAS. Therefore, there is no separate service completed.

Executed this 28th day of April 2025.

A handwritten signature in blue ink, appearing to read 'Nora Ahmed', is enclosed in a thin black rectangular border.