



December 17, 2019

Office for Civil Rights and Civil Liberties
U.S. Department of Homeland Security
Building 410, Mail Stop #0190
Washington, D.C. 20528
Email: [REDACTED]

Jennifer Castello
Deputy Inspector General
DHS Office of Inspector General
245 Murray Lane SW
Washington, DC 20528-0305
Email: [REDACTED]

AMERICAN CIVIL LIBERTIES
UNION FOUNDATION

PLEASE RESPOND TO
NATIONAL PRISON PROJECT
915 15TH STREET, NW
7TH FLOOR
WASHINGTON, DC 20005-2112
T/202.393.4930
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DAVID C. FATHI
DIRECTOR
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*NOT ADMITTED IN DC:
PRACTICE LIMITED TO FEDERAL
COURTS

House Judiciary Committee
2138 Rayburn House Office Building
Washington, D.C. 20515

Senate Judiciary Committee
224 Dirksen Senate Office Building
Washington, DC 20510

CC:
Trey Lund, Acting Field Office Director
Brian Acuna, Assistant Field Office Director
New Orleans Field Office
ICE – Enforcement and Removal Operations
1250 Poydras St Suite 1800
New Orleans, LA 70113
Email: [REDACTED]

Re: **Request for Immediate Halt of Deportation**
Manuel de Jesus AMAYA PORTILLO, A [REDACTED]

Dear Officer,

We write to request your help to halt the transfer and deportation of our client, Manuel de Jesus Amaya Portillo, A [REDACTED]. Mr. Amaya Portillo is a disabled asylum seeker from Honduras currently detained at the Winn Correctional Facility in Winnfield, Louisiana. He was instructed late this evening to prepare for transfer to final deportation tomorrow. **We request your assistance in ensuring that his deportation be halted immediately.** We further request your assistance in ensuring that he receive a credible fear interview that comports with the requirements of the Rehabilitation Act of 1973 and the Americans with Disabilities

Act, and that further investigation into unlawful conditions of confinement be allowed at the Winn Correctional Facility.

Mr. Amaya Portillo suffers from obvious and severe congenital physical disabilities. Mr. Amaya Portillo is atypically short: he is twenty-three years old and is only approximately four feet tall. His left leg is malformed and approximately half the length of his right leg. He has six fingers on each hand, all of which are abnormally stubbed. He was born extremely underweight as an infant, and has suffered from neurological and heart issues that have required extensive surgery. As a result of his disability and obvious physical deformities, Mr. Amaya Portillo has suffered significant stigma, persecution, and torture in Honduras. *Tchoukhrova v. Gonzales*, 404 F.3d 1181, 1188-89 (9th Cir. 2005) ("persons with disabilities are precisely the kind of individuals that our asylum law contemplates by the words 'members of a particular social group.'") (abrogated on unrelated grounds).

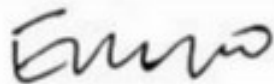
Mr. Amaya Portillo faces deportation because he received a negative credible fear determination by an asylum officer in a telephone interview. However, the CFI record clearly indicates that the asylum officer made the negative credible fear determination without full information and consideration of Mr. Amaya Portillo's obvious physical disability. Indeed, the asylum officer marked "No" to question 2.19, stating that he had not observed any indication of any medical condition during the telephone interview. ("Does applicant claim to have a medical condition (physical or mental), or has the officer observed any indication that a medical condition exists?"). The asylum officer also summarily concluded, without any basis, that Mr. Amaya Portillo's persecution was based on his height, fundamentally misunderstanding the nature and extent of his disability and basis for persecution. ("Q: Have you ever been harmed or threatened for any other reason in Honduras other than being a person of low height?"). Based on this flawed and incomplete understanding of Mr. Amaya's claim, the asylum officer found that Mr. Amaya Portillo failed to establish persecution and that he could safely relocate to a different part of Honduras. Mr. Amaya Portillo's IJ review of this credible fear determination via video was similarly flawed and incomplete, as he, appearing *pro se*, was fully seated during the entirety of the video hearing, without the ability to present the full nature of the basis of his claim.

The timing of Mr. Amaya Portillo's sudden deportation order and transfer appear to be retaliatory, as ICE and LaSalle Corrections, which operates the Winn Correctional Facility, received a litigation hold letter from the ACLU on December 2, 2019. ICE and LaSalle Corrections have failed to provide accommodations to Mr. Amaya Portillo, as required by the Americans with Disabilities Act, 42 U.S.C. § 12131 et seq., and Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794. Despite his obvious disability and clear physical need, Mr. Amaya Portillo has never been provided with proper accommodations, including a wheelchair and accessible housing during his detention at the Winn Correctional Facility. We also understand that he was placed in a medical cell and given sedatives during the time of the Nakamoto Group, Inc.'s inspection during the week of November 11, 2019, possibly because of the obvious failure of the facility to accommodate his needs.

We are extremely concerned about ICE's accelerated removal proceedings as a response to Mr. Amaya Portillo's objections to his conditions of confinement. We ask that his deportation be halted immediately so that he may have the opportunity to a credible fear interview that accommodates his disability, and that further investigation into unlawful conditions of confinement be allowed at the Winn Correctional Facility. I am also attaching a copy of the request for a new credible fear interview that was sent to USCIS by his *pro bono* attorney this evening.

We appreciate your immediate attention to this matter. Please contact Eunice Cho, Sr. Staff Attorney, ACLU National Prison Project at echo@aclu.org [REDACTED] at 202-440-0383, or Katie Schwartzmann at kschwartzmann@laaclu.org or 504-522-0628 x 125 with any questions.

Sincerely,



Eunice Cho
Senior Staff Attorney
ACLU National Prison Project

/S Katie Schwartzmann

Katie Schwartzmann
Legal Director
ACLU of Louisiana