

June 17, 2013

**RE: Oppose Senator Inhofe's Amendment 1203 to S.744**

Dear Senator:

We, the undersigned organizations committed to keeping families together and respecting the dignity of all people regardless of their immigration status, urge you to oppose Senator Inhofe's Amendment 1203 to Title III of S.744, the Border Security, Economic Opportunity, and Immigration Modernization Act.

Amendment 1203 would allow nearly all categories of immigrants to be separated from their families and locked up in jails and jail-like facilities with no time limit or chance for a bond hearing, even if they had no criminal record—all because of their immigration status. The amendment would allow detention of these immigrants for the entire duration of their immigration court case, which could be months or even years.

Even once their case has concluded, people who are stateless or come from countries that do not accept deportees from the U.S. can be kept in detention indefinitely under Amendment 1203, possibly for their entire lives, and without meaningful court review. The Supreme Court in *Zadvydas v. Davis* has said that indefinite detention of these individuals raises serious constitutional concerns.<sup>1</sup> Whether you're an immigrant or a citizen, America should not be a country that locks you up and throws away the key.

- Melida Ruiz, a 52-year-old grandmother, was detained for seven months at Monmouth County Jail in New Jersey before she was finally released after winning her immigration case. Ms. Ruiz won her case by showing that she needed to stay to care for her U.S. citizen mother who has Alzheimer's disease, her 17- and 11-year-old daughters, and her 5-year-old granddaughter. But because of her immigration status, Ms. Ruiz was separated from her family for seven months.
- Victoria (a pseudonym) is a domestic violence survivor from Mexico. She was detained for nearly two years, while her immigration case was pending, before she was given a bond hearing. Thanks to the bond hearing and the possibility of monitoring as an alternative to detention, Victoria is now home with her 9-year-old U.S. citizen daughter.

Under Senator Inhofe's amendment, Victoria might still be in detention, two and a half years after she was detained. Senator Inhofe's amendment would deprive immigrant detainees like Victoria of the right to an individual bond hearing, so they would not have the chance to challenge their detention or even see a judge at all until possibly months after they were taken away from their families and locked up in a jail or jail-like facility. Lower courts have held that prolonged detention without a bond hearing is likely unconstitutional.<sup>2</sup> Senator Inhofe's

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<sup>1</sup> 533 U.S. 678 (2001).

<sup>2</sup> See, e.g., *Diop v. ICE/Homeland Security*, 656 F.3d 221 (3d Cir. 2011); *Ly v. Hansen*, 351 F.3d 263 (6th Cir. 2003); *Rodriguez v. Robbins*, \_\_\_ F.3d \_\_\_, 2013 WL 1607706 (9th Cir. 2013); *Diouf v. Napolitano*, 634 F.3d 1081

amendment also removes immigration judges' authority to direct the use of alternatives to detention, like monitoring and weekly check-ins, which are effective, much less costly than detention, and allow people like Victoria to remain in their homes with their families as their case proceeds through immigration court – much like pre-trial services and other cost-saving alternatives to incarceration in the criminal justice system. .

Senator Inhofe's amendment is not necessary to protect public safety. As Justice Scalia noted in *Clark v. Martinez*, truly dangerous individuals—whether immigrants or citizens—can already be detained under existing law.<sup>3</sup> The USA PATRIOT Act of 2001 authorizes the detention of noncitizens who present a danger to national security and cannot be removed.<sup>4</sup>

For these reasons, we urge you to oppose Senator Inhofe's Amendment 1203. Please do not hesitate to contact Joanne Lin at [jlin@dcacclu.org](mailto:jlin@dcacclu.org) or (202) 675-2317 with additional questions or concerns.

Sincerely,

American Civil Liberties Union

Action Langley Park

Advocates for Survivors of Torture and Trauma

AIDS United

Americans for Immigrant Justice, formerly Florida Immigrant Advocacy Center

American Immigration Lawyers Association

Amnesty International USA

Arab American Institute

Asian American Justice Center, member of Asian American Center for Advancing Justice

Asian Law Alliance

Asian Law Caucus

Asian Pacific American Legal Center

Capital Area Immigrants' Rights Coalition

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(9th Cir. 2011); *Casas-Castrillon v. Dep't of Homeland Sec.*, 535 F.3d 942 (9th Cir. 2008); *Tijani v. Willis*, 430 F.3d 1241 (9th Cir. 2005).

<sup>3</sup> *Clark v. Martinez*, 543 U.S. 371, 386 n.8 (2005).

<sup>4</sup> *See* 8 U.S.C. § 1226A.

Catholic Migration Services

Center for Gender & Refugee Studies

CLUE Santa Barbara

Community Legal Service in East Palo Alto

Comunidades Construyendo Esperanza/Communities Building Hope

Detention Watch Network

DRUM – Desis Rising Up & Moving

Families for Freedom

Georgia Latino Alliance for Human Rights

Human Rights Defense Center

Human Rights First

Illinois Coalition for Immigrant and Refugee Rights

Immigrant Legal Advocacy Project

Immigration Equality Action Fund

Interfaith Coalition on Immigration (ICOM, MN)

International Center for Advocates Against Discrimination (ICAAD)

Justice Strategies

Khmer Girls in Action

L.A Community Legal Center and Educational

La Raza Centro Legal

Latin American Association

Linda Oaliocan

Lutheran Immigration and Refugee Service

Mayflower UCC ISAIAH Core Team, Minneapolis, MN

Mexican American Legal Defense and Educational Fund

NAACP

National Asian Pacific American Women's Forum (NAPAWF)

National Center for Transgender Equality

National Council of Jewish Women

National Immigrant Justice Center

National Immigration Forum

National Immigration Project of the NLG

National Latina Institute for Reproductive Health

New Sanctuary Coalition

No More Deaths – Tucson

Physicians for Human Rights

Political Asylum Immigration Representation Project

Reformed Church of Highland Park, NJ

Rights for All People –Colorado

Rights Working Group

South Asian Americans Leading Together (SAALT)

Southeast Asia Resource Action Center

St. Matthew Immigration/Detention Ministry

Stone Soup Fresno

The Leadership Conference on Civil and Human Rights

The New American Leaders Project

Ugnayan

Unitarian Universalist Service Committee

United We Dream

Women's Refugee Commission