

The Honorable Richard A. Jones

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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

NORTHWEST IMMIGRANT RIGHTS PROJECT (“NWIRP”), a nonprofit Washington public benefit corporation; and YUK MAN MAGGIE CHENG, an individual,

Plaintiffs,

v.

JEFFERSON B. SESSIONS III, in his official capacity as Attorney General of the United States; UNITED STATES DEPARTMENT OF JUSTICE; EXECUTIVE OFFICE FOR IMMIGRATION REVIEW; JUAN OSUNA, in his official capacity as Director of the Executive Office for Immigration Review; and JENNIFER BARNES, in her official capacity as Disciplinary Counsel for the Executive Office for Immigration Review,

Defendants.

No. 2:17-cv-00716-RAJ

DECLARATION OF JORGE L. BARÓN IN SUPPORT OF NWIRP’S MOTION FOR PRELIMINARY INJUNCTION

I, Jorge L. Barón, declare as follows:

1. I am the Executive Director of the Northwest Immigrant Rights Project (NWIRP). I joined NWIRP as a staff attorney in 2006, and I have served as its Executive Director since April 2008. I have personal knowledge of the facts stated in this declaration and am competent to testify to the same.

1 2. Founded in 1984, NWIRP seeks to promote justice by defending and advancing
2 the rights of immigrants through direct legal services, systematic advocacy, and community
3 education. NWIRP is the primary nonprofit legal services provider for immigrants in removal
4 proceedings in Washington State and for persons detained at the Northwest Detention Center in
5 Tacoma, Washington. NWIRP relies on grants and charitable contributions to fund its
6 operations and services.

7 3. NWIRP provides “Know Your Rights” presentations, community workshops,
8 and individual consultations to unrepresented individuals. NWIRP screens several thousand
9 potential clients per year, and its staff attorneys provide direct representation in hundreds of
10 immigration cases before the Executive Office for Immigration Review (EOIR). NWIRP also
11 organizes pro bono representation for more than 200 additional cases each year in removal
12 proceedings.

13 4. Indigent persons in removal proceedings are not entitled to appointed counsel; as
14 a result, the majority of people in removal proceedings do not have legal representation. Full
15 representation in removal proceedings often entails the preparation and filing of required
16 procedural and substantive motions, applications and briefing for all defenses and forms of relief
17 for which the applicant is eligible, and/or extensive documentation of key facts in the case,
18 including reports on country conditions, testimony by expert or lay witnesses, and evaluations by
19 psychologists or other medical professionals. Removal proceedings also often involve multiple
20 hearings over the course of several years. Due to time, cost, and other resource constraints,
21 however, NWIRP cannot provide full legal representation to every person who seeks out
22 NWIRP’s assistance. So, as an alternative to full representation, NWIRP provides a range of
23 limited legal services to otherwise unrepresented immigrants. These services include helping
24 them file motions to terminate proceedings, motions to change venue, and motions to reopen old
25 removal orders before EOIR. NWIRP also assists hundreds of clients in preparing various
26 application forms seeking relief from removal, including applications for asylum, family visas,
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1 cancellation of removal, special immigrant juvenile status, and U & T visas for survivors of
2 trafficking and violent crimes. We provide these pro se assistance services free of charge.

3 5. After the EOIR adopted its 2008 attorney disciplinary rule, NWIRP met with the
4 local administrator of EOIR's Seattle and Tacoma immigration courts to discuss the rule's
5 impact on NWIRP's services to pro se individuals. In those discussions, NWIRP agreed to
6 notify the courts of its assistance with any pro se motion or brief by including a subscript or other
7 clear indication that NWIRP had prepared or assisted in preparing the motion or application.
8 The court administrator accepted this practice, and NWIRP has abided by it for the past nine
9 years. Since that time, neither the immigration courts nor EOIR raised any concerns over this
10 practice until recently.

11 6. On April 5th of this year, EOIR's Disciplinary Counsel, Jennifer J. Barnes, sent
12 us a letter ordering us to cease and desist from providing limited legal assistance to individuals in
13 removal proceedings, alleging that such assistance violated EOIR's regulations.

14 7. As a result, from the time we received the letter until this Court issued its
15 temporary restraining order, we were unable to provide the pro se assistance we had been
16 routinely providing to unrepresented detainees at the NWDC. We were also unable to provide
17 crucial services to non-detained unrepresented immigrants in removal proceedings, including
18 asylum seekers and unaccompanied children.

19 8. The cease-and-desist letter threatens a large part of our work. EOIR's rule is so
20 expansive it could encompass such activities as identifying avenues for relief and forms to
21 complete, providing information about an upcoming deadline, and advising someone how to
22 present their case to the immigration court. This impairs everything from our ability to conduct
23 intakes of potential clients to the efficacy of our KYR or community presentations, which
24 generally includes a component where individuals approach us at the end of the group
25 presentation seeking individual legal advice.

1 I declare under penalty of perjury under the laws of the State of Washington and the
2 United States of America that the foregoing is true and correct to the best of my knowledge and
3 belief.

4 Executed at Seattle, Washington, this 8th day of June, 2017.

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CERTIFICATE OF SERVICE

I hereby certify that on June 8, 2017, I filed the foregoing using CM/ECF which will cause a copy to be sent to the following:

Attorneys for Defendants Jefferson B. Sessions, III Attorney General of the United States; United States Department of Justice; Executive Office for Immigration Review; Juan Osuna; Jennifer Barnes

Carlton Frederick Sheffield	carlton.f.sheffield@usdoj.gov
Gisela A. Westwater	gisela.westwater@usdoj.gov
Gladys M. Steffens Guzman	Gladys.Steffens-Guzman@usdoj.gov;
Victor M. Mercado-Santana	victor.m.mercado-santana@usdoj.gov
	victor.m.mercado@gmail.com

Attorneys for Amicus Attorney General of Washington

Patricio A. Marquez	PatricioM@atg.wa.gov, chamenew@atg.wa.gov, colleenm1@atg.wa.gov, marshac@atg.wa.gov
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Attorneys for Amicus American Civil Liberties Union of Washington (ACLU)

Andrew Garcia Murphy	agm@hcmp.com, brenda.partridge@hcmp.com
Michael J. Ewart	jake.ewart@hcmp.com, angie.perkins@hcmp.com

Attorneys for Amicus Immigrant Legal Rights Organization

John J Connolly	jconnolly@zuckerman.com
Rachel F. Cotton	RCotton@zuckerman.com

By s/ Jaime Drozd Allen
Jaime Drozd Allen, WSBA #35742
Attorney for Plaintiffs