

Protections for Detained Salvadorans after a Worksite Raid

Revised JULY 7, 2008

Attorneys and legal workers representing persons detained in immigration worksite raids should be aware of two provisions of a permanent injunction that apply nationwide to nationals of El Salvador detained by immigration authorities. Advocates in California and Massachusetts have successfully used these provisions to prevent the transfer of Salvadorans apprehended in worksite raids to distant detention centers, far away from their family and available low-cost or free legal services. As described in more detail below, the injunction in *Orantes-Hernandez v. Gonzalez*, No. 82-01107 MMM (VBKx) (C.D.Cal. Nov. 26, 2007) (modified, consolidated injunction), contains two provisions that (1) require immigration authorities to provide a phone number where relatives and counsel may obtain information about the location of detainees, and (2) restrict the transfer of detained class members to locations outside of the district of apprehension. Advocates who find that U.S. Immigration and Customs Enforcement (ICE) is not fully complying with these requirements should contact the class counsel listed below.

Designated Phone Number

Paragraph 6 of the injunction requires that ICE designate regional phone numbers that relatives and counsel may call to obtain information regarding detained class members. ICE's webpage titled "Information for Families of ICE Detainees" (www.ice.gov/pi/icedetaineeinfo.htm)* contains a link to a list of ICE's Detention and Removal Operations (DRO) field offices (www.ice.gov/about/dro/contact.htm), which includes for each office the office director's name, the office's address and phone number, and the geographical area for which the office is responsible. Under the injunction, a Salvadoran detainee's relative or attorney who calls a DRO field office during normal working hours and provides the detainee's name to the ICE officer who answers is to be informed of the detainee's current location. If the detainee is scheduled for departure from the U.S., the inquiring individual should also be informed of the date and time and the place from

which the detainee is scheduled to leave. If an attorney informs the officer that he or she wishes to communicate with a detained class member who is scheduled for voluntary departure and has not been able to do so, ICE "shall not expel the plaintiff class member until such counsel has had a reasonable opportunity for such communication." Advocates have had difficulty obtaining timely information through this phone system, and if you are unable to obtain detainee location information within the same business day that you call, please contact the class counsel listed below.

Restrictions on Transfer

Paragraph 11 of the injunction provides that immigration authorities "shall not transfer detained class members who are not represented by counsel from the district where they are apprehended for at least seven (7) days," in order to give them an opportunity to obtain counsel. Class members who have or obtain counsel may be transferred outside of the district during the seven-day period, but in such cases the venue for the deportation or removal case remains in the district, and the class member must be returned to the district sufficiently in advance of any proceedings to allow him or her to consult with counsel. ICE must return the class member to the district "within a reasonable time after receiving a request to do so from the detainee's counsel."

Injunction and Contact Information

A full copy of the injunction as currently in effect is available at:

www.nilc.org/immlawpolicy/arrestdet/orantes_modified_injunction_2007-11-26.pdf.

Attorneys and legal workers who find that ICE is not fully complying with these requirements should contact the counsel for plaintiffs listed below:

Karen Tumlin, 213-674-2850, tumlin@nilc.org
Linton Joaquin, 213-674-2909, joaquin@nilc.org.

* This webpage can also be accessed from a link in the lower right-hand corner of ICE's home page, www.ice.gov.

