

DECLARATION OF JENNIFER M. SMITH

I, Jennifer M. Smith, make the following declaration based on my personal knowledge and declare under the penalty of perjury pursuant to 28 U.S.C. § 1746 that the following is true and correct:

1. I am an immigration attorney in private practice. I manage an immigration law firm, Law Office of Jennifer M. Smith, PC, in Glenwood Springs, Colorado, with two associate attorneys, three paralegals, and several legal assistants. Our practice focuses exclusively on immigration issues. I have been practicing law for 14 years and exclusively representing clients in immigration proceedings for over 7 years.
2. The Federal Law Enforcement Training Center (FLETC) in Artesia, New Mexico, where the Department of Homeland Security is detaining hundreds of mothers and children, is approximately 576 miles from my law office. I spent over \$1,422.48 in costs associated with my travel to and from Artesia and expenses during my six and half days spent volunteering there. I arrived in Artesia on [REDACTED] and left on [REDACTED].
3. In Artesia, I joined a group of lawyers, mostly members of the American Immigration Lawyers Association (AILA), who are there to provide legal consultations and representation on a pro bono basis to detained women and children.
4. When I arrived at FLETC on [REDACTED] I was unable to access the facility for an hour because I had to wait for Immigration and Customs Enforcement (ICE) to transport me from the visitor's entrance to the "law library," where I was to meet with detainees.
5. The law library consisted of two desktop computers, two printers, and one copier. One of the computers was not connected to any printer. These desktop computers did not have internet access when I was there. They contained an old version of LexisNexis, several informational asylum documents in various languages, and an asylum application in English.
6. On the other side of the room that houses the law library, are two desks that constitute the attorney-client visitation area. Each desk has a five foot high portion of a temporary wall to shield others from view. When there were more than two attorneys, I met with clients on the floor. These attorney desks were located about 10-15 feet away from the ICE officers. An ICE officer approached us every hour, even during client meetings, to conduct head counts.
7. In the law library on July 24, 2014, ICE Supervisory Detention and Deportation Officer (SDDO) Enrique Davila, approached me and another AILA volunteer attorney, [REDACTED] and stated that he had received multiple notices of entry of appearance ("Form G-28s") from pro bono attorneys with respect to the same client and that he would not accept them. He went on to state that he did not have time to sort out which Form G-28 was first or second and that if he continued to receive multiple Form G-28s from pro bono attorneys as they transitioned through the facility, he would refuse to recognize them.
8. We requested information from SDDO Davila about how best to communicate with ICE and the Deportation Officers (DO). He stated that he was the boss of everyone, that he was in charge, and that all the detainees would be deported no matter what we filed.

9. I asked SDDO Davila about filing a stay of removal (Form I-246) with ICE and where we should submit the filing fee and whether fee waiver requests would be accepted. He instructed me that the filing fee must be paid at an ICE office in Midland, Texas.
10. SDDO Davila told us that we must provide ICE with a list of names of the people with whom we wanted to speak. We were unable to speak directly to detainees who had not requested to speak with us and/or whose names we did not have already because ICE did not want us "soliciting" clients. We explained that we were volunteers and that we were not charging for our services, but we were still not allowed to speak to anyone not on our list. We provided a list of names to ICE, but we were unable to see a majority of the women on the list either because ICE was unable to locate them or because they were in a consular, asylum, or court interview without counsel.
11. While I was waiting for a client to arrive, I looked at the computer in the law library. This is a computer that detainees are permitted to use to conduct legal research. An ICE officer named Robert instructed me to stop immediately and told me I was not permitted access to the computers. He gathered several other ICE officers to come in and discuss the situation and assess the depth of my security breach before they realized that it was the computer for detainees and had no internet access. I was later allowed to look at the computer again.
12. When I finally was able to speak with some of the women, several expressed fear of the ICE officers and anxiety about their constant yelling.
13. On July 25, 2014, we arrived at FLETC with a list of names for ICE. We waited again for transportation for about 45 minutes. Once at the law library, we provided the ICE Officer, Omar, with our list of names. It contained over 50 names. I then waited over three hours to see a client.
14. The few women I met had not previously been able to access counsel either because they did not know how to do so, they could not use a phone to make calls, or, if they did attempt to call the legal service providers on the list that ICE gave them, there was no answer when they called. At that time, the facility had four cell phones for use by over 600 detainees. Because of the limited number of phones, the women were told by ICE that use was limited to one call per day at most, during business hours, for two to three minutes.
15. Many of the women with whom I met told me that they had attempted to call the legal services organizations on the list provided by ICE, but that nobody had answered the telephone when they called. The list provided had the names of three non-profit organizations in El Paso, Texas, which is over three hours away from Artesia. None of the providers on the list has the capacity to represent individuals detained in Artesia.
16. On [REDACTED] we arrived early, by 7:00 am, at the detention center only to be told that they were not ready for us because it was too early. Per instructions from SDDO Davila and SDDO Lichine, the night before we had faxed a list of names of people we wanted to meet with that day to the fax machine in the law library. That list still was sitting on the fax machine when we arrived in the law library. None of our clients had been called despite our prior arrangement with ICE. According to ICE Officer Hector Hernandez, who sat at the desk at the law library on July 26 and 27, 2014, he was not aware that the list had been sent the night before.

17. On July 27, 2014, we again arrived at FLETC early in the morning, around 7:00 am, and requested transport. ICE was not answering the phone. After waiting for 45 minutes, an ICE officer who was leaving the facility to go to church saw us, and transported us in his personal vehicle to the detention area.
18. Once in the law library, we found that ICE again had failed to call any of our clients or bring them to the law library. At that point, we were told that we could not ask for more than 7-8 clients at a time. We were able to see clients that morning, but by the afternoon, ICE was suddenly unable to locate anyone we had requested to see.
19. I asked an ICE officer to escort one of my clients to her dormitory room to retrieve her paperwork and to bring her back. I waited three hours, but the ICE officer and my client never returned.
20. When I arrived at FLETC at 7:45 am on [REDACTED] other volunteer attorneys were waiting at the reception area. They told me that they had arrived at 6:46 am and had tried to call ICE using a phone ICE set up at the reception desk; the phone connects directly with the ICE detention area. ICE did not answer the phone. The attorneys then asked the FLETC staff to call ICE at another number, which they did. However, ICE refused to allow anyone access to the detention facility until 8:00 am, even though our clients had asylum interviews and court proceedings beginning at 7:30 am. I immediately contacted SDDO Lichine, who wanted to know why the attorneys had not contacted ICE using the phone it had set up at the reception area. I explained that they had tried that phone, but nobody answered. I also informed SDDO Lichine that an ICE officer had told the FLETC employees that ICE would not transport attorneys until after 8 am. Later that day, in several instances, clients who were on our list were taken to their credible fear interviews without counsel.
21. On [REDACTED] Asylum Officer Hooks called me on my cell phone. He indicated that my client was presently before him for a credible fear interview. The client had Form G-28 authorizing my representation with her. The Asylum Office had not notified me or the client in advance of the interview. The Asylum Officer denied my request to postpone the interview until I could drive to the facility to appear in person. I participated by phone.
22. I met with approximately 5 mothers who had been given paperwork in English; however none of them could read, speak or write in English.
23. I met with approximately 10 mothers who had received negative credible fear determinations. Based on my review of the summaries of the credible fear interviews, I could tell that none of the mothers understood the questions being asked and/or the interpretation.
24. Many of the negative credible fear determinations were based on lack of evidence to support a claim.
25. In the summaries I reviewed, the Asylum Officers often used legal or technical terms, but did not provide an explanation of those terms.
26. Many of the summaries revealed that the mother had been interrupted by the Asylum Officer and prevented from providing an answer.

27. In every case I reviewed, the mother was questioned while her children were in the room. The Asylum Officers did not ask questions of the children to ascertain whether they had claims separate from their mothers.
28. Many of the women I met were not provided advance notice about their credible fear interviews. ICE would go to the dormitory area, call a detainee name, and bring her to the law library without explaining to the mother where she was going, what papers were needed or with whom she would meet.
29. I met with two mothers who indicated that certain ICE officers and medical personnel were demeaning and insulting.
30. One detained mother, [REDACTED] told me that during her son's last visit to the medical area, the male doctor told her that none of the medical services were free and that he wanted her mother's home address in her country of origin so he could send her a bill for the treatment.
31. Another mother told me that ICE officers had told her not to bother calling an attorney because she would be deported anyway.
32. One mother, who was unrepresented at her credible fear interview even though she wanted counsel, told me that she felt pressured by the Asylum Officer to proceed without counsel or she would be detained longer.
33. Many of the mothers I met were sleep-deprived and anxious.
34. Nearly all the children I met were hungry. We regularly had to ask an ICE officer to provide a family with additional food or water.
35. Virtually all the children I met with were sick, either congested and coughing or unable to eat as a result of vomiting or diarrhea.
36. We instructed every person we saw that pro bono attorneys were available in the law library. Some mothers reported that ICE had refused to transport them to the library.
37. The ICE fax machine in the law library was receiving faxes on [REDACTED]. However, ICE never checked the fax machine at any time I was present in the law library. I repeatedly handed documents to ICE officers indicating that attorneys and families were trying to reach ICE and detainees, but the documents remained untouched. On [REDACTED] the fax machine ran out of toner. I was told this would be fixed the following week.
38. I provided my office phone number to mothers with whom I met; however, many mothers told me that they could not access the phone regularly and that when they were able to access the phone, they were limited to one call per day, during business hours, for a duration of no more than 3 minutes per day.
39. I tried several times to call the facility to speak to clients and was instructed to leave the name of the person I wanted to contact and she would call me back. In one case, I did receive a

return call, but my client was told to get off the phone after 5 minutes, and we were disconnected. My client made the call from a public area.

40. Attorneys were not permitted to bring their cell phones into the facility. Thus there was no way for anyone—a detainee, an Asylum Officer or the court—to reach counsel while we were there.

41. There was no clear process for filing documents with ICE. We were instructed to leave G-28s on the officer desk in the law library, but that pile of documents simply grew; no one appeared to be retrieving or reviewing the documents. Many of the mothers with whom I met or observed were distracted by her children—either emotionally or physically.

42. On [REDACTED] I received a call at my office in Colorado from an Asylum Officer who stated he was sitting with my client in Artesia and was about to re-interview her on my motion to reconsider. I received no notice of this interview. After further conversations with the Asylum Officer and the client, I realized that I was not the attorney of record for this woman. I was subsequently able to locate the pro bono attorney in Artesia. As it turns out, this pro bono attorney had been meeting with the woman in the law library when the Asylum Officer whisked her away without waiting for the attorney to accompany her.

43. The same Asylum Officer then informed me that he was going to re-interview another woman in the afternoon, who I was able to verify was my client. When I refused to proceed on the basis that I did not have sufficient time to prepare her by phone, the Asylum Officer said he would speak with his supervisor. The supervisor later emailed me that the interview would take place on [REDACTED] at 12:30pm. This still did not give me sufficient time to prepare a client with whom I have no direct contact.

Executed this 10th day of August 2014 in Glenwood Springs, Colorado.



Jennifer M. Smith bar #32013
Law Office of Jennifer M. Smith, P.C.
1607 Grand Avenue, Suite 22
P.O. Box 3005
Glenwood Springs, CO 81602
970-945-5111
jms@glenwoodimmigration.com