

DECLARATION OF PHILIP SMITH

I, Philip James 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 attorney licensed and admitted to the bar in the State of Oregon, and am admitted to practice before the U.S. District Court in Oregon, the U.S. Ninth Circuit Court of Appeals, the United States Supreme Court, and the State courts of Oregon, Hawaii and Tennessee. I am a partner in the law firm, NELSON | SMITH, LLP, where my practice is exclusively focused on U.S. immigration law, including removal defense, asylum hearings and immigration related federal litigation. I have been a member of the American Immigration Lawyers Association (AILA) for seventeen years. I am a past Chapter Chair for the Oregon AILA chapter and served for two years on AILA's national Board of Governors.
2. From August [REDACTED] 2014 -- August [REDACTED] 2014, I was present in Artesia, New Mexico, as a member of a volunteer team of approximately 14 attorneys and assistants who were attempting to provide pro bono legal assistance to the women and children from Central America detained at the Federal Law Enforcement Training Center (FLETC) in Artesia. All of the women that I came into contact with were from El Salvador, Honduras or Guatemala.
3. I live and work in Portland, Oregon. In order to get to the Artesia detention facility, I flew to Phoenix, Arizona, where I met a connecting flight to Albuquerque, New Mexico. From Albuquerque, it was approximately a 4 hour drive to Artesia. I spent approximately \$2,000 on travel, rental car and lodging costs during my week in Artesia.
4. During my time in Artesia, I represented mothers and their children in negative credible fear review hearings before an Immigration Judge, in Master Calendar Hearings for women who had passed their credible fear interviews, in bond hearings, and in reasonable fear interviews before an asylum officer for those who were subject to reinstatement proceedings.
5. During the course of these proceedings, I encountered several obstacles which interfered with my ability to provide representation to the women detained there and with the women's ability to obtain representation or, for that matter, even information concerning their rights or the nature of the process taking place.
6. During a negative credible fear review hearing conducted on August [REDACTED] 2014, the Immigration Judge told me that as the attorney I could observe, but I was not allowed to participate in the hearing. I informed the Immigration Judge that the referral notice provided to the applicant by the Asylum Officer specifically stated that the applicant had the right to be represented by an attorney in the hearing. The Immigration Judge told me that was wrong, that she was not bound by false information provided to the applicant and that she was following the Immigration Court practice manual. The Immigration Judge did not permit me to speak during

the hearing. At the conclusion of the hearing, the Immigration Judge ruled that the applicant did not qualify for asylum and upheld the negative credible fear finding. The Immigration Judge found the applicant to be a credible witness, but concluded the applicant's hospitalization and premature c-section delivery – a direct result of being beaten by the father of her child - was not on account of a protected ground for asylum.

7. On August 2014, an applicant had requested to meet with a volunteer attorney prior to her credible fear review hearing. She was placed on the list and was scheduled to meet with me prior to her hearing so that I could explain the process to her and then appear with her and her child during the hearing. However, despite my repeated requests to see her, the ICE officer took her directly to her review hearing and did not allow her to meet with me first. Upon learning that her hearing had started, I asked to be taken to the hearing room. The officer took me to the hearing room and told the Immigration Judge (who appeared via videoconferencing) that I was present. The Judge told the officer that there was no role for the attorney in the hearing and so I was escorted out of the room.

8. Throughout my time in Artesia I witnessed numerous women with children ask to speak with a volunteer attorney, only to be told that they were not on the list and turned away. It was frankly a mystery how a woman could have her name added to the list to meet with a volunteer attorney. Almost every woman that I met with handed me pieces of paper with the names of other women who wanted to meet with an attorney. In this way, we, the volunteer attorneys, could add the women's names to the list that we provided to the ICE officers, who would then allow the women to meet with us.

9. I was never permitted to have a cell phone with me while at the detention facility. This prevented me from contacting relatives to confirm information or to request information while in the presence of the applicant whom I was trying to help. It also prevented me from contacting our off site office in order to obtain file information, to find out if documents had arrived, or to try to coordinate representation for upcoming hearings or interviews.

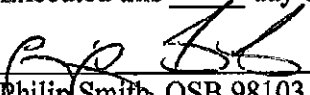
10. I was not permitted to have my ipad with me while at the facility. I use an ipad as my laptop and so I did not have access to online research or our cloud-based client document management system while I was meeting with women detained at the facility.

11. All of the proceedings before an Immigration Judge were conducted via videoconference. The monitors were not of sufficient size to allow the applicants to clearly see the Judge and the ICE attorneys were not visible. The audio quality varied and there were times where the sound would cut out entirely. I do not know what the Judges, who were located in Arlington, VA, were able to see or hear on their end.

12. Each and every applicant that I met with or represented during an official proceeding with an Immigration Judge or asylum officer had a child or children with them at the time, often in their laps. Many of the children were sick, and the mothers were often required to recount

gruesome acts of violence, sometimes rape, while holding or trying to care for their children. There was no one to care for the children or any place that they could be left while these proceedings were taking place.

Executed this 13 day of August 2014 at Portland, Oregon.


Philip Smith, OSB 98103
NELSON | SMITH, LLP
208 SW First Avenue, Suite 360
Portland, Oregon 97204
Phone: 503-224-8600
Email: philip@visaoregon.com