

DECLARATION OF BRYAN JOHNSON

I, Bryan Johnson, 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. My partner and I manage an immigration law firm, Amoachi & Johnson, PLLC, in Bay Shore, New York. Our practice focuses exclusively on immigration law. I have been representing clients in immigration proceedings for three years.
2. I represent a [REDACTED] national and citizen of El Salvador, to whom I will refer in this declaration as Jane Doe, and her [REDACTED] to whom I will refer in this declaration as John Doe. Jane fled with her son to the United States after gang members of the [REDACTED] [REDACTED] one of the most violent gangs in Central America, threatened to kill them.
3. Jane and John entered the United States on [REDACTED]. Following their entry, they were apprehended by U.S. Customs and Border Protection (CBP) agents. CBP subsequently detained them for six days in a freezing cold holding cell in Texas, where they were subject to unsanitary conditions, poor food, and inadequate sleeping accommodations. During that period, John became extremely ill, and he has never fully recovered.
4. On or about [REDACTED] Jane and her son were transferred to the Federal Law Enforcement Training Center (FLETC) in Artesia, New Mexico, where they remain in detention. FLETC is run by U.S. Immigration and Customs Enforcement (ICE).
5. Jane told me that she did not know that she had a right to consult with an attorney prior to her credible fear interview, which took place on or about [REDACTED] only a few days after she had been transferred from Texas to the Artesia facility in New Mexico. At the time of her credible fear interview, Jane and her son had been detained under substandard conditions for almost a week. Due to the lack of childcare at the Artesia facility, Jane had to care for John, who was very sick, during the interview, and, thus, she was extremely distracted. The Asylum Officer who conducted the credible fear interview determined that Jane and John did not demonstrate a credible fear of persecution and should she be removed to El Salvador. The immigration judge affirmed the negative credible fear determination with minimal review on [REDACTED]. According to Jane, the immigration judge did not ask her any questions and informed her that she would be deported.
6. I was retained on [REDACTED] by Jane's mother, who resides in [REDACTED]. Despite diligent efforts, I have had great difficulty communicating with Jane because her phone access is extremely limited. I have been able to speak with Jane only sporadically because the ICE officers at the Artesia facility do not permit her to use a phone at any set times, and when she is given access, permit her to remain on the phone only for short periods of time. During my first phone call with Jane, on [REDACTED] I was able to speak with her for only 9 minutes and 39 seconds when she called me after hours at 6:56 pm EST. After that, an ICE agent forced her to end the call. The approximately ten additional conversations I had with Jane were similar. I had great difficulty preparing her case given the erratic and insufficient time that ICE agents allowed her to use the phone.

7. The longest period of time that I was able to communicate with Jane was through the cellular phone of an El Salvadoran consular officer stationed at Artesia. Without the cooperation of the El Salvadoran consulate, I would have been unable to understand the sequence of events that drove Jane to leave El Salvador.

8. In my short phone conversations with Jane, I learned that an [REDACTED] member had threatened to kill her and her son if she did not give them a certain amount of money. In addition, I learned that she subsequently witnessed a murder by the same [REDACTED] member who had threatened her. Jane and her son fled immediately after the murder took place.

9. Despite diligent efforts, I have been unable to obtain my client's government file from the Houston Asylum Office, which has jurisdiction over credible fear interviews in Artesia. As a matter of policy, the Houston Asylum Office refuses to provide copies of applicant's records. I understand that they expect lawyers to obtain all the relevant paperwork from their clients, which in this situation is impossible given the severe restrictions on communication with those detained in Artesia. On [REDACTED] I sent an e-mail requesting my client's file from the Houston Asylum Office. I received an automatic email response to my request, stating in part that "Interview case documents are not provided to third parties, but should be obtained from the detainee."

10. Given the imminent risk of removal from the United States that my client faced, I was forced to request a credible fear re-interview pursuant to 8 C.F.R. 1208.30 (g)(2)(iv)(A) without having been afforded the opportunity to review the transcript of her first credible fear interview. On Jane's behalf, I filed this request with the Asylum Office in Houston, Texas on [REDACTED]. I argued that Jane had been denied due process because her first credible fear interview had been conducted under duress.

11. On [REDACTED] I received a call from Jane, who told me that ICE was trying to force her to agree to deportation and saying that she could go to jail for ten years and be separated from her son if she did not sign for travel documents. She was calling from the cell phone of the El Salvadoran consular officer, [REDACTED] who called me because he was concerned with the way that the ICE Supervisory Detention and Deportation Officer, Henry Davila, was treating my client. During this phone call, I spoke with Officer Davila, who insisted that Jane and her son would soon be deported and that there was nothing that could be done to stop their removal. I again informed Mr. Davila (as I had previously done in a prior conversation) that I was requesting a credible fear re-interview for my client and that she would not sign for travel documents as long as her request for a re-interview was pending. I asked Mr. Davila if he was threatening my client with jail time for failure to comply with his demand. Mr. Davila did not respond with a yes or no, but stated that he would have to inform his supervisors of my client's failure to comply.

12. On [REDACTED] I learned that Jane had been granted a credible fear re-interview, which took place that same day. I was given virtually no notice of the credible fear re-interview, which made it difficult to adequately prepare my client.

13. I was present by phone for Jane's entire credible fear re-interview, which lasted 1 hour and 53 minutes. This interview was conducted by a different Asylum Officer than the first interview. Due to lack of childcare, my client again had John with her throughout the entire interview. John was still sick, and I could hear him over the phone repeatedly crying in distress

and coughing. However, through my questioning, Jane was able to provide a more detailed account of the events that had led her to flee El Salvador.

14. During Jane's credible fear re-interview, the Asylum Officer read her the summary of her first interview and asked her whether any facts were missing. Jane clarified that the [REDACTED] member had threatened not only her (as the summary indicated) but also her son if she did not pay them a certain amount of money. When asked why she had not mentioned the threat against her son during her first interview, Jane stated that she did mention it, but that her son had been crying and that the interpreter must not have heard what she said.

15. On [REDACTED] I learned that Jane had received a positive credible fear determination. On the same day, I also received copies of the transcripts of Jane's first and second credible fear interviews, which confirmed that the Asylum Officer who conducted the first interview failed to elicit certain critical facts.

16. [REDACTED] His symptoms included a high fever, vomiting, and a cough. [REDACTED] Jane informed her mother that John's health had improved. However, only a few days later, Jane informed me that John had what appeared to be an ear infection. One or two days after Jane reported the issue with John's ear, she informed me that John again had a fever, cough, and diarrhea. She was brought to the doctor to receive antibiotics and an evaluation, but he still had an intermittent fever.

17. I have made several requests to ICE Field Office Director Adrian Macias to release Jane and her son on humanitarian grounds. [REDACTED] I received by fax a written decision denying my request to release my clients. The decision stated, in part, that John was "currently in good health and receiving excellent medical treatment by our Artesia medical staff." The letter concluded that: "I have determined that there is no basis to release your client. Therefore, your request for release is denied." In fact, John's fever persisted until at least [REDACTED]

Executed this 18th day of August, 2014 in Bay Shore, New York



Bryan Johnson
Amoachi & Johnson, PLLC
2115 Union Boulevard
Bay Shore, NY 11706
Phone: (631) 647-9701
E-mail: bryan@amjolaw.com