

DECLARATION OF KIMBERLY HUNTER

I, Kimberly Hunter, 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 admitted to the bar in the State of Minnesota and am admitted to practice before the United States District Court of Minnesota, and the United States Courts of Appeal for the Eighth and Ninth Circuits. I own and manage Hunter & Associates, PLLC in St. Paul, Minnesota. My practice focuses on immigration and nationality law. I have represented clients in immigration proceedings for over 13 years.

2. On [REDACTED] I travelled from my office in St. Paul, Minnesota, to Artesia, New Mexico. There were no available seats on flights to Roswell, New Mexico (which is approximately 40 miles from Artesia), so I flew into Albuquerque. My airfare was over \$900.00; car rental and gasoline for a week totaled approximately \$450.00. I drove four hours from Albuquerque to reach Artesia. I remained in Artesia through August, 1, 2014. My hotel expenses for the week were over \$1,100.00.

3. In Artesia, I joined a group of approximately seven other lawyers, many of whom are members of the American Immigration Lawyers Association (AILA). We provided legal consultations and representation on a pro bono basis to women and children detained by the Department of Homeland Security at the Federal Law Enforcement Training Center in Artesia.

4. I met with approximately 20 women and their children in Artesia, and reviewed the case files of approximately 10 additional families. My ability to meet with clients, as well as review client information, was severely hindered by the operating procedures at the facility, as described in further detail below.

5. I had serious problems gaining access to the detainees from my first day at the on site, which was [REDACTED]. When I arrived, I was brought to the building known as the "law library" to meet with clients. Client names had been provided to Immigration and Customs Enforcement (ICE) the night before, as ICE had requested. I saw some clients during the morning hours; however, at around 11:00 am, access to clients stopped. I waited for three hours for ICE to bring my clients to me, despite multiple requests to see them. I finally left the facility in order to be able to draft motions and do other case-related work. That same day, my colleague Christina Brown waited four hours between client meetings. On other days, I experienced gaps of 30 minutes or more between client meetings, despite frequent requests to bring my clients to the law library.

6. Another issue with client access is that ICE requires the women to be escorted at all times, but does not tell them where they are going when they are pulled away from their rooms, the dining area, or another common space in the facility. As a result, clients would arrive at the law library without their legal documents. Given that the documents were necessary for a productive meeting, my clients would then have to be escorted back to retrieve their documents. This practice resulted in a lot of wasted time.

7. It was extremely difficult to have frank and confidential conversations with my clients. Client meetings were held in a portion of the front room of the trailer that holds the law library. There were two portable divider walls, neither of which reached the ceiling. An assortment of chairs, tables, and desks were pushed together in the meeting area. The lack of a private meeting space was particularly problematic given the personal nature of our conversations. Many of my clients were victims of domestic violence. Others have suffered additional violence, including rape, assaults, and credible threats to their lives.

8. The women with whom I met all had young children, whose ages ranged from under two years old to 14. Because there was no childcare at the facility, the children had to be with their mothers at all times. Given the sensitive nature of many of the attorney/client conversations, it was completely inappropriate to have children present. For example, one client had [REDACTED] children, one of whom had been conceived during a rape while she was kidnapped by a gang. It was extremely difficult for her to discuss this subject at all, much less in front of her children. Other lawyers and legal workers would help out and try to distract the children while we were meeting, but it was challenging to have open and focused conversations about their cases. Time spent distracting children further limited the pro bono attorneys' ability to provide effective assistance to our clients.

9. The "law library" itself had two computers, one printer, and one copier that was out of toner during the entire week I was there. There were no printed materials, nor were there any materials in Spanish. The language barrier, poor equipment, and lack of translated materials renders the law library meaningless for the detainees.

10. The women with whom I met with consistently complained about telephone access. All of them said they were allowed just one call per day. My clients therefore had to choose between calling their attorneys or contacting family members outside the facility who could aid them in gathering documents to support their cases and bond requests.

11. Attorneys were not allowed to bring phones into the facility. Neither the asylum office nor the immigration court called our home offices to notify us of interviews and hearings, nor did either entity send an email notice. Attorneys had to rely on asylum officers and ICE officers to physically find us if a credible fear interview or hearing for one of our clients was taking place, and then take us to the interview or hearing.

12. The credible fear interviews at Artesia are fraught with problems. As a result of these problems, many women and children wrongly received negative credible fear determinations and will be deported to the countries from which they fled, despite their viable claims for asylum. For example, I read multiple credible fear denials where the women were found credible and clearly explained a past history of domestic violence, but the asylum office concluded they did not meet the credible fear threshold. Concluding no credible fear on such facts is clear legal error.

13. Further, my review of the summaries of the credible fear interviews revealed that many of the women did not understand the questions they were asked and/or the interpretation.

14. At least two women told me that the asylum officer asked them, “Are you a member of a particular social group?” The documents from their credible fear interviews confirmed that the asylum officer presented the question in that manner. These women did not know how to answer, and the concept of a “particular social group” was not explained to them; nor was the question rephrased or repeated.

15. Membership in a particular social group is an eligibility requirement for asylum; it is a technical legal term that is defined by numerous court of appeals and Board of Immigration Appeals decisions. In fact, it is a highly complex and evolving issue in immigration law—an area of the law in which the courts have offered inconsistent and convoluted legal analysis.

16. Both the women who told me that they were asked about their membership in a particular social group received negative credible fear determinations. However, based on my conversations with them, my knowledge of immigration law, and my awareness of conditions in their countries of origin, both have strong asylum claims based on membership in a particular social group. Specifically, under existing Board of Immigration Appeals case law, women from countries where domestic abuse is prevalent who are unable to leave a domestic relationship and women who are viewed as property due to their position in a domestic violence relationship are cognizable particular social groups. Both women clearly met that threshold. Neither of these women should have received a negative credible fear finding.

17. Other women did not understand the questions during the credible fear interview due to interpretation problems. Asylum officers also prevented some of these women from telling their full stories. For example, one woman with whom I met had limited Spanish proficiency. Her first and best language is [REDACTED]. She also was illiterate and signed her name with [REDACTED]. She told the asylum officer that she did not speak Spanish well, but nonetheless was forced to proceed in Spanish at her credible fear interview. Her credible fear interview documents show that she described domestic abuse from both her [REDACTED] and the father of her child; yet, the asylum officer made a negative finding. The asylum officer also did not let her testify about a gang-related threat that she experienced. The result of the interview was simultaneously legally erroneous (based upon the domestic violence record that was established) and also incomplete.

18. According to asylum office training materials, once an applicant for asylum has established a credible fear of future persecution, the interview should be concluded. However, the credible fear interview I attended was conducted like an affirmative asylum interview, rather than a credible fear interview. Based upon over 13 years of experience with the asylum process, I believe my client established her credible fear within the first 45 minutes of a more than three-hour interview. The asylum officer asked questions which were designed to get my client to identify her particular social group. This level of questioning was unnecessary in light of the past persecution to which she had already testified, as well as her articulated fear of future persecution. Although I was permitted to give a closing argument that named my client’s social group, it would not have been possible for her (had she been pro se) to articulate the specific legal basis for her claim. Near the end of the interview, the asylum officer also attempted to impeach her with her alleged statement to Border Patrol agents that she did not fear returning to


██████████ Fortunately, my client was calm and confident enough to explain that she did tell the Border Patrol agents she was afraid to return to ██████████ but the agents did not believe her. That entire line of questioning should have been unnecessary because my client's credible fear had already been established. Further, as her alleged statement to the Border Patrol agents was the only possible inconsistency in her entire story, it would not have been enough to derail her credible fear claim, even if it had been a correct summary.

19. Of the numerous negative credible fear documentation packages I read, not one indicated that the asylum officer distinguished between eligibility for asylum (based upon one of the five protected grounds enumerated in the Immigration and Nationality Act) and eligibility for relief under the Convention Against Torture ("CAT," which does not require persecution "on account of" a protected ground). The majority of negative credible fear documentation packages that I reviewed included a gang component and should have passed the threshold for CAT relief at minimum.

20. Many women reported that ICE officers constantly yelled at them. One woman told me her teenage son was begging to return to ██████████ because of constant verbal abuse from ICE guards.

21. Other women reported problems accessing medical care. One of my clients had fallen and injured her ██████████ while getting off the bus on ██████████ the day she arrived at the detention center. Although she reported the incident and had severe pain in her ██████████ she had to wait ten days for a medical appointment. When I first met her, her ██████████ was tightly wrapped and she was scheduled to return to "sick call" to get an x-ray of her ██████████. The only treatment she had been offered other than the wrap was aspirin.

Executed this 18th day of August 2014 at St. Paul, Minnesota.



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