

## **DECLARATION OF PAROMITA SHAH**

I, Paromita Shah, make the following declaration based on my personal knowledge and declare under 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 Massachusetts, and am admitted to practice before the Fourth Circuit Court of Appeals. I am the Associate Director of the National Immigration Project of the National Lawyers Guild.
2. On July 31, August 1, August 13 and August 14, 2014, I attended and observed, or attempted to attend and observe, hearings conducted by immigration judges in Arlington, Virginia, which is the headquarters for the Executive Office for Immigration Review (EOIR). These hearings are supposed to provide an opportunity for independent review of negative credible fear findings by asylum officers. The applicants I observed were women detained at the Federal Law Enforcement Training Center (FLETC) in Artesia, New Mexico. All of these hearings were conducted via videoconferencing.
3. Typically, information about immigration hearings is posted on a docket sheet outside the immigration court. The immigration court did not post a docket sheet for the Artesia cases on any of the dates referenced in paragraph 2.
4. On July 31, 2014, another observer, Christopher Rickerd, and I spoke to Judge Harris. He explained that three judges, Judge Quynh Vu Bain, Judge Roxanne Hladylowycz, and Judge Robert Owens, handled the majority of Artesia cases. Judge Harris handled the "spillover" cases from Artesia and the regular Arlington docket. He indicated that the judges were applying the law of the Tenth Circuit Court of Appeals in these cases. Judge Harris stated that he would allow us to observe a hearing involving his review of a negative credible fear determination as long as the person consented. He also mentioned that Department of Homeland Security attorneys sometimes attend these hearings. He told Mr. Rickerd and me to return at [REDACTED] pm EST if we wanted to observe a hearing.
5. After speaking to Judge Harris, I attempted to enter a few courtrooms but found them to be locked. Mr. Rickerd and I did not know where the remaining Artesia hearings were being held, but later discovered that some of these hearings were being held in one of the locked courtrooms, Courtroom 8. Normally, names of presiding judges are posted outside the courtroom doors, but we did not see any name on this particular courtroom. We noticed there were several courtrooms that were similarly unmarked. Court security guards told us those courtrooms were closed.
6. At that point, I asked a security guard to speak with Joe Egozcue, the Acting Court Administrator. The security guard left us, but later came back and unlocked the door for Courtroom 8. We did not know if a hearing was being held, but entered to see if we could find out.

7. When we entered Courtroom 8 at [REDACTED] am EST, we saw a tele-video screen showing a room with a table and chairs. On the table was a box of tissues; there were no papers, pens or pencils. At around [REDACTED] am EST, a woman appeared on the screen with a little girl, who had a doll, bottle, and blanket. Soon thereafter, security guards entered the courtroom and asked us what we were doing. I stated that we were there for the hearing and asked what time it began. The guard informed me that the Immigration Judge was at lunch. I asked the guard to inform the woman in Artesia, who was still visible on the screen and seemed to be waiting for the judge to start the hearing. I do not know if the guard communicated with Artesia but, at some point thereafter, the woman left the room.

8. Around [REDACTED] pm EST, I observed a hearing in front of Judge Harris. That case involved a young woman and a girl – about 5 years old – sitting in office style chairs. There was no table in the room. The judge asked several questions about the young woman's fear of returning to El Salvador. She explained that she had fled gangs after reporting harassment and threats to the police. The judge asked five or six questions about the identity of the perpetrators. I tried signaling the judge in an attempt to enter my appearance in the case, but Judge Harris shook his head. The young woman answered Judge Harris' questions, but asked him to repeat certain questions because she could not hear him. In front of her young daughter, the woman described threats she had received. She did not have any documents with her, and she did not have a pen or paper. She appeared tired, and her daughter fell asleep in her chair during the hearing. The young woman told Judge Harris that she had an attorney, who was not present; however, he proceeded with the hearing, which lasted approximately fifteen minutes.

9. After the hearing concluded, I again spoke with Judge Harris and explained that I had wanted to represent the young woman, whom I had assumed was unrepresented until she indicated otherwise, during the review hearing. He stated that he could not allow people to enter appearances during these hearings. He repeated that credible fear reviews must be completed within 7 days. I told him that volunteer attorneys would be willing to help with review hearings in Virginia, but he did not respond. Instead, he spoke about ethical rules regarding nonprofit assistance that constrained the immigration court. He told me the only way I could help was to be put on a pro bono list of attorneys that were given to respondents.

10. Around [REDACTED] pm, I re-entered Courtroom 8, where I saw Judge Hladylowcyz about to start proceedings. The proceedings involved the same woman and toddler that Mr. Rickard and I had seen sitting in the Artesia room, who were again visible on the tele-video screen. The immigration judge telephoned the attorney and admonished her for not filing a motion for a telephonic hearing. Attorney [REDACTED] stated that she had not received notice of the hearing and had called the court to request a telephonic hearing. The woman in Artesia could not see [REDACTED] [REDACTED] requested a very short continuance. During the hearing, Judge Hladylowcyz told [REDACTED] that the EOIR number contained wrong hearing times, and that this problem had existed for weeks. She said that attorneys were confused about hearing dates and times, and often did not appear because they did not know that hearings had been scheduled. Judge Hladylowcyz continued the hearing until August [REDACTED], 2014.

11. On Friday, August [REDACTED] 2014, I again went to Arlington Immigration Court to attend the continued hearing. I observed the hearing, and my name and presence were noted on the record. An attorney from U.S. Immigration and Customs Enforcement was present and was asked clarifying questions about the person's prior immigration history. Judge Hladylowycz ordered [REDACTED] not to speak during the hearing. Judge Hladylowycz ultimately vacated the negative credible fear finding.

12. On August 13, 2014, I returned to the Arlington Immigration Court to observe Artesia review hearings. No information about the Artesia docket was posted. I approached the court filing window and asked which courtrooms conducted Artesia hearings. The receptionist told me that only Judge Owens' courtroom was open. Judge Owens was holding master calendar and bond hearings that day. I checked the other courtrooms, all of which were locked. I asked a security guard for assistance and he told me that I could not enter. I again approached the receptionist at the immigration court administration office and requested access to the review hearings. I was told that all Artesia review hearings were closed.


13. I then sat in Judge Owen's courtroom and observed a series of removal hearings, specifically, master calendar hearings. After the proceedings concluded, I asked Judge Owens whether the credible fear review hearings were open. He told me that the proceedings were closed to the public and cited to 8 C.F.R. § 1208.30.

14. Following my conversation with Judge Owens, I asked to speak to a courtroom supervisor about the possibility of opening Artesia review hearings to the public. Because the acting court administrator, Joe Egozcue, was on vacation, I was referred to the interim supervisor, Cheir Bowyer. Ms. Bowyer told me that Artesia proceedings were closed and that I could enter only if I had consent from the individual's attorney. She told me that Mr. Egozcue, had left these instructions, which had come from EOIR Headquarters. She also told me that most of the negative credible fear reviews occurred in a separate internal headquarters courtroom, which did not have a door from which the public could enter. I had never seen this courtroom and was not aware until that moment that such a courtroom existed. The only way that someone could enter is if they represented the individual. She told me that I would not be allowed to enter that courtroom. She said that the courtrooms would remain locked.

15. On August [REDACTED], 2014, I again went to Arlington Immigration Court. The court had not posted any information about the Artesia docket. The courtrooms were locked. Judge Hladylowycz was holding master calendar hearings and bond hearings. After watching those hearings, I asked Judge Hladylowycz if I could attend the reviews of negative credible fear findings. Judge Hladylowycz told me that those proceedings were now closed. She said that someone had brought the issue of public access to Artesia review hearings to the attention of EOIR Headquarters and that the EOIR Public Affairs Office had issued instructions to close all Artesia hearings.

16. To my knowledge, since August 15, 2014, no volunteer observer has been permitted to attend an Artesia credible fear review hearing at the Arlington Immigration Court.

Executed this 19th of August in Washington, D.C.

  
Paromita Shah