

April 13, 2020

VIA EMAIL

Re: Hope v. Doll, Case No. 1:20-cv-00562 (M.D. Pa.)



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Dear Counsel:

We are in receipt of your letter requesting that Petitioners coordinate with ERO to voluntarily surrender for re-detention. The *status quo* at the time of Chief Judge Smith's entry of a stay order was that eighteen of the remaining twenty Petitioners had been released (ICE released two earlier). They remain at liberty subject to the district court's release conditions, including some requested by ERO. We believe that any effort by your clients to re-detain these Petitioners would violate existing court orders. And there is simply no need to do so.

Furthermore, your request that the eighteen medically vulnerable Petitioners return to detention facilities with documented COVID-19 contagion is cruel and irresponsible. Public health experts, including from the Centers for Disease Control, have found that the death rate for people in these high-risk categories is 15%. Golob Declaration (ECF 3-2) para 4. That means more than one in seven of these high-risk people will die if infected, and a much higher percentage will suffer serious illness, typically requiring intensive care treatment that will only further overwhelm local hospitals. Even Attorney General Barr has recognized the danger of detaining these medically vulnerable individuals, ordering the Bureau of Prisons to consider releasing them to home detention. See <https://www.justice.gov/file/1262731/download>; see also <https://www.justice.gov/file/1266661/download> (directing governmental officers at specific institutions with outbreaks of COVID-19 and other similarly-

situated institutions to prioritize consideration of transfer to home confinement). Any attempt to return Petitioners to detention, barring violation of the extant conditions, would be tantamount to a potential death sentence. ECF 22 at 4.

The district court's conditions of release, *see* ECF 22, include future check-in dates and ankle monitors for some of the Petitioners. And Petitioners are aware that any lawless behavior will subject them to re-detention. Petitioners remain at their respective homes, complying with the terms of the Order, and they will continue to do so.

As the district court found in *Thakker*, and referred to in its *Hope* decision, "Our world has been altered with lightning speed, and the results are both unprecedented and ghastly. We now face a global pandemic in which the actions of each individual can have a drastic impact on an entire community. The choices we now make must reflect this new reality." *Thakker* at 24." ECF 11 at 13. While we can appreciate that you believe Petitioners should not have been released, your clients released them and there is neither legal nor public-safety cause to re-detain them. To the contrary, the unprecedented public-health crisis and the risk of grievous harm and even death to our clients should preclude their re-detention unless they violate release conditions.

I would be happy to discuss this matter with you. If you believe such a discussion could be helpful, please email me at vwalczak@aclupa.org and I will share with you my cell phone number. Thank you.

Respectfully,

/s/ Witold J. Walczak

Witold J. Walczak (PA 62976)

**AMERICAN CIVIL LIBERTIES UNION
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