



National Immigrant Justice Center

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Contact: Tara Tidwell Cullen

(312) 660-1337

ttidwellcullen@heartlandalliance.org

HUMAN RIGHTS ORGANIZATIONS SUE U.S. GOVERNMENT, DEMAND REGULATIONS TO RELEASE DETAINED ASYLUM SEEKERS

CHICAGO (December 21, 2011) – Heartland Alliance’s National Immigrant Justice Center (NIJC) and eight partner organizations filed a lawsuit today against the U.S. Department of Justice (DOJ) challenging its failure to issue regulations that would allow immigration judges to consider whether asylum seekers can be released from immigration detention.

“The U.S. government must bring our immigration laws in line with international human rights standards,” said NIJC Executive Director Mary Meg McCarthy. “The government cannot continue to imprison asylum seekers without affording them the opportunity to have their detention reviewed by a judge,”

In March 2010, NIJC and 30 immigrant and human rights organizations submitted a petition to DOJ urging that it amend regulations so that immigration judges could order the release of detained asylum seekers whose claims have survived initial screening, known as a “credible fear” interview. “Over the ensuing 21 months, DOJ has failed to respond to the petition, prompting the groups to file a lawsuit against the agency in the Southern District of New York.

Under current policies, asylum seekers detained on arrival to the United States must appeal for their release to the U.S. Department of Homeland Security (DHS), the same agency that detains them. Regulations proposed in the lawsuit would grant asylum seekers access to a neutral adjudicator—an immigration judge—who would review their detention.

Such a change in regulations would help prevent the unjust detention of asylum seekers such as a Chinese man represented by NIJC who has been detained for nearly a month after passing a credible fear interview. The man arrived in the United States via Chicago’s O’Hare International Airport and immediately told officials he feared returning to his country. In China he had been detained, interrogated, and tortured for defending the rights of individuals who practice the Falun Gong religion. He poses no flight risk or threat to the community, yet DHS has refused to release him unless he is able to post a \$10,000 bond—an arbitrary and egregious amount for a person of little means seeking refuge in this country.

Another asylum seeker who passed a credible fear interview in late November 2011 remains detained in a New Jersey detention center. Contrary to agency guidelines that require DHS to conduct a parole interview within seven days of when an asylum seeker is detained, the woman has had no such interview. The woman’s lawyers at Immigration

Equality have submitted four parole requests on her behalf via mail, email, and fax, but DHS has not responded.

“DHS has no reason to detain individuals who are truly afraid of returning to their homelands and do not pose a danger to our communities,” McCarthy said. “Detention restricts an asylum seeker’s access to a lawyer and significantly hinders his ability to present a meaningful case in court.”

The law firm of Winston & Strawn LLP represents the following organizations *pro bono* in the lawsuit:

American Gateways
Americans for Immigrant Justice (formerly FIAC)
Heartland Alliance’s National Immigrant Justice Center
Immigrant Law Center of Minnesota
Immigration Equality
Northwest Immigrant Rights Project
Physicians for Human Rights
The Advocates for Human Rights

Heartland Alliance's National Immigrant Justice Center is a Chicago-based nongovernmental organization dedicated to ensuring human rights protections and access to justice for all immigrants, refugees and asylum seekers through a unique combination of direct services, policy reform, impact litigation and public education. For more information visit www.immigrantjustice.org.