

Declaration of David Kolko

1. My name is David Kolko and I am a licensed attorney in Colorado.
2. I am the Managing Partner of Kolko & Associates, P.C. which is a law firm in Denver, Colorado that practices exclusively in the field of U.S. Immigration and Naturalization Law.
3. My Colorado Bar Registration Number is 17875.
4. I have been a practicing attorney for nearly 27 years.
5. I am an active member of the Colorado Bar Association (CBA), and an active member of the American Immigration Lawyers Association (AILA).
6. Along with other attorneys and volunteers, I served with the CARA Family Detention Pro Bono Project at the South Texas Family Residential Center, known as "STFRC" during the week of August 30, 2015.
7. I was at the facility from Monday August 30, 2015 through Friday September 4, 2015. Each day I was working for the CARA Project from approximately 7:00 am to after 5:00 p.m.
8. During the week I spent at STFRC, I interacted with nearly 20 volunteers, and directly with hundreds of women and children that were seeking counsel and being represented by the CARA Project.
9. During my week of "on the ground" participation, I heard many reports from detained women being told to "go to court" in order to receive information from Immigration and Customs (ICE) officials. These reports specifically included the women receiving instructions from government officials to appear in the large trailers where the immigration court rooms were located.
10. Through multiple confirmed accounts received by me and other volunteers, it was clear that refugee women and their children were regularly (daily) being instructed to appear "in court", without their counsel being notified, at the location of the court trailers. During these meetings "in court" clients were examined by ICE and provided legal information and instructions on issues related to the progress of their cases and the terms and conditions of their release.
11. During my work at STFRC, virtually all the women that consulted with the CARA Project signed Form G-28s, confirming that the CARA Project was acting as their counsel.

12. During my work at STFRC, due to the compelling issues in a particular case, I personally entered my appearance as counsel for one client (A [REDACTED]).
13. My entry of appearance (Form G-28) (as counsel of record) for this client was personally delivered to the Office of Chief Counsel and I.C.E. Deportation Officer [REDACTED] and was reconfirmed by an email from me on Wednesday, September 9, 2015 at 6:32 AM, and by several subsequent emails. It was made clear to DHS that I (along with the CARA Project) was the attorney for this refugee.
14. Notwithstanding that I (along with the CARA Project) was personal counsel for this client, DHS communications continued with her, without counsel being informed or notified regarding the content of these communications. These communications included:
 - a. Being visited by ICE officers to question her directly in her residential unit.
 - b. Being instructed by ICE officers to appear "in court" for information about asylum proceedings and the scheduling of a credible fear interview.
 - c. Being served with Notices to Appear for her and her children, without copies being service on counsel.
 - d. Being examined by ICE regarding the options for a bond determination by the Immigration Court, or use of Alternatives to Detention (ankle monitor).
15. On Thursday afternoon, September 3, 2015, my client was ordered by ICE officers to appear "in court" but the reason was not stated to her. Upon such notification to my client, she quickly appeared at the CARA Project to report that she was just ordered to appear "in court". As counsel of record in this case, I followed required procedure, left the visitation trailer and attempted to enter the court trailer at STFRC to be present with my client when she appeared in court as instructed.
16. Notwithstanding that my client was instructed to appear in court, I was directly refused entry into the court trailer at STFRC by Corrections Corporation of America (CCA) staff, specifically CCA Officer [REDACTED] I was informed by her that there "is no court", and counsel would not be permitted access to the court trailer.
17. From the attorney access door into the court trailer (for counsel to enter) you can directly see the other secure door to the court trailer, where refugee women and children are entering the same trailer.
18. I personally witnessed my client enter the court facility trailer, but over my objection, I was still refused access into the court trailer. I was personally told by CCA Officer Medina there is "no court" and counsel would not be permitted to enter. I later learned that my client was being provided instructions by ICE (somewhere in the court trailer) about her CFI proceeding that was going to occur the next day.

19. Notwithstanding that I was counsel of record for this client, I was never served any documents by DHS, or notified regarding my client's CFI proceeding with the Asylum Office. I learned this information only from my client, who returned to the visitation trailer following her meeting with ICE in the court trailer.
20. On Friday, September 4, 2015, I appeared with my client (and her children) at the Asylum Trailer within STFRC for a Credible Fear Proceeding (CFI). I entered my appearance with USCIS by providing another signed Form G-28. As counsel of record, I attended the recorded interview with the asylum officer (AO), a translator (by phone) and my client.
21. Within a few days following the CFI interview, I received confirmation that a positive credible fear had already been issued days earlier by the AO, and Notices to Appear would be issued to my client and her children.
22. It was later learned that following the CFI on Friday September 4, 2015, Notices to Appear were actually prepared and issued by DHS on the same day, September 4, 2015.
23. Notwithstanding that NTA's were issued for my client and her 3 children, these were not served on her until 6 days later, September 10, 2015. My client and her 3 children were detained at the facility for this additional time.
24. Notwithstanding that I am counsel of record with DHS, as of this date (September 25, 2015), DHS has never served or provided me with neither the result of the CFI, nor the Notices to Appear.(I did receive these NTA's through my client).
25. Following issuance of the NTA, I learned that my client was required to meet with ICE again on the conditions of release from STFRC. I was not provided notice or any information by DHS regarding this meeting with my client, or the content of the communications with her.
26. On Friday, September 4, 2015, I continued to witness other CARA Project volunteers at the facility being informed that Immigration and Customs Enforcement (ICE) officials were looking for clients because they "had to go to court."
27. Due to this continuing practice of requiring CARA Project clients to "appear in court", as an attorney for the CARA Project, I again attempted to visit the court trailer to accompany other CARA clients to their court proceedings.
28. When I arrived at the court facility on Friday, a CCA employee opened the door and asked why I was there. I told her I was a representative of the CARA project who had come to accompany our client to a meeting at the court.

29. On Friday, September 4, 2015, I was informed again that “no one” had court that day, and “this is just an ICE office.” This was told to me by CCA Officer Medina and CCA Officer Pena, who both confirmed meetings would be held with our clients, but that counsel was not permitted to enter.
30. Both CCA employees were professional, but seemed frustrated by my efforts to appear with our clients “in court” and directed me to resolve the matter with ICE since “court was not in session.” Over my objection, I was refused entry into the court facility and the CARA Project clients were required to appear for their meetings without their counsel present.
31. From my repeated interactions with the refugees detained by STFRC that week, and from my direct communications with other volunteers who are continuing to interact with detained refugees at STFRC, the instructions by DHS to appear “in court” have been and continue to create confusion and fear among the detained population.
32. This continued practice by DHS at this facility denies the clients their required access to legal counsel of record when being detained, fails to provide proper notice to counsel of record, and improperly uses the implied and apparent authority of “immigration court” by DHS, to influence the asylum seekers at STFRC regarding their rights.

I declare under penalty of perjury that the foregoing is true and correct to the best of my information, knowledge, and belief.



David Kolko, Esq.



Date