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May 19, 2008

The Honorable Linda R. Reade
Chief Judge
United States District Court
Northern District of Iowa
101 First Street, SE
Cedar Rapids, IA 52401

Re: Lack of legal representation in current process of criminal
prosecution - Agriprocessors, Inc. immigration cases

Dear Judge Reade:

The American Immigration Lawyers Association (AILA) is a bar association of more than 11,000 immigration and naturalization lawyers throughout the United States and overseas. On behalf of our members, I write to express our grave concerns about what appears to be a serious compromise of the independence of the judiciary. I refer to the preparations for and the aftermath from the Department of Homeland Security's enforcement operation conducted at the Agriprocessors, Inc. meat packing plant in Postville, Iowa, on Monday, May 12, 2008.

We recognize that the court knew about this raid ahead of time and made what is considered to be appropriate preparations for an expected volume of criminal prosecutions. While such preparations would be typically prudent, the Press Release issued by the Court on Monday, May 12 reflects a seeming pre-judgment of the guilt of those not yet arrested (see attached). Specifically, the Press Release describes preparations for the "anticipated arrest and prosecution of numerous illegal aliens." (emphasis added).

We understand that hundreds of people arrested pursuant to this enforcement action were denied access to immigration counsel all day Monday and until Tuesday. In addition, during "processing" and questioning, criminal charges were brought against scores of those arrested, but inadequate provisions were made to ensure that each individual charged is afforded meaningful access to counsel familiar with both criminal and immigration laws; and that mass hearings have been held in which one court-provided defense counsel was called upon to represent as many as 10 defendants at a time in a single proceeding.

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Further, the United States Attorneys Office and the Court have invoked an obscure, seldom-used, and complicated provision of the Immigration and Nationality Act referred to as Judicial Removal. *See*, 8 U.S.C. § 1228(c). Yet, we understand that the defendants have only **seven (7)** days to decide whether to accept the terms of plea agreements that require them to give up all rights to immigration relief they may not even realize they have with removal from the U.S. as a condition of their pleas. This condition, in and of itself, would appear to contradict the Judicial Removal provision. *See*, e.g. 8 U.S.C. § 1228(c)(2).

Immigration law is extremely complex. For example, people born outside the U.S. may be U.S. citizens, derivatively through parents or grandparents and not even realize it. In addition, they may be eligible for various forms of relief from removal, including potential asylum relief in some cases. It is not possible for a credible review of these potential issues to be even cursorily addressed in the time frame being forced upon these individuals and their over-burdened counsel. Stated simply, to impose Judicial Removal and obligate the federal defense bar in Iowa, within seven (7) days, to fully evaluate any legal or factual arguments against the arrests themselves, and to identify and evaluate any possible challenge to removal or relief from removal for scores of new clients, works a travesty of justice.

To restore some faith in the judicial process, AILA respectfully asks that you take immediate steps to guarantee full constitutional protections to those who stand accused in the Agriprocessors enforcement operation, including but not limited to:

1. Assuring that prosecutorial discretion is applied to all cases to determine if criminal prosecutions are merited.
2. Assuring that, under the circumstances of this case, where nearly 400 individuals have been charged criminally under the immigration laws, CJA attorneys with immigration expertise—even from outside the Northern District of Iowa—are appointed to represent individual defendants.
3. Providing at least thirty days for defense counsel to associate with immigration bar support for the review of potential relief from removal for those charged.
4. Assuring that all detainees remain in the current state where arrested until their cases are adjudicated and be provided with the opportunity to seek release on bond, and a fair and full bond determination.
5. Assuring that all detainees be individually interviewed by counsel to preserve attorney-client privilege and confidentiality.
6. Assuring that any defendant who, after full consultation with a competent immigration attorney, is found to have a reasonable basis for seeking relief from deportation under our laws is provided with a full and fair immigration court hearing to determine eligibility for such statutory and discretionary relief.

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AILA is also calling upon the Department of Homeland Security and the Department of Justice to cease large-scale operations that have been the hallmark of the administration of the immigration laws for the last several years, and which have only led to widespread violations of due process and human rights, and to enforce the immigration laws in a manner that is effective, humane, and respectful of the basic rights and freedoms that form the foundation of our democracy.

Respectfully,

A handwritten signature in cursive script, appearing to read "Kathleen Campbell Walker".

Kathleen Campbell Walker
President
American Immigration Lawyers Association

A handwritten signature in cursive script, appearing to read "Jeanne A. Butterfield".

Jeanne Butterfield
Executive Director
American Immigration Lawyers Association

PRESS RELEASE

May 12, 2008 2:30 p.m.
Cedar Rapids, Iowa

The United States District Court for the Northern District of Iowa has temporarily relocated a number of judges and other court personnel and services to Waterloo, Iowa in response to the anticipated arrest and prosecution of numerous illegal aliens in the Department of Homeland Security law enforcement initiative in northern Iowa.

Chief Judge Linda R. Reade made the decision to temporarily relocate some judges and court personnel to make it easier for arrestees' families to attend court proceedings and because of the anticipated scope of the initiative. There is inadequate space in the Cedar Rapids and Sioux City courthouses to hold and process those arrested.

It is not anticipated that the temporary relocation of some judges and court personnel will substantially affect normal court operations in Cedar Rapids and Sioux City.

Robert Phelps
Clerk of Court
United States District Court
Northern District of Iowa
101 First Street SE
Cedar Rapids, IA 52401
(319)286-2300