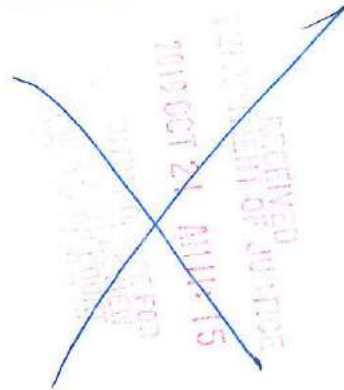


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Elizabeth B. Jordan
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October [redacted] 2019

Via mail to:

Hon. Johnny Duck, Immigration Judge
1900 E. Whatley Road
Oakdale, LA 71463

RE: Deaf Respondent [redacted] A# [redacted]

Dear Judge Duck,

The Civil Rights Education and Enforcement Center (CREEC), a non-profit civil rights law office based in Denver, has extensive experience protecting the rights of Deaf and hard of hearing people in custodial and legal proceeding settings, including ICE custody and Immigration Court. Disability Rights Advocates (DRA), a non-profit disability rights legal center based in Berkeley, California, also has substantial experience representing Deaf and hard of hearing people in legal proceedings. We were recently contacted regarding [redacted] A# [redacted] who is a respondent before the Oakdale Immigration Court. Mr. [redacted] is a Deaf person with little formal sign language education.

We are not his immigration attorneys. However, we are respectfully writing as Friend of the Court to ensure that he has effective communication and receives adequate accommodations, as required by law, while appearing before this Court.

We understand that the Court has scheduled a competency hearing for Mr. [redacted]. We appreciate the Court's effort to be responsive to Mr. [redacted] needs. However, we write to additionally request he have an appropriate interpreter to ensure that he can effectively communicate with the Court. Therefore, we specifically request the Court find a suitable accommodation for Mr. [redacted] hearing disability,

consistent with his rights under Section 504 of the Rehabilitation Act, Department of Justice regulations implementing Section 504, and the Due Process Clause of the Constitution.

The Department of Homeland Security ("DHS") and its components including Immigration and Customs Enforcement ("ICE"), as well as the Executive Office for Immigration Review ("EOIR"), are all governed by Section 504 of the Rehabilitation Act of 1973 ("Section 504"), 29 U.S.C. § 794, which prohibits disability discrimination by any program or activity conducted by an executive agency.

Regulations implementing Section 504 require that EOIR provide effective communication for individuals with disabilities, including furnishing "appropriate auxiliary aids where necessary to afford an individual with a disability an equal opportunity to participate in . . . a program or activity conducted by" EOIR. 28 C.F.R. § 39.160(a)(1). Auxiliary aids are "services or devices that enable persons with impaired sensory, manual, or speaking skills to have an equal opportunity to participate in, and enjoy the benefits of, programs or activities conducted by the Department." 28 C.F.R. § 39.103. In determining what type of auxiliary aid is necessary, EOIR must "give primary consideration to the requests of the individual with a disability." 28 C.F.R. § 39.160(a)(1)(i).

Given that Mr. [REDACTED] legal rights are at stake, an appropriate accommodation should be provided for any interaction between Mr. [REDACTED] and an official of EOIR in which his legal rights are being discussed or he is being asked to defend himself from removal.

In addition to these statutory obligations, the Due Process Clause of the Constitution requires that Mr. [REDACTED] have a fundamentally fair hearing. See generally *Matter of M- A- M-*, 25 I&N Dec. 474 (BIA 2011) (citing, *inter alia*, *Reno v. Flores*, 507 U.S. 292, 306 (1993), *Matter of M- D-*, I&N Dec. 540, 542 (DIA 2002), and *Shaughnessey v. United States ex rel. Mezei*, 345 U.S. 206, 212 (1953)). A hearing at which he cannot understand the proceedings – because he has an inappropriate interpreter or no interpreter at all – while he is required to defend himself against charges of removability, make an application for bond, and/or present a case for relief,

cannot meet the requirements for fundamental fairness laid out in the cases above.

In this case, Mr. [REDACTED] rights to effective communication laid out above would be best protected through the use of a sign language interpreter and Certified Deaf Interpreter (CDI) in a Deaf-hearing interpretation team. A CDI is trained to establish communication with someone who uses informal sign language, like Mr. [REDACTED]. An additional interpreter helps relay the CDI's interpretation to hearing people. More information on this kind of interpretation team is available at this link: <https://www.signingsavvy.com/blog/165/Certified+Deaf+Interpreters+Explained>. The team should be qualified to interpret for legal proceedings.

We would be happy to provide any further information that the Court may require or answer any questions. We can be reached at (303) 800-6986. Thank you for your consideration.

Sincerely,



CIVIL RIGHTS EDUCATION
AND ENFORCEMENT CENTER
Elizabeth B. Jordan
Director of Immigration Detention Accountability Project

DISABILITY RIGHTS ADVOCATES
Stuart Seaborn
Managing Director, Litigation