

Center for Constitutional Rights

Discrimination, Detention, and Deportation: Immigration & Refugees

<https://ccrjustice.org/home/what-we-do/our-cases/dada-v-witte-wdla>

Policy Issue Resources

The district court ordered the release of 14 people on May 22, 2020.

National Immigration Project of the National Lawyers Guild, Bill Quigley of Loyola University New Orleans College of Law, Jeremy Jong in New Orleans, and R. Andrew Free in Nashville, Tennessee

Talatu Helen Dada, Matilde Flores de Saavedra, Sirous Asgari, Eduardo Devora Espinosa, Rosabel Carrera, Sonia Lemus Tejada Dejaso, Griselda Del Bosque, Nadira Sampath Grant, Suresh Kumar, Pardeep Kumar, Abraham Gebremedhin Gebremichael, Rolando Alex Colon, Aracelio Rodriguez, Desmond Nkobenei, Hasan Saleh, Karthikeyan Ponnusamy

Dada v. Witte is a federal lawsuit against Immigration and Customs Enforcement (ICE) officials on behalf of 16 medically vulnerable people currently held in six different immigration detention centers in Louisiana. The lawsuit and an accompanying motion for a temporary restraining order (TRO) seek the immediate release of these individuals, citing their severe risk of contracting coronavirus and developing life-threatening COVID-19 symptoms as well as ICEs long and notorious history of failing to address serious overcrowding, unsafe and unsanitary facilities, and failure to provide adequate medical care and protection against outbreaks of infectious disease. The complaint and TRO seeking release warn that the near-certainty of coronavirus outbreaks in these facilities renders the continued detention of these individuals a potential death sentence for those detained for only a civil immigration violation.

Given the conditions in which people are confined in these immigration detention centers, it is impossible for ICE to comply with CDC guidelines around social distancing, quarantine, and treatment, and the facilities already inadequate medical facilities will inevitably be overwhelmed. The plaintiffs themselves report that the detention facilities have provided those detained with little information about coronavirus, including guidelines for preventing it; that they are housed in open dorms with dozens sharing bunk beds only a few feet apart, with only a handful of toilets, showers, and phones; and that staff do not wear masks or gloves. Some of the people being detained do not have access to soap. In the days preceding the case filing, the number of confirmed COVID-19 cases in Louisiana skyrocketed, and the rate of new infections there emerged as the highest in the nation.

The filing argues that when a state incarcerates someone, the Due Process Clause of the Constitution mandates the state provide those detained with a basic duty of care and health. Because these plaintiffs are in civil immigration detention, Due Process prohibits imposing conditions of confinement that amount to punishment and also prohibits ICE officials from being deliberately indifferent to known medical risks. The TRO likewise argues that release is the only possible remedy given the irremediably dangerous conditions and because access to counsel and to the bond system makes narrower possible relief such as bail impossible. The complaint also alleges that each of the 16 plaintiffs has a disability as defined under the federal Rehabilitation Act and is thus entitled to the only reasonable accommodation imaginable under the circumstances: release. In addition, the complaint highlights the myriad ways ICE is not following and cannot follow its own guidelines on containment of communicable diseases, which renders ICE in violation of the Administrative Procedure Act.

This filing is part of a national effort to release individuals from ICE detention and state and local prisons. Other countries are acting boldly in the name of justice and public health to free prisoners. For example, Iran released more than 80,000 prisoners from their jails following the COVID-19 outbreak there. The COVID-19 pandemic has thrown into stark relief the inhumanity of the vast detention and incarceration system in the United States, which even under normal circumstances was cruel, dehumanizing, and overcrowded. While this litigation, for now, seeks emergency release only of these particularly vulnerable individuals, it is situated in broader calls for a positive vision of mass decarceration.

This case was originally part of [a case filed in the Eastern District of Louisiana](#) that covered plaintiffs in facilities in Louisiana, Alabama, and Mississippi. After that case was dismissed for lack of jurisdiction, the legal team re-filed this separate case on behalf of the plaintiffs in Louisiana in the district local to the facilities in which they are held, rather than to the ICE field office responsible for the whole region.

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