## **Center for Constitutional Rights**

# Discrimination, Detention, and Deportation: Immigration & Refugees

## https://ccrjustice.org/home/what-we-do/our-cases/tamayo-espinoza-v-witte

## **Policy Isssue Resources**

The complaint and motion for temporary restraining order were filed in the Southern District of Mississippi on April 16, 2020.

Cliff Johnson of the MacArthur Justice Center at University of Mississippi School of Law, National Immigration Project of the National Lawyers Guild, Jeremy Jong in New Orleans, R. Andrew Free in Nashville, Tennessee

Leyanis Tamayo Espinoza, Edilia Del Carmen Martinez, Jose Ruben Lira Arias, Viankis Maria Yanes Pardillo, Ndikum Keshia Angu Anjoh, Anthony Baptiste, Linda Chuo Fru

Tamayo Espinoza v. Witte is a federal lawsuit against Immigration and Customs Enforcement (ICE) officials on behalf of seven medically vulnerable people currently held in Adams County Detention Center in Natchez, Mississippi. 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 this facility 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 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 facility has provided those detained with little information about coronavirus, including guidelines for preventing it; that they are housed in open dorms of up to 120 people, 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.

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. The complaint also alleges that each of the 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 followits own guidelines on containment of communicable diseases.

This filing is part of a national effort to release individuals from ICE detention and state and local prisons. Other countries are acting boldlyin the name of justice and public healthto 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 separate cases on behalf of the plaintiffs in Louisiana and Mississippi in the districts 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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