

Center for Constitutional Rights

Discrimination, Detention, and Deportation: Immigration & Refugees

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

Policy Issue Resources

The complaint was filed on October 8, 2020.

National Immigration Project of the National Lawyers Guild and Jeremy Jong of New Orleans

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Ache v. Witte is a federal lawsuit against Immigration and Customs Enforcement (ICE) officials on behalf of 14 medically vulnerable people currently held in immigration detention at Pine Prairie Correctional Center and Jena/LaSalle Detention Facility in Western Louisiana. The habeas petition seeks the release of our plaintiffs, 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 seeking release warns that rampant spread of coronavirus within the facilities renders the continued detention of medically vulnerable people a potential death sentence. In addition, a motion for a temporary restraining order seeks release for those detained at Jena and expedited discovery and a site inspection for those detained at Pine Prairie. Eight people have died in ICE custody in the first nine months of 2020 alone.

The crowded and unsanitary conditions in immigration detention centers make it 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. Plaintiffs report that they are housed in close quarters and in large groups, with shared toilets, showers, and phones that are not adequately cleaned; and that many staff, including medical staff, do not wear masks or gloves. Some of the people being detained do not have consistent 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 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 follow its 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 boldly in the name of justice and public health to free prisoners. 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. This litigation is situated in broader calls for a positive vision of mass decarceration and abolition.

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