

Vera Institute of Justice

Criminal Justice Issues and Prisoners' Rights

<https://www.vera.org/blog/covid-19-1/facebook-post-put-high-school-student-in-a-detention-facility-now-struck-by-coronavirus>

Public Facing Advocacy Writing

Abigail Hernandez, now 23, ended up at the Buffalo Federal Detention Facility because of a Facebook post. At the time, she was in a high school program for children with serious cognitive impairments. Her ability to comprehend consequences could be compared to that of an eight- or nine-year-old, according to a former teacher who has fought for her release.

In February 2018, Hernandez, upset about a change in location for her special education program, wrote, Im coming tomorrow morning and Im going to shoot all of ya bitches, on East High Schools Facebook page. She was charged with making a terroristic threat. She pled guilty to third-degree falsely reporting an incident, a misdemeanor offense, and was sentenced to probation.

Local probation officials believed that Hernandez was safe to release from custody. There appears to be no intent behind the threat she made, they [reported](#). While the defendant admitted to the offense, such actions should be viewed through the lens of a much younger individual than the defendants age would suggest.

Immediately after she was released, Immigration and Customs Enforcement (ICE) took her into custody for deportation to Mexico.

Hernandez had been born in Mexico and was brought to the United States when she was three years old. She had been living under Deferred Action for Childhood Arrivals protections, which were nullified after her guilty plea.

A local legal services organization began representing Hernandez, but she was still denied bond by the immigration judge, and her deportation case continues to wind its way through the immigration courts. She was almost deported last year, being taken as far as the border before a last-minute legal reprieve. She has no memory of Mexico and knows no one there.

For almost two years, she has been detained at the Buffalo Federal Detention Facility, where 49 cases of COVID-19 have been reported. Rita Gaither, Hernandezs former teacher, worries the disease will spread and that angry words written by a high school student could result in a death sentence. They cant self-isolate. There is nowhere to go.

Gaither has taken up Abigails cause and advocated for her release. Hernandez calls Gaither from the detention center almost once a day. As people in detention started testing positive for coronavirus, days would go by without word from Hernandez, leaving Gaither terrified. I really believe that they would just let the people suffer in silence.

People held in Hernandezs detention center staged a hunger strike and sent a [letter](#) saying they feared for their lives, being detained in conditions that make social distancing impossible.

Vera created [guidance](#) for preventive and responsive measures that can protect those confined in the United States vast immigration detention system from COVID-19. Chief among those measures is the release of people from ICE custody.

Gaither said she feels nauseous when she thinks about her former student being trapped in an unsafe detention facility during a pandemic. You dont see barbed wire like that in maximum security prisons, she said of the Buffalo Federal Detention Facility. If anybody died in there, I dont know if they would even release their bodies to their people.

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