



U.S. Department of Justice
Civil Division
Office of Immigration Litigation
District Court Section

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November 20, 2020

VIA ECF

Hon. Esther Salas
United States District Court
District of New Jersey
Martin Luther King Building & U.S. Courthouse
50 Walnut Street
Newark, New Jersey 07102

Re: *Rizza Jane G.A., et al. v. Rodriquez, et al.*, Civil Action No. 20-5922 (ES)

Judge Salas,

I represent Respondents in the above-referenced action. I write to update the Court on conditions at Elizabeth Contract Detention Facility (ECDF), the subject of the above-referenced litigation. As described in the attached declaration of ICE's clinical director overseeing ECDF, a small number of detainees at ECDF of have tested positive for COVID-19, along with several staff members. Consistent with guidance from the U.S. Centers for Disease Control and Prevention and policies promulgated by U.S. Immigration and Customs Enforcement, including the *COVID-19 Pandemic Response Requirements*, ECDF is quarantining and testing detainees who have had close contact with individuals confirmed to have COVID-19. *See* Decl. of Capt. Abelardo Montalvo, M.D. ¶¶ 12, 16(e).



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Respectfully submitted,

/s/ Hans H. Chen

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ATTORNEY FOR RESPONDENTS



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CERTIFICATE OF SERVICE

I hereby certify that on November 20, 2020, I filed the foregoing document with the Clerk of the Court through the Court's ECF system and that on this day, it will be served electronically upon registered participants identified on the Notice of Electronic Filing.

Dated: November 20, 2020

/s/ Hans H. Chen

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ATTORNEY FOR RESPONDENTS

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

RIZZA JANE G.A., et al., *on behalf
of themselves and similarly situated,*

Petitioners,

v.

ORLANDO RODRIGUEZ, et al.,

Respondents.

HONORABLE ESTHER SALAS

Civil Action No. 20-5922 (ES)

DECLARATION OF CAPTAIN ABELARDO MONTALVO, M.D.

Pursuant to 28 U.S.C. § 1746, I, Captain Abelardo Montalvo, M.D., hereby declare and state as follows:

1. I am a medical doctor with a Board Certification in Family Medicine. The information provided herein is based upon my personal knowledge, review of DHS records, and my review of the COVID-19 protocols for correctional facilities and detention centers.
2. I am employed by U.S. Department of Homeland Security, Immigration and Customs Enforcement (“ICE”), and currently serve as the Eastern Regional Clinical Director with ICE Health Service Corps (“IHSC”). I have held this position since February 24, 2012. Previously, I served as Clinical Director for the Krome Service Processing Center from July 2003 through February 2012. I have also served as Clinical Director and Health Service Administrator at the Aguadilla Service Processing Center from January 1997 through July 2003 and as Clinical Director at the Port Isabel Service Processing Center June 1995 through January 1997.
3. My current duties include serving as the regional medical authority for IHSC facilities in my region. I provide orientation, oversight and ongoing mentoring of the Clinical Directors, thereby ensuring health care delivery in accord with IHSC’s established scope of services and the mission, vision, and goals of the organization. My oversight includes the Elizabeth Contract Detention Facility (“ECDF”).
4. IHSC comprises a multidisciplinary workforce consisting of U.S. Public Health Service Commissioned Corps (“USPHS”) officers, federal civil servants, and contract health professionals.
5. Since the onset of reports of Coronavirus Disease 2019 (“COVID-19”), ICE epidemiologists have been tracking the outbreak, regularly updating infection prevention and control protocols, and issuing guidance to field staff on screening and management of potential exposure among detainees.

6. As of November 19, 2020, there are 128 detainees housed at ECDF. There are 139 Core Civic employees, 24 IHSC employees and 20 ICE employees who are stationed at ECDF.
7. In my current position, I am the clinical director and provide oversight of the clinical operations and supervision of the IHSC Elizabeth Contract Detention Facility. The clinical director provides and oversees care appropriate to patient needs, severity of disease, condition, impairment, or disability within the scope of care provided in the detention setting (medical housing unit care vs. ambulatory care) and within the mission, vision, and goals of the organization.
8. The Health Services Administrator (HSA) is the designated administrative local authority at IHSC-staffed facilities. The current HSA is Brandon T. Johnson, PhD, MBA, CDR, U.S. Public Health Service, ICE Health Service Corps, at ECDF.
9. In testing for COVID-19, IHSC is following guidance issued by the Centers for Disease Control (CDC) to safeguard those in its custody and care. Each detainee is screened for disabilities upon admission. Identified disabilities are further evaluated and reasonable accommodations are provided as medically appropriate.
10. During intake of an ICE detainee at the ECDF a nurse conducts a medical screening, detainees are assessed for fever and respiratory illness, are asked to confirm if they have had close contact with a person with laboratory-confirmed COVID-19 in the past 14 days, and whether they have traveled from or through area(s) with sustained community transmission in the past two weeks.
11. Detainees who present symptoms compatible with COVID-19 will be placed in isolation, where they will be tested. If testing is positive, they will remain isolated and treated. In case of any clinical deterioration, they will be referred to a local hospital.
12. In cases of known exposure to a person with confirmed COVID-19, asymptomatic detainees are placed in cohorts with restricted movement for the duration of the most recent incubation period (14 days after most recent exposure to an ill detainee) and are monitored daily for fever and symptoms of respiratory illness. Cohorting is an infection-prevention strategy which involves housing detainees together who were exposed to a person with an infectious organism but are asymptomatic. This practice lasts for the duration of the incubation period of 14 days, because individuals with these and other communicable diseases can be contagious before they develop symptoms and can serve as undetected source patients. Those that show onset of fever and/or respiratory illness are referred to a medical provider for evaluation. Cohorting is discontinued when the 14-day incubation period completes with no new cases. Per ICE policy, detainees diagnosed with any communicable disease who require isolation are placed in an appropriate setting in accordance with CDC or state and local health department guidelines.
13. Initial cohort indicates that a detainee has shown signs or symptoms of a virus. These signs may include fever, cough, joint pain, and altered breathing patterns. These signs or symptoms prompts COVID-19 testing. Detainees who test positive remain on cohort status with monitoring; intervention resolution guided care based upon signs or symptomology.

14. ECDF has special protocols for detainees at high risk for complications due to COVID-19. ECDF has recommended release for detainees with at risk conditions to COVID-19 per CDC guidelines (respiratory, cardiovascular, uncontrolled immunocompromised conditions and those over 60 years of age with preconditions) which were reviewed case by case. The protocol with our local hospitals remains the same. Any detainee with a medical condition outside the scope of the clinic will be sent out (with mask for confirmed COVID-19 and/or advanced symptoms of the virus). All confirmed positive cases of COVID-19 remain in the same dorm. These detainees are afforded daily sick call in the dorm and mandated daily monitoring with temperature checks.
15. ECDF has the following medical capability: ECDF, which manages both males and females, provides daily 24-hour access to sick calls in a clinical setting but does not have an onsite medical infirmary. ECDF has the ability to provide referrals to local hospitals for specialty medical care and mental health care.
16. As of 10:00 a.m. on November 19, 2020, IHSC has the following information regarding ECDF:
 - a. There are three (3) current confirmed positive COVID-19 case in the detainee population. IHSC will continue to monitor for COVID-19 symptoms in the detainee population, administer confirmatory testing as clinically indicated, and provide supportive care.
 - b. There is one (1) current confirmed positive COVID-19 cases in the IHSC staff. This staff member tested negative on November 1, 2020, before departing for leave on 11/03 and has not returned to work. There has been one (1) death of an IHSC staff member who tested positive for Covid-19 at the time of his death. This staff members' last day in the office was on October 16, 2020. He died on November 2, 2020.
 - c. There are no suspected IHSC staff cases of COVID-19 at ECDF.
 - d. Per guidance issued by the U.S. Centers for Disease Control & Prevention, set forth in *Guidance for Correctional & Detention Facilities*, ECDF is using a symptom-based strategy for the discontinuation of medical isolation precautions (<https://www.cdc.gov/coronavirus/2019-ncov/community/correction-detention/guidance-correctional-detention.html>).
 - e. In addition to medical isolation, IHSC is testing all detainees who were exposed to an individual with COVID-19. IHSC is testing those detainees within 5-7 days of exposure. This ensures adequate time has passed between exposure and testing to obtain an accurate result (e.g. reduce the likelihood of false negatives). Pursuant to this policy, IHSC tested all the detainees in one dormitory on November 16 and is awaiting test results. IHSC will test the detainees in a second dormitory on November 23 and will test the detainees in a third dormitory on November 25.

17. As of 10:00 a.m. on November 19, 2020 Core Civic has the following information regarding ECDF:
 - a. There are 24 employees of Core Civic ECDF staff who have tested positive for COVID-19. The last positive case day at the Facility was November 19, 2020 That employee's last day at the Facility was November 16, 2020.
 - b. Additionally, there are zero staff members who are self-isolating. Currently there are 4 Core Civic COVID-19 positive staff members.
18. As of 10:00 a.m. on September 19, 2020 DHS/ICE Enforcement and Removal Operations has the following information regarding ECDF:
 - a. There has been 1 positive ECDF staff member who has tested positive and whose last day at the Facility was March 25, 2020. He was cleared to return to work by his physician and returned on April 13, 2020.
 - b. There has been one ECDF staff member who has self-quarantined because their spouse tested positive. This person returned to work on April 13, 2020.
 - c. The staff has been teleworking since March 27, 2020. ERO continues to utilize a telework schedule but also provides daily physical coverage at the facility with an ERO team consisting of a supervisor and four officers/staff, Mon-Fri.
19. The facility has increased sanitation frequency and provides sanitation supplies as follows: Soap is provided in the dorms. Soap and hand sanitizer is available in the medical clinic. The administration is encouraging both staff and the detainee general population to use these tools often and liberally.
20. ECDF provides disinfectants to staff and cleaning crews and CDC recommended cleaning and disinfection above and beyond normal activity have been implemented. Core Civic staff are provided with face masks; and are also allowed to bring their own. IHSC & ICE staff have N-95 Masks and other PPE available to all staff. Mask were provided to all detainees on April 8, 2020, April 30, 2020, June 5, 2020 and again on September 3, 2020.
21. ECDF provides COVID-19 education to staff and detainees that includes symptom education, the importance of hand washing and hand hygiene, covering coughs with the elbow instead of with hands, and requesting to seek medical care if they feel ill. Signs reiterating this information are posted in the housing units and other areas of the facility such as hallways and recreation units.
22. The ECDF has limited professional visits to noncontact visits and suspended in person social visitation and facility tours. The ECDF screens all staff and vendors when they enter the facility including body temperatures.

23. The ECDF screens all detainee intakes when they enter the facility including travel histories, medical histories and checking body temperatures and have procedures to continue monitoring the populations' health.
24. On March 23, 2020, the CDC issued *Interim Guidance on the Management of Coronavirus 2019 (COVID-19) in Corrections and Detention Facilities*. The CDC last updated this publication on October 21, 2020 and retitled it *Guidance for Correctional & Detention Facilities*. The ECDF is complying with the guidance and implementing all the strategies therein.
25. ECDF is maintaining physical space between detainees, trying to keep detainees six feet apart, regardless of the presence of symptoms.
26. During meals ECDF ensures that detainees are kept at least six feet apart from each other. The chairs in the dining hall are arranged so that there is more space between detainees.
27. All group activities besides limited outside time and dining have been temporarily suspended.
28. ECDF ensures that detainees' bunks are adequately spaced apart and at least six feet apart in all directions.
29. The ECDF have identified housing units for the quarantine of patients who are suspected of or test positive for COVID-19 infection to be addressed as set forth in paragraphs 9, 10 and 11, *supra*.
30. ICE has reviewed its detained "at risk population" as identified by the CDC guidelines to determine if detention remains appropriate, considering the detainee's health, public safety and mandatory detention requirements, and adjusted custody conditions, when appropriate, to protect health, safety and well-being of its detainees.

I declare, under penalty of perjury under 28 U.S.C. § 1746, that the foregoing is true and correct to the best of my knowledge and based on information obtained from other individuals employed by ICE.

DATED: November 20, 2020

CAPT Abelardo Montalvo, M.D.

Abelardo Montalvo, MD
ICE Health Service Corps
Enforcement and Removal Operations
U.S. Immigration and Customs Enforcement

