

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
EL PASO DIVISION**

Lenin A. Hernández Argujo

Petitioner,

v.

Diane Witte, et al.,

Respondents.

Case No. EP-18-cv-276

DECLARATION OF CARLOS SPECTOR

I, Carlos Spector, make this declaration from my personal knowledge and, if called to testify to these facts, could and would do so competently.

1. I am an attorney, and I am representing Lenin A. Hernández-Argujo in his immigration proceedings.

Mr. Hernández's Removal Proceedings

2. Mr. Hernández had his first immigration court hearing on August 22, 2016. That hearing was a master calendar hearing, or group hearing. At that hearing, he did not have an attorney present, and the immigration judge granted him a continuance until September 15, 2016 to obtain counsel.

3. After that hearing, Mr. Hernández retained Annette Briones de Jesus to represent him in removal proceedings. Ms. Briones represented Mr. Hernández at his September 15, 2016 hearing and requested a continuance for preparation time.

4. Ms. Briones again appeared on Mr. Hernández's behalf on October 4, 2016, and again requested a continuance. The immigration court set the next hearing for November 17, 2016.

5. At that November 17, 2016 hearing, Ms. Briones filed an application for asylum on

behalf of Mr. Hernández. An individual merits hearing on that application was scheduled for May 3, 2017.

6. Before that May 3, 2017 hearing could take place, however, Mr. Hernández discovered that Ms. Briones, who had held herself out as a licensed immigration attorney, was in fact a nonlawyer. ICE officials had allowed Ms. Briones to enter the El Paso Service Processing Center as an attorney and to fraudulently enter an appearance as counsel of record in Mr. Hernández's immigration proceedings.

7. During this period, Mr. Hernández was transferred from his detention center in El Paso, Texas, to a facility in Cibola County, New Mexico.

8. After discovering that Ms. Briones was not a lawyer, Mr. Hernández retained me as his new counsel. Mr. Hernández had his first hearing as my client before a new immigration judge in New Mexico on May 22, 2017.

9. At that May 22, 2017 hearing, the immigration judge, on her own motion, set a new master calendar hearing for Mr. Hernández. That hearing took place on June 13, 2017; at that hearing, a representative from my office sought and received a two-week continuance to prepare the case.

10. The next hearing took place on June 27, 2017, but I was unable to appear at the hearing because I had quadruple bypass surgery. As a result, the hearing was reset for July 17, 2017.

11. At the hearing on July 17, 2017, the immigration judge denied Mr. Hernández's motion for a change of venue to El Paso.

12. At that hearing, I explained that I was back to work (after my surgery), and that I would prepare an asylum application before the next master calendar hearing. The immigration judge scheduled that next hearing for August 14, 2017 and also scheduled an individual merits hearing for September 18, 2017.

13. The scheduled August 14, 2017 hearing never took place because ICE transferred Mr.

Hernández back to El Paso, where his next hearing, once again before a new immigration judge, took place on August 22, 2017. At that hearing, a representative from my office explained that the transfer had delayed the preparation of his asylum application.

14. As a result, Mr. Hernández's next hearing was scheduled for September 26, 2017.

15. On September 20, 2017, I received a rescheduling notice, without explanation, from the immigration court. That notice delayed the scheduled September 26, 2017 hearing until November 14, 2017.

16. On November 9, 2017, I received a rescheduling notice, again without explanation, from the immigration court. That notice delayed the November 14, 2017 hearing until December 7, 2017 and assigned Mr. Hernández's case to yet another immigration judge.

17. At the December 7, 2017 hearing, Mr. Hernández filed a new asylum application, and the immigration judge scheduled his individual merits hearing for March 14, 2018.

18. On March 5, 2018, the immigration court postponed Mr. Hernández's individual hearing from March 14, 2018 to April 20, 2018.

19. Only on April 20, 2018, almost two years after he presented himself at the border, did Mr. Hernández receive his first hearing on the merits of his asylum claim.

Exhibits

20. Attached as exhibit A is a true and correct copy of the parole request and supporting documents I submitted on Mr. Hernández's behalf to ICE on July 18, 2018.

21. Attached as exhibit B is a true and correct copy of ICE's letter denying Mr. Hernández's parole request, dated July 24, 2018.

22. Attached as exhibit C is a true and correct copy of a psychological evaluation of Mr. Hernández by Dr. David Gangsei, dated September 16, 2018.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct, based on my personal knowledge. Executed at El Paso, Texas, on September 20, 2018.

Carlos Jacobs

/s/