



National Immigrant Justice Center

Final Report Submitted to the Barbara McDowell and Gerald S. Hartman Foundation July 2011

With the support of the Barbara McDowell and Gerald S. Hartman Foundation, Heartland Alliance's National Immigrant Justice Center (NIJC) made significant progress in upholding the rights of immigrants in detention by challenging immigration detention conditions and the unmet medical needs of detainees.

Case of Carlyle Dale

In August 2010, NIJC filed an administrative claim under the Federal Torts Claims Act (FTCA) on behalf of Carlyle Dale, a chronically ill lawful permanent resident who suffered serious health complications while under the custody of the Department of Homeland Security's (DHS) Immigration and Customs Enforcement (ICE) for nearly five years. In late July 2011, NIJC received official denial of this claim. For that reason, NIJC is considering initiating litigation and has undertaken the following preliminary steps:

- **Choice of Venue:** Following research as to venue, NIJC and *pro bono* counsel determined that the middle district of Florida is the appropriate venue for filing any litigation in relation to this case.
- **Secured *pro bono* counsel:** The firm of Kirkland and Ellis agreed to represent Mr. Dale on the FTCA matter. NIJC also identified local co-counsel as an additional collaborator. Local co-counsel has 15 years of experience in defending the human rights of immigrants.

Complementary Legal Action

NIJC seeks to compel the government to take substantive measures to reform its policies and practices with respect to treatment of individuals requiring medical attention while in the custody of DHS. NIJC continues to identify other individuals who suffered inadequate medical care while detained.

- **Chronic Conditions in ICE Detention:** NIJC filed a Freedom of Information Act (FOIA) request to DHS for all policies and protocols relating to the treatment of chronic conditions for immigrants in detention and received an incomplete response from DHS on July 1, 2011. NIJC is now filing an administrative appeal with the agency. If DHS's response continues to be incomplete, NIJC could litigate that FOIA matter to obtain the requested information and to highlight ICE's treatment of detainees with chronic medical conditions.
- **Mass civil rights complaint to the Office of Civil Rights and Civil Liberties (CRCL)**
In April 2011, following numerous interviews with LGBT individuals in immigration detention and careful case-by-case documentation of deprivation of medical treatment and physical abuse, NIJC submitted a civil rights administrative complaint to DHS's Office of Civil Rights and Civil Liberties (CRCL) to force the government to reform its medical practices. The complaint—the first multi-individual complaint received by DHS's CRCL—presented the testimony of 13 detained LGBT immigrants who suffered civil and human rights violations while in DHS custody and, in some cases, were denied adequate medical care. The complaint produced immediate positive changes: the CRCL scheduled on-site investigations at three of the jails implicated in NIJC's complaint; certain jails modified their protocols and provided medical treatment to LGBT individuals; and a special Congressional hearing fueled a letter to DHS signed by 40 members of Congress. This advocacy also garnered public support from city

councils. NIJC further challenged the systemic denial of medical care and abuse against LGBTB detained immigrants by submitting an urgent appeal to the United Nations Special Rapporteur on Torture due to egregious physical and sexual abuse of these detainees. NIJC will participate in the upcoming CRCL investigation and may file FTCA claims on behalf of two individual complainants. In the meantime, NIJC has identified six other cases of LGBT immigrants whose rights have been violated while under the custody of DHS.

Conclusion

The support of the Barbara McDowell and Gerald S. Hartman Foundation to NIJC's litigation of the Carlyle Dale case has contributed to NIJC's comprehensive efforts to uphold the rights of individuals under the custody of DHS. During the upcoming critical stages of litigation, NIJC will move forward with collaborating partners so that a favorable decision will benefit not only Mr. Dale, as an aggrieved party denied medical treatment, but hundreds of thousands of immigrants caught in the immigration detention system.