

To: McDowell Foundation
From: National Immigration Project of the National Lawyers Guild
Re: Grant Report
Date: April 1, 2019

Since the project was funded, NIPNLG, along with co-counsel, has drafted and filed two substantial briefs to the Commonwealth Court of Pennsylvania in support of detained families' right to intervene in a child residential licensing dispute over the Berks family detention facility. Without a license as a child residential facility, the Berks County Residential Center (BCRC), which detains immigrant parents and children together, cannot operate.

NIPNLG, along with co-counsel, represents detained minor children D.G.A. and R.D.A.M. and detained adults G.C.G. and R.N. Those petitioners appealed an order denying their Petition to Intervene in proceedings before the Bureau of Hearings and Appeals (BHA) of the Pennsylvania Department of Human Services (the "Department"). The BHA proceedings involve the Berks County Residential Center (BCRC) Petition to Appeal the Department's non-renewal of its operating license. BCRC is an immigration detention center that imprisons minor children and their parents.

The opening brief, filed on December 28, 2018, included several novel arguments, including one relying on due process provisions of the Pennsylvania Constitution. It also required culling thousands of pages of administrative record and assembling the most relevant pieces into a condensed 350-page Reproduced Record. BCRC responded in opposition to our brief on March 1, 2019. We filed a reply brief on March 15, 2019. We now await the decision of the Pennsylvania Commonwealth Court.

If the Commonwealth Court rules in our favor, we will be entitled to participate in the licensing dispute before the BHA. We will be entitled to present witnesses and our voluminous

evidence about the numerous regulatory violations that BCRC has committed in detaining immigrant children in a secure facility with immigrant adults, including the poor medical care, the lack of interpretation services, and the inhumane policy that requires a disruptive flashlight check every 15 minutes during the night. We will be asking BHA to revoke BCRC's child residential facility license. If the Commonwealth Court denies our petition, we will need to decide whether to appeal that decision to the next court of jurisdiction.

By the conclusion of the grant year in September 2019, we expect to have a decision from the Commonwealth Court, and to be able to make strategic decisions about next steps in the litigation.