

Declaration of Paul H. “Woody” Scott

I hereby declare under penalty of perjury pursuant to 28 U.S.C. § 1746 that the following statements are true and correct to the best of my knowledge and understanding:

1. I am an immigration attorney licensed to practice law in the State of Louisiana since 2008. I hold a Juris Doctor and Bachelor of Civil Law from the Louisiana State University Paul H. Herbert Law School.

2. I am the founder of The Scott Law Firm, LLC, based in Baton Rouge, Louisiana. My firm focuses a large part of our practice on the representation of detained noncitizens in removal proceedings pending before the Oakdale and Jena, Louisiana Immigration Courts.

3. I personally have extensive experience representing detained non-citizens before these courts. *See, e.g., Matter of Flores-Aguirre*, 26 I&N Dec. 155 (BIA 2013); *Matter of Diaz-Garcia*, 25 I&N Dec. 794 (BIA 2012).

4. I engage in significant professional development activities within Louisiana’s immigration bar. I have served as President and Treasurer of the Immigration Law Section of the Louisiana State Bar Association, and held leadership positions in the American Immigration Lawyers Association MidSouth Chapter. I have served as a faculty member and presenter at numerous continuing legal education seminars presented by the American Immigration Lawyers Association, of which I am a longtime, active member.

5. My firm serves clients detained in immigration detention facilities throughout the New Orleans Field Office Area of Responsibility, including Jena, Pine Prairie, Basille Oakdale, and Richwood in Louisiana, Tallahatchie in Mississippi, and Etowah in

Alabama. Based on my personal experience and that experiences of my law firm practicing in the immigration courts that hear cases for these facility, the experiences of my associates, and my professional experience mentoring and collaborating with other practitioners in these courts, I offer the following assessment the current state of access to the courts and access counsel for noncitizens detained within the New Orleans Field Office Area of Responsibility.

Immigration Courts and Detention Centers in the New Orleans Field Office

6. These detention centers are incredibly remote. It is more often than not that the nearest attorney who handles immigration law is many hours away. It is difficult for detainees to obtain counsel.

7. Even assuming detainees at these detention centers are able to secure counsel, the logistics of the facility make it very difficult to adequately prepare them for complicated merits hearings without incurring tremendous expense. The facility has only one attorney visitation area, which is a non-contact visitation room. Consequently, document review, witness preparation, and counseling must be done through glass and monitored by tele-video. When multiple attorneys are present to visit their clients, or when attorneys are visiting multiple clients at a time, the LaSalle Detention Facility staff may require counsel with pre-set appointments to wait for hours to see their clients.

8. While the facility offers unmonitored telephone calls and skype calls for detainees and attorneys, those calls are typically limited on twenty minutes. And once a call is complete, the detainee or attorney must arrange another telephone call or Skype call—often on another day—to continue the preparation process. Thus, it is likely that preparing for a merits hearing by telephone must occur only in twenty-minute chunks,

and only over a period of several days. For clients who are trauma survivors with complicated or difficult experiences to relate, this methodology of preparing is particularly difficult and at times counterproductive.

9. There are semi-regular closures of communications channels such as phone lines at the LaSalle facility due to rain and storms as a result of the telecommunications infrastructure connected to the facility. These outages are frequently unannounced and unpublicized on the facility's website. Thus, on any given day, the weather may literally determine whether a detainee is able to speak with his or her counsel by phone. Further, Skype phone calls have poor quality and because they are conducted in what it appears to be a jail cell with extremely poor acoustics; echoes routinely present significant auditory challenges.

10. The detention center itself is charged with scheduling attorney-client Skype calls. The attorney must wait at the designated time and many times the detention center simply fails to call with no explanation. The only remedy is to reschedule the call, which can be a week or so later. In a recent instance, the detention center failed to call on two occasions with the same client. It was a time-sensitive issue that I, the attorney, and client needed to discuss, and the only resolution was to communicate through the client's wife, which created a "telephone game" situation. I had to simply hope his wife was communicating what he wanted to me, and that she was communicating my words to her.

11. In addition to the above complications, it is often the case that a client is simply transferred to another detention center with no warning. There are times where neither I, nor my client's family, knows where he/she is detained.

Our Currently Detained Clients

12. My firm represents numerous clients who are currently imprisoned in Mississippi, Louisiana, or Alabama ICE detention centers. I believe all of my clients are eligible for bond granted by an Immigration Judge (“IJ”) pursuant to Section 236(a) of the Immigration and Nationality Act (“INA”). I can think of at least two of these clients have health problems that require medical care and treatment.

Conditions in Louisiana’s Immigration Detained Immigration Courts Have Deteriorated to a Crisis Point in the Past Two Weeks

13. In-person visitation has become basically impossible and dangerous. Dual risks are presented: the risk of potential transmission potentially infect my client, who would then infect the entire detention center; or the risk that my client could infect me and spread it to my family.

14. Visiting the courts has become mortally dangerous. ICE is now requiring that attorneys who appear in person provide their own Personal Protective Equipment. First, logistics: PPE is scarce and virtually impossible to obtain. Second, morality: I would want health care providers to have access to PPE before me. Third, feasibility: on one occasion, I know of two attorneys who shared PPE in order to represent their clients, because one of the attorneys did not have PPE, a scenario which presents greater dangers than not wearing any PPE at all.

The Government’s Coronavirus Response Has Made Providing Effective Assistance of Counsel Practicably Impossible.

15. EOIR has failed to promptly communicate their policies, if at all, regarding Coronavirus. This has made it difficult to be an effective counselor to my clients as I do not know when a court is closing, when we will have hearings, when their families can

post bonds. I usually find out about court closings on Twitter on the same day of the hearing—the current court operations have gone well beyond dysfunctional.

16. Furthermore, I am concerned about the standing telephonic hearings. The standing telephonic hearings waive my client's right to examine documents for veracity. Many times documents need to be reviewed and it is not possible for my clients to have fair hearings if they cannot review documents, or cannot submit documents, because the hearing is telephonic and the attorney is not present to submit documents.

17. In at least one instance an Immigration Judge at the LaSalle Detention Facility simply stopped coming to court entirely. We had a hearing in that Immigration Judge's courtroom and EOIR and the court staff failed to inform me of his absence. We were not told why the Immigration Judge was just not there—in fact it was only after we called the court's staff that we were told the Immigration Judge did not want to come to court due to fears of coronavirus. Inexplicably the Immigration Judge did come to court on Wednesday, but the LaSalle detention center closed on Thursday and Friday, again with no forewarning.

18. I am concerned about my ethical obligation to my clients, but I am also concerned about my family's welfare. I want to go forward with bond hearings in order to release as many of my clients as possible and not extend their detention, but this has become extremely difficult for many of the reasons articulated above. I know that they are desperate and their families need them home. At the same time I am concerned about what dangers I am putting my family in if I come home after practicing in a courtroom detention center.

19. I am also concerned about the decisions my clients are being forced to make. Many clients will have to make the decision of whether to wait in the detention center at risk of death in order to obtain relief in the immigration court, or some may just take an order of removal to get out of the detention center for fear of being infected. These decisions are being made out of fear for their safety while being detained rather than on their particular facts and the law.

20. In sum, based on my education, training, and experience practicing in Louisiana's detained immigration courts—including LaSalle—and my experience training and communicating with other attorneys who have done the same, I respectfully opine that the current conditions of the immigration courts and detention centers in the New Orleans Field Office make effective representation of clients practicably impossible, and prompt, fair access to courts illusory. As a result, individuals with meritorious claims will be prevented from obtaining the relief to which they're entitled, individuals who are eligible for release on bond will be needlessly imprisoned at taxpayer expense, and individuals who may wish to give up their claims and accept orders of removal or voluntary departure are not able to help facilitate their own release and repatriation – thus unnecessarily exposing all detained individuals at immediate, avoidable risk of serious harm in the form of potentially indefinite, process-less imprisonment, or death.

Respectfully submitted this 28th day of March, 2020 by:



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