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Contact:

Alejandra Lopez
ALopez@legal-aid.org
917-294-9348

*****FOR IMMEDIATE RELEASE*****

***Legal Aid and Cornell Law School Win Appellate Court
Victory in Keisy G.M v. Decker***

***Second Circuit Ruling Affirms Procedural Due Process Rights
for Individuals in Prolonged Mandatory Detention During
Removal Proceedings***

(NEW YORK, NY) – The Legal Aid Society lauded a Second Circuit Court of Appeals [ruling](#) that reversed a district court’s 2021 decision in *Keisy G.M. v. Decker*, which denied a bond hearing to a 35-year-old lawful permanent resident and father. The U.S. Immigration and Customs Enforcement (ICE) had detained Keisy for over twenty-one months in county jails without ever demonstrating that his detention was warranted.

The court issued a consolidated decision that included *Black v. Decker*, litigated by NYCLU as amicus curiae, which also challenged the unconstitutional practice of jailing immigrant New Yorkers for months before bringing them in front of a judge.

ICE detained Keisy G.M. pursuant to 8 U.S.C. § 1226(c), which provides for mandatory civil detention of noncitizens during their removal proceedings. His habeas petition challenged his detention without a bond hearing, asserting it had grown unduly prolonged and thereby unconstitutional. His petition asked for a chance to be heard on whether he was a danger to the community or a flight risk, and whether he could be permitted to leave ICE detention while his proceedings were ongoing.

Julie Dona, Supervising Attorney in the Immigration Law Unit at The Legal Aid Society, said: “Today’s appellate ruling sends a clear message that ICE cannot detain individuals for months on end without a bond hearing and upholds due process for all, regardless of immigration

status. Our client was separated from his family for nearly two years while wrongly detained. There is nothing that can right that wrong, but we are pleased that this ruling makes clear that no person in immigration detention should face prolonged incarceration without individualized review.”

Estelle McKee, Professor at Cornell Law School’s Asylum and Convention Against Torture Appellate Clinic, added: “This decision reminds us that the Constitution is still a force that limits the executive branch—the government may not lock up a person for a long time without justification, and each person in the United States, citizen or not, has the right to due process. Our client, Keisy G.M., has shown inspiring courage and resilience throughout this long proceeding, which has affected not just him, but his children, his partner, his mother, and his community. It has been a privilege to represent him with the law students in Cornell’s Asylum & Convention Against Torture Appellate Clinic, and I am deeply appreciative to Legal Aid for inviting us to partner with them on this case.”

“No one should be incarcerated without the government being required to justify their detention,” said **Amy Belsher, Director of Immigrants’ Rights Litigation at the New York Civil Liberties Union**. “This decision recognizes the devastating impact mandatory immigration detention has on individuals and their families, and affirms that detaining noncitizens for months, often years, without a custody hearing is unconstitutional. We hope that the strong procedural protections ordered by the Court will ensure more people are able to litigate their immigration cases where they belong — in their communities.”

In its unanimous ruling, the panel of the appeals court wrote:

“The Supreme Court long ago held that the Fifth Amendment entitles noncitizens to due process in removal proceedings. *Reno v. Flores*, 507 U.S. 292, 306 (1993). The Constitution establishes due process rights for “all ‘persons’ within the United States, including aliens, whether their presence here is lawful, unlawful, temporary, or permanent.” *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001). Accordingly, and as the Supreme Court recognized in *Zadvydas*, “[a] statute permitting indefinite detention of an alien would raise a serious constitutional problem.” *Id.* at 690. In light of the constitutional concerns identified by the Supreme Court and this Court in connection with the Executive’s detention of noncitizens, and the authorities discussed below, we conclude that due process bars the Executive from detaining such individuals for an unreasonably prolonged period under [8 U.S.C.] 1226(c) without a bond hearing.”

Keisy G.M. v. Decker was litigated by Legal Aid attorney Julie Dona, and former Legal Aid attorneys Aadhithi Padmanabhan, Laura Kokotailo, and Johanna Zacarias, and Cornell Law School’s Asylum and Convention Against Torture Appellate Clinic (Professor Estelle McKee, and J.D. graduates Fei Deng, Jordyn Manly, and Emma Sprotbery).

Legal Aid’s New York Immigrant Family Unity Project (NYIFUP) attorney John DeBellis and former Legal Aid attorney Morganne Barrett represented Keisy in his immigration case.

BACKGROUND:

Keisy is a 35-year-old man who has lived in the United States for over a decade. He is a father to U.S. citizen children, and he cares for his elderly and medically-vulnerable mother. Keisy maintained years-long employment at a local healthcare supply company, and provided labor as an essential worker through the early stages of the COVID-19 pandemic.

In 2020, ICE arrested Keisy around 5 a.m. at his Bronx apartment and incarcerated him at a local detention facility. While detained, he had difficulty communicating with his attorney, could not see his young children, and was unable to access basic mental health services in detention. His attorneys made several requests for his release before filing a petition for habeas corpus at the Southern District of New York in May 2021, which a district court denied. Keisy appealed the district court's decision, and in July 2022, ICE released him from detention during his removal proceedings pursuant to a preliminary injunction order in *Fraihat v. U.S. Immigration and Customs Enforcement*, 19-cv-01546-JGB-SHK (C.D. Cal.). Twenty-one months after he was swept from his New York apartment, Keisy returned home to his family. He continues defending his claims for relief from deportation in immigration court and at the Board of Immigration Appeals.

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