

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

SOUTHERN POVERTY LAW CENTER,
in its individual capacity and on behalf of its clients
detained at Stewart Detention Center, LaSalle

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Jean Pierre Espinoza, *<+*%*%*I2", *\$! 11"124+I*\$&%\$B&/+1*0\$"+\$T*) &, 40\$R'&I**#" +HIY\$ZD42*' \$&%\$ B&) C*4+\$4+#\$28*\$. /+#4) *+240\$. 4"' +*11\$F&I2'' +*P,* 22 Fla. J. Int'l L. 65, 66 (2010).....31

Memorandum from James R. McHenry III, Director, Executive Office for Immigration Review (EOIR) to Office of the Chief Immigration Judge, All Immigration Judges, All Court Administrators, All Immigration Court Staff (Jan. 17, 2018).....8

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The client is represented by SPLC volunteer attorneys whose most recent in-person visit with the client was arbitrarily terminated. The attorneys had to fly home without finishing their discussions with the client, and have been attempting for weeks to schedule confidential phone calls so that they may gather all the information needed for the client's case. As of filing, there is no way for these attorneys to gain sufficient access to their client to adequately prepare for the May 17 hearing. Another SIFI attorney has a hearing on May 22, 2018, and is concerned about accessing the client.

Further, the number of clients represented by SPLC has doubled since SPLC filed this lawsuit in early April. The need to represent twice the number of clients at LaSalle emerged from a series of events that occurred the day after SPLC filed suit. On April 5, 2018, Immigration and Customs Enforcement ("ICE") executed the largest workplace immigration raid in a decade.¹ This raid led to the transfer of dozens of immigrants from their home in Bean Station, Tennessee—700 hundred miles away—to LaSalle. Eighteen of those immigrant workers retained SPLC to represent them in their immigration proceedings. Defendants' ongoing failure to accommodate meaningful access to and communication with legal counsel has significantly exacerbated the unconstitutional conditions detailed in Plaintiff's Complaint as the number of clients at LaSalle grows.

Defendants Department of Homeland Security ("DHS"), ICE, and their officials (collectively, "Defendants")² have failed to comply with their nondelegable duty to ensure that people in their custody at LaSalle are afforded their Fifth Amendment rights to counsel, access to

¹ Maria Sacchetti, <BK\$'4"#1\$) *42C4IA"+H\$C04+2\$"+\$'/'40\$Q*++*11**[\\$ \ J\$")) "H'4+21\$4''*12*#, Wash. Post (Apr. 6, 2018), https://www.washingtonpost.com/local/immigration/ice-raids-meatpacking-plant-in-rural-tennessee-more-than-95-immigrants-arrested/2018/04/06/4955a79a-39a6-11e8-8fd2-49fe3c675a89_story.html?utm_term=.af7667b6ad01; s**\$401& Maria Perez, <BK\$ T4"#\$42\$D*42C4IA"+H\$R04+2\$L*4#1\$2&\$ \ J\$<)) "H'4+21\$!''*12*#, Newsweek (Apr. 7, 2018, 12:01 PM), <http://www.newsweek.com/ice-raid-meatpacking-plant-workers-arrested-97-tennessee-876376>; I**\$401&\$Declaration of Tomas Ayala Sanchez ("T. Sanchez Decl."); Declaration of Luis Bautista Martinez ("Martinez Decl.").

² Defendants include a number of officials employed by DHS and ICE.

70. The ability to bond out is critical, because individuals who are released and are able to secure

In one year's time, SPLC has hired 17 new employees, established four new offices, purchased property, and set up homes for employees living in ru

individual and filed with the immigration court to initiate removal proceedings. 8 U.S.C. § 1229(a); 8 C.F.R. §§ 239.1, 1003.13, 1003.14, 1239.1. The purpose of these proceedings is to determine whether the individual is entitled to remain in the United States. 8 U.S.C. § 1229a(a)(1); 8 C.F.R. §1240.12.

Unless the individual is subject to mandatory detention, ICE has legal authority to release him or her on bond, recognizance, or subject to other conditions. . : **§8 C.F.R. § 236.1(c); 1236.1(c). Alternatively, ICE may detain the individual in one of its many immigration prisons. : **§8 U.S.C. § 1226(a); 8 C.F.R. § 236.1. Proceedings for detained immigrants are expedited.⁵

Allowing an immigrant facing deportation some opportunity to secure counsel, the Immigration and Nationality Act (“INA”) prohibits scheduling the first immigration court hearing earlier than 10 days after service of the NTA, unless the individual requests an earlier hearing. 8 U.S.C. § 1229(b)(1). This “master calendar” hearing is the functional equivalent of a pretrial hearing, akin to arraignment, at which the noncitizen “respondent” is asked, among other things, to admit or deny the factual allegations and charges in the NTA and to specify what, if any, applications for relief from removal he or she intends to file. Practice Manual, § 4.15(e) at 74-75; I **§8 U.S.C. § 1229a; (b)(4)-(5); 8 C.F.R. § 1240.10.

Most individuals held in immigration prison may appeal ICE’s initial custody determination before an immigration judge at a bond hearing. . : **§8 C.F.R. § 1003.19(a),

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After completing the client's application for relief and compiling requisite supporting materials, the attorney must meet with the client to confirm accuracy, and then incorporate any new information into the applic

Martinez Decl.⁶ These clients will be seeking bond to return to their homes and community in the Morristown, Tennessee area, which has been devastated by the loss of many of its members.⁷

The stakes associated with bond for these clients are very high. Before A.L.M. was arrested in the raid, she lived with her partner and three U.S. citizen children, L.M (13 years old), J.M. (12 years old), and D.M. (10 years old). Jong Decl., ¶ 45. All three children suffer from acanthosis nigricans, a skin condition associated with prediabetes. ¶ J.M. and L.M. are also anemic. ¶ The children have been profoundly impacted by their mother's absence.

D. Defendants Are Blocking SPLC’s Clients from Ethical and Effective Representation by Preventing Access to Lawyers.

SIFI began serving imprisoned immigrants at LaSalle in September 2017, when just six percent of the immigrants held there had legal representation. Werner Decl., ¶ 15. Today, SPLC represents 31 people imprisoned there—most of whom are hundreds of miles from their homes. Jong Decl., ¶ 6. By virtue of Defendants’ decision to house immigrants at LaSalle, they have deprived these people access to legal representation. LaSalle is located in the remote town of Jena, Louisiana, approximately 220 miles and a nearly four hour drive from New Orleans. Werner Decl., ¶ 17. Until SPLC launched SIFI at LaSalle, there were no known immigration lawyers with offices in the vicinity of Jena. Werner Decl., ¶ 17. While SIFI aims to fill this crucial need for immigration lawyers at LaSalle, SPLC’s mission and commitment to serving the LaSalle population has been obstructed at every turn by the myriad obstacles posed by Defendants’ policies and practices.

1. SPLC Clients Cannot Reliably or Effectively Meet In-Person with Their Lawyers.

Defendants have severely circumscribed legal visitation at LaSalle—limiting legal visits to one room in a prison that can hold as many as 1,200 people. : **§ Werner Decl., ¶ 17; Jong Decl., ¶

of alternative meeting rooms. <#-; Soniat du Fossat Decl., ¶ 7-10. An SPLC legal staff member once waited five and a half hours to visit a client. . **\$Declaration of Jenna Finkle (“Finkel Decl.”), at ¶ 12. Furthermore, LaSalle prohibits lawyers and legal staff from bringing electronics into any part of the facility. Frequently, SPLC staff and SIFI volunteers arrive

and attorneys normally use those. All rooms provide confidentiality. Some of the attorney-
visitation rooms have a telephone that attorneys can use to contact an interpret

the male visitation period. She returned two hours later when male visitation became available, and then had to wait almost two more hours before meeting with her client because the legal visitation room was still occupied by lawyers visiting female clients. Finkle Decl., ¶¶ 3-4.

In another instance, on April 12, 2018, the Lead Attorney for the SIFI Jena office waited over two hours to see three male detainees who had been arrested during the Tennessee raid. Jong Decl., ¶ 32. That evening, the attorney-client visitation room was empty when he arrived and remained empty throughout his wait. Jong Decl., ¶ 32. Because of count, the gender visitation policy, and LaSalle staff's violation of its own "first-come, first serve" visitation rule, he sat in the waiting room until 10:00 p.m. Jong Decl., ¶¶ 32, 44. Once he was finally able to meet with the three men—all of whom are now SIFI clients—he had to rush to gather necessary information before visitation hours ended at 11:00 p.m. Jong Decl., ¶ 32.

These barriers acutely impact SIFI clients' ability to meet with attorneys who travel to LaSalle from afar. These volunteers are likewise forced to endure long waits of an hour or more before they can see their clients. J. Sanchez Decl., ¶¶ 4, 9; Declaration of Ajani Husbands ("Husbands Decl."), at ¶ 5. In one illustrative case, a merits attorney arrived early on the day of his client's hearing to ensure that he was the first attorney in line and would not need to wait; yet, he was still forced to wait for an hour, thereby losing crucial time that could have been spent preparing his client for the hearing. Husbands Decl., ¶ 5. Because SIFI volunteer merits attorneys, who usually travel from outside Jena, have limited time in the area, these long delays sometimes force them to meet with their clients in the family visitation area even though it is not a confidential setting. Husbands Decl., ¶ 5.

SIFI clients encounter additional barriers to communicating with their volunteer merits attorneys inside the attorney visitation room. A "thick glass wall" separates the client from the

effectively circumscribed even further than the 20-minute limit. It takes at least five minutes to conference in an interpreter. Jong Decl., ¶ 29. According to Melissa Fridlin Murrell, an expert professional interpreter, the addition of an interpreter cuts conversation time at least in half, because the interpreter must repeat every word spoken by both the lawyer and the client. Declaration of Melissa Fridlin Murrell (“Murrell Decl.”), at ¶ 8. Because interpretation is necessary for the representation of most non-English or non-Spanish-speaking noncitizens at LaSalle, this 20-minute time limit effectively serves as a bar to providing adequate representation to these individuals. Jong Decl., ¶ 29; J. Sanchez Decl., ¶¶ 12-17; Frydland Decl., ¶¶ 15-25; s**§ H*+*’400G\$Murrell Decl. This is especially true in light of the remoteness of LaSalle and the lack of interpreters nearby. Jong Decl., ¶ 27. Considering these factors, calls with interpreters can end

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The difficulties endured by SPLC staff and SIFI volunteers in communicating with their

phone. <#. Even when the attorneys succeeded in reaching a staff member, it took days to a week before a confidential legal call could be scheduled. Husbands Decl., ¶ 2. Making matters worse, the 20-minute time restriction required the conversations to be “extremely succinct, which was challenging given the amount of substantive information [they] needed to discuss and the sensitive nature of the issues[.]” Husbands Decl., ¶ 4. When the attorneys sought to schedule a follow-up call, the same series of events occurred: days passed before a LaSalle staff member answered the telephone; even more days passed before the call could take place; and when the call finally occurred more than a week later, it was again limited to just 20 minutes—despite the rapidly approaching merits hearing. Husbands Decl., ¶ 4. One of the attorneys described the dire consequences on the SPLC client as follows:

Twenty minutes was far too short an amount of time to obtain all of the information necessary to properly represent my client in his removal proceedings, especially given that I was not able to talk to my client in a confidential call more than once a week due to the lengthy scheduling process.

Husbands Decl., ¶ 4.

Ira Kurzban, an expert on immigration law and practice, states that the restrictions on phone calls at LaSalle “present [] a scenario where the lawyer is prevented from effectively representing the client.” Kurzban Decl., ¶ 19. LaSalle’s telephone policies impede detainees from engaging in meaningful communica

Defendant ICE's minimal Performance Based National Detention Standards ("PBNDS"). Berg Decl., ¶ 30.

The PBNDS govern the operation and administration of LaSalle. Jong Decl., Ex. 3. These standards signal that Defendants have already approved and intend to provide a more fulsome level of access than is)

the PBNDS would be overly burdensome or contrary to their interests, having imposed those requirements on themselves. §

Nor are the access restrictions necessary to the operation of a civil immigrant detention facility. Before the immigrants arrested in the meatpacking raid were transferred to LaSalle, a number of them were housed at the Dekalb County Detention Center (“DCDC”) in Alabama in conditions that starkly contrast with those at LaSalle. Declaration of David Washington (“Washington Decl.”), at ¶ 3. In a recent visit to DCDC by SPLC, attorney-client access was expedient, comprehensive, and confidential. Within five minutes, guards escorted an SPLC attorney to a confidential legal visitation room—after passing at least three other confidential legal visitation rooms en route. <#-at ¶ 3. The attorney was able to conduct contact visits almost immediately after arriving in the room. *Id.* at ¶ 4. The attorney spent five hours interviewing potential clients. *Id.* at ¶¶ 5-6. Two days later, the ten SPLC clients were transferred to LaSalle where their access to counsel has been materially restricted ever since.

Moreover, there is some indication that LaSalle has readily available means to rectify the abysmal access obstacles—including additional, often empty, space for confidential visitation, and apparent access to confidential phone lines that could be utilized more frequently and for longer periods of time. Soniat du Fossat Decl., ¶¶ 7-10; Jong Decl., ¶¶ 23-26.

F. Court Intervention is Necessary to Ensure a Meaningful and Just Outcome in the May 17, 2018 Deportation Hearing of a Nigerian Client.

As discussed *1/C'4*, the merits hearing for a Nigerian client is scheduled for May 17, 2018. Despite the remote *C'&\$7&+&* attorneys’ most persistent efforts, they have been unable to conduct any comprehensive, confidential communications. When the attorneys traveled to LaSalle from Connecticut to meet the client in person, their meeting with the client was arbitrarily terminated. Frydland Decl., ¶¶ 3, 6-14. The attorneys had to fly home without

finishing their discussions with t

To obtain preliminary injunctive relief, SPLC “must make a clear showing that four factors, taken together, warrant relief: likely success on the merits, likely irreparable harm in the absence of preliminary relief, a balance of the equities in its favor, and accord with the public interest.” *L*4H/*\$&%\$ (&) *+\$O&2* 'I\$&%\$ 9+"2*#\$.242*I\$, -,\$=*M7G*, 838 F.3d 1, 6 (D.C. Cir. 2016) (internal citation and quotations omitted). These four factors “interrelate on a sliding scale and

Factors relevant to this inquiry include but are not limited to: the location of the facility with respect to attorney availability,⁹ the size of the population to be served,¹⁰ whether a facility's policies or practices result in delays in accessing counsel and courts,¹¹ and whether the detainee is pretrial or a person who has been convicted.¹² Here, the totality of circumstances clearly forecloses LaSalle detainees from meaningfully accessing the courts.

(1) Location of the Immigration Prison

Defendants “knowingly locate [] major detention facilities in communities with little or no legal representation available to indigent detainees.” *6 '4+2*13U*' +4+##*W*, 685 F. Supp. at 1500 (noting that American Correctional Association standards “provide that in locating new facilities an important consideration is that [t]he facility is geographically accessible to criminal justice agencies, community agencies and inmate lawyers, families and friends” (internal citations and quotations omitted)); *1**\$40l&\$L&/'I\$, -\$D*"11+**, 530 F. Supp. 924, 926 (S.D. Fla. 1981) (admonishing that immigrants had “been subjected to a human shell game” whereby the INA “sought to scatter them to locations that . . . are all in desolate, remote . . . areas, containing a paucity of available legal support”). LaSalle represents the epitome of remote imprisonment.

LaSalle is located over four hours from New Orleans, and far away from interpreters and any immigration attorneys other than SPLC's SIFI operation. Werner Decl., ¶ 17. Before SPLC opened SIFI, there were no known immigration lawyers in Jena. Werner Decl., ¶ 17. Due to LaSalle's remote location, Defendants must ensure that there are no additional barriers that unreasonably impede access to and communication with attorneys. *.**\$= /+*W*, 537 F. Supp. at 582

⁹ *.**\$-H-> R'&I/'**'*, 416 U.S. at 420; *\$B&, "+&\$, -\$O*'*) &+2\$F*CP2\$&%\$B&' '-, 933 F.2d 128, 130 (2d Cir. 1991); *\$= /+*W*, 537 F. Supp. at 582.

¹⁰ *.**\$= /+*W*, 537 F. Supp. at 582.

¹¹ *.**\$-H->\$J'4) *H+4\$, -\$V&8+I&+, 846 F.2d 675, 677 (11 6 ; 1 M*

(striking down barriers to accessing counsel in light of remoteness of immigration detention center);
Berg Decl., ¶ 18.

(2) Size of the Immigration Prison Population

LaSalle has only one legal visitation room for a population of up to 1,200 detainees. Jong Decl., ¶ 6. Courts have held that the right of access to courts is violated where the ratio of the detainee population to legal visitation rooms was far lower. For example, in *4/11/13; *+?4) "+\$, -@\$* "A*, the court found that pretrial detainees' right to access the courts and counsel had been unjustifiably obstructed because their attorneys were subjected to long waits to conduct legal visits due, in part, to an inadequate number of legal visitation rooms. 102 F. Supp.2d 157, 175-78 (S.D.N.Y. 2000), *4/11/13; *+?4) "+*, 264 F.3d at 187-88.

SPLC attorneys are similarly subject to long delays to meet with their clients at LaSalle—sometimes as long as five hours—due to LaSalle's large size and its corresponding lack of legal visitation rooms. *4/11/13; *+?4) "+*; Jong Decl., ¶ 12; Soniat du Fossat Decl., ¶ 15; Husbands Decl., ¶ 5. Indeed, the ratio of legal visitation rooms to detainees at LaSalle (1:1200) is significantly more egregious than in *4/11/13; *+?4) "+*. *4/11/13; *+?4) "+*.

LaSalle’s policies regarding count, gender visitation, and shift changes substantially truncate the available time for meeting with a client, even when the legal visitation room is open.

Every day, LaSalle conducts six “counts” of the incarcerated population. Jong Decl., ¶ 13. All visitation during count is prohibited, and it can take as long as 45 minutes to “clear” count—sometimes longer. ¶ LaSalle’s gender visitation policy also exacerbates the limitations on accessing attorney-client visitation. Jong Decl., ¶¶ 15-16, Ex. 1. For example, on Mondays from 9:00 a.m. to 11:00 a.m., only male detainees may receive visitors, and on Mondays from 11:00 a.m.

reasonably rely on legal calls as a timely option for substantive communications. *Id.*; *1* *401* *8*
V&8+1&+3K0\$, -\$. I8&) *80*, 878 F.2d 1043, 1051 (8th Cir. 1989) (finding that prison practices
permitting only one 20-minute attorney call per week and one ten-minute call on weekends would
violate access to courts). These restrictions severely impair the ability of SPLC clients to
communicate with SIFI volunteer attorneys who reside out of state. *Id.*; *Frydland Decl.*, ¶¶ 1 !

attorneys need to speak with their clients about sensitive issues such as torture, sexual trauma, and other issues that a client understandably may not want others to hear. Yet LaSalle's legal visitation room permits individuals in the adjoining family visitation room to hear the content of attorney-client communications, compromising confidentiality. Jong Decl., ¶ 21.

Second, the visits are arbitrarily non-contact visits: the client is separated from the attorneys by a partition, and all communication must occur via closed-circuit telephone, preventing the attorney and client from establishing rapport and effectively communicating with one another. : **§

Fourth, the severe limitations on telephone calls and the lack of Skype access at LaSalle further restrict the ability of SPLC's clients at LaSalle to communicate with their attorneys. Even if

181 (3d Cir. 2010); *1* (4th Cir. 1965); *U4*, 80 F.Supp. 425, 428 (E.D. Mich. 1948). Courts have characterized the right to counsel in immigration proceedings as “‘fundamental’ and . . . that right must be respected in substance as well as in name.” ; *4*, 856 F.2d 89, 91 n. 2 (9th Cir.1988) (internal citation omitted). ; *401*, 857 F.2d 10, 13 (1st Cir. 1988); *9*, 843 F.2d 832, 834 n.2 (5th Cir.1988); *B4124*, 525 F.2d 1295, 1300 (7th Cir. 1975).

The Fifth Amendment right to counsel in removal proceedings is the right to the “‘*I2*’, * assistance of counsel where counsel has been obtained.” *F4A4*, 399 F.3d at 1273 (emphasis in original); *1* *Jean Pierre Espinoza*, <+ *%**I2*”, **! 11"124+I*%&%B&/+I*0\$"+\$T**) & , *40\$R' &I**#" +HIY\$ ZD422* '\$&%B&) C*4+\$4+#\$28*\$. /+#4) *+240\$. 4"'+*11\$F&I2''+*P*, 22 Fla. J. Int’l L. 65, 66 (2010) (noting that various circuit courts have recognized a constitutional right to effective assistance of counsel in the immigration context). In =/+*W>\$plaintiffs challenged policies and practices at the Los Fresnos detention facility that

designated by an attorney must be allowed to visit that attorney's clients without the attorney being present.”). Recently, a SIFI attorney sent a paralegal to LaSalle with a letter giving him authorization to meet with detainees. Torres Decl., ¶ 5. Although the paralegal was initially allowed to visit with detainees after a long wait, the paralegal was refused re-entry when he returned to the facility with corrected client paperwork. Torres Decl., ¶¶ 6-12. The officer in charge told the paralegal that he needed a bar card and refused to honor the authorization letter. Torres Decl., ¶ 13-14. Similarly, SIFI volunteers who have been working under the supervision of SIFI attorneys on client cases have been refused entry and also had their client meetings cut short because they were not the attorneys of record on the case—despite the fact that they were assisting on the case with authorization of the attorney. J. Sanchez Decl., ¶¶ 9-11.

For these reasons, this court must intervene in order to ensure that Defendants' policies and practices do not continue to deprive SPLC's clients of their right to meaningful and effective assistance of their lawyers as mandated by due process.

c. Defendants Are Violating the Right of SPLC's Clients to a Full and Fair Hearing.

“The Fifth Amendment guarantees due process in deportation proceedings. As a result, [a noncitizen] who faces deportation is entitled to a full and fair hearing of his claims and a reasonable opportunity to present evidence on his behalf.” *B&0*) *+4 '\$, -&-=-: -, 210 F.3d 967, 971 (9th Cir. 2000) (citation omitted); *I**\$401&\$LG&+\$, -&-B-K-*, 171 F. Supp.3d 961, 977 (N.D. Cal. 2016) (same). These principles of fairness embodied in the Due Process Clause extend to bond proceedings for detained noncitizens. *U*' +4+##*W*, 872 F.3d at 981. To assess whether this right to a full and fair hearing is violated, courts examine the three-pronged framework prescribed in *D428*MI\$, -&K0#''#H**, 424 U.S. 319 (1976): “(1) the interest at stake for the individual, (2) the risk of an erroneous deprivation of the interest through the procedures used as

well as the probable value of additional or different procedural safeguards, and (3) the interest of the government in using the current procedures rather than additional or different procedures.”

: **\$LG&+, 171 F. Supp.3d at 987-91 (applying *D428*MI* balancing test to determine whether phone restrictions at immigration detention centers violated the right to a full and fair hearing of noncitizens seeking bond). Applying these factors here, SPLC will show that Defendants deprive SPLC’s LaSalle clients of their rights to a full and fair bond hearing.

First, it is axiomatic that noncitizens have a compelling and “fundamental” interest at stake in bond proceedings, because “freedom from imprisonment is at the ‘core of the liberty protected by the Due Process Clause.’” *U*'+4+##W*, 872 F.3d at 992; *4II&'#\$. &/I84\$, -* *L&/'1"4+4*, 504 U.S. 71, 80 (1992) (“Freedom from bodily restraint has always been at the core of the liberty protected by the Due Process Clause[.]”) Prolonged detention in immigration prisons subjects people to subpar medical and psychiatric care, economic burdens, and the collateral harms of being separated from their families. : **\$U*'+4+##W, 872 F.3d at 995.

Second, Defendants’ policies and practices at LaSalle create a substantial and constitutionally intolerable risk that SPLC clients will be deprived of meaningful access to their lawyers, thus preventing them from both sharing information for their bond applications and preparing for the bond hearing itself. SPLC requires prompt, reliable, and sufficient means of communicating with its clients at LaSalle to gather critical facts and evidence for bond hearings. : **\$Kurzban Decl., ¶¶ 12-13. Such evidence can be voluminous and may include information about family and community ties, financial circumstances, criminal history, and any medical issues suffered by the client or his family members. : **\$"#. at ¶¶ 12. Numerous conversations with clients may be necessary to establish rapport, cultivate trust, and gather all information relevant for the bond proceeding. : **\$"#- at ¶ 12. Research shows that access to an attorney

increases the likelihood that a detainee will secure bond and be released from immigration detention. Eagly & Shafer, *1/C'4*, at 70-71.

Defendants' policies and practices, however, substantially impede SPLC's ability to accomplish these tasks that are crucial for representing its clients in bond proceedings. Due to the insufficient number of legal visitation rooms and other limitations on access at LaSalle, SIFI attorneys are routinely and substantially delayed in, or functionally prevented from, meeting with their clients. Jong Decl., ¶¶ 12-20; Soniat du Fossat Decl., ¶ 15; Husbands Decl., ¶ 5. SIFI attorneys have been forced to rush client meetings or skip them altogether, Jong Decl., ¶¶ 34-36, and the 20-minute restriction on phone calls further prevents SIFI attorneys from gathering necessary information and preparing clients for their hearings. Compounding these issues, Defendants have erected unreasonable—and easily remediable—barriers to accessing interpretation services that are crucial for effective communication with their lawyers.

Finally, Defendants' interest in maintaining the procedures under challenge is *not* a "legitimate" one. As an initial matter, Defendants are responsible for ensuring that the conditions at LaSalle satisfy constitutional dictates, including detainees' constitutional rights to meaningfully access and communicate with their legal counsel. 28 U.S.C. § 251(2). Further, Defendants' own policies elucidated in the PBNDS and applicable to LaSalle require that detainees have meaningful access to their attorneys, both telephonically and in person. See Jong Decl., Ex. 3 at PBNDS 5.6(V)(F)(1); 5.6(V)(F)(2); PBNDS 5.6(V)(E)(2). Those policies further provide that LaSalle detainees must have access to interpretation services for both telephonic and in-person meetings with their lawyers. See Jong Decl., Ex. 3 at 2011 PBNDS §§ 5.6, 5.7 Expected Outcome 10. Defendants can invoke no compelling security or administrative rationale to justify the policies and practices under challenge. See Berg Decl., at ¶¶ 19, 50, 53.

2. SPLC Has Standing To Assert Its Clients' Fifth Amendment Claims.

SPLC has third-party standing on behalf of its current clients to assert their claims alleging violations of their Fifth Amendment rights: (1) right to access courts; (2) right to counsel; and (3) right to a full and fair hearing. The Supreme Court has held that a litigant may assert the rights of third parties where three requirements are met: (1) the litigant “must have suffered an ‘injury in fact,’ thus giving him or her a ‘sufficient interest’ in the outcome of the issue in dispute”; (2) “the litigant must have a close relation to the third party”; and (3) “there must exist some hindrance to the third party’s ability to protect his or her own interests.” *R&M*’I*, -§68”&, 499 U.S. 400, 411 (1991); *K”I*+124#2*, -§; 4”’#>§405 U.S. 438, 444-46 (1972); *1**\$401& QG+#40*\$U&/1*\$R/70”18*’I>§<+I-§*, -§.: *7*0”/1, 904 F. Supp. 2d 106, 118 (D.D.C. 2012). This case presents the precise set of circumstances necessitating third-party standing.

First, SPLC has indisputably suffered an “injury in fact” because Defendants’ conduct has frustrated its organizational mission and forced it to divert i

U4, *+1\$T*402G\$B&'C-\$,-\$B&0*) 4+, 455 U.S. 363, 379 (1982); 1**\$401&\$=&'28*412\$68"&\$B&40-\$%&'\$28*\$
U&) *0*11\$, -\$U/12*#, No. 2:06-CV-896, 2016 WL 3166251, at *32, *34-35 (S.D. Ohio June 7, 2017)
(granting third-party standing to organization that had suffered injury due to diversion of its
resources within the meaning of *U4*, *+1), '* , *'1*#"\$+\$C4'2\$&+\$&28*' \$H'&/+#1 837 F.3d 612 (6th Cir.
2016).

Here, Defendants' obstructive conduct has injured SPLC by thwarting its institutional
purpose of "safeguard[ing] immigrants' constitutional due process rights by increasing the level of

Defendants' obstructive conduct has also injured SPLC by forcing it to divert its institutional resources from its core mission. SPLC has invested considerable resources in SIFI , including hiring new staff, purchasing or leasing new offices a

B4C0"+\$E\$F 'G1#40\$B84 '2*' *#\$, -\$9+"2*#\$:242*1*, 491 U.S. 617, 623 n.3 (1989) (granting third-party standing to attorney seeking to assert rights of existing clients); *F*CP2\$&%\$L47& '\$, -\$Q'"C0*22*, 494 U.S. 715, 720-21 (1990) (same).

There can be no serious dispute that SPLC shares a “close relationship” with its clients detained at LaSalle. Critically, SPLC’s relationship with its LaSalle clients is neither aspirational nor “hypothetical,” *I**\$@&M40IA"\$, -\$Q*1) **, 543 U.S. 125, 131 (2004), but instead indisputably close and of “special consequence,” *I**\$B4C0"+*, 491 U.S. at 623 n.3, because SPLC’s very mission is to protect the constitutional rights of its existing clients by providing them with ethical and effective representation in their removal cases. Werner Decl, ¶¶ 6-7; *I**\$KS&#/1\$T%/H**\$ <)) "H'42"&+>\$<+I-\$, -\$R*+I**, 165 F. Supp. 3d 718, 732 (S.D. Ind. 2016) (refugee resettlement organization had sufficiently close relationship with its refugee clients because “its entire purpose and mission is to resettle refugees escaping dire circumstances”). Accordingly, SPLC and its clients share an “identity of interests” in ensuring that LaSalle detainees obtain meaningful access to counsel, such that SPLC will act as “an effective advocate of [its clients’] interests.” *L*C*00*2"* '\$, -\$.-F-<-B-*, 164 F.3d 37, 44 (D.C. Cir. 1999).¹⁵

Third and finally, SPLC’s clients at LaSalle are “hindered” from protecting the interests that SPLC seeks to vindicate on their behalf. Courts have concluded that the hindrance requirement “does not require an absolute bar from suit, but ‘I&) * hindrance to the third party’s ability to protect his or her own interests.’” *R*+--\$RIGI8"42""I\$: &IPG*, 280 F.3d at 290 (quoting *R&M*'1*, 499 U.S. at 411 (emphasis added)). “In other words, a party need not face insurmountable barriers to warrant third-party standing.” *<#.; 4II& '#\$: "+H0*2&+\$, -\$ (/0%%*, 428 U.S. 106, 117-18 (1976). As a

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result, courts have observed that the hindrance requirement “pr

vindicate their rights. . **\$!"#\$%&'\$ (&) *+, 441 F.3d at 1114. Moreover, most of SPLC's clients do not speak fluent English, have limited knowledge of the U.S. legal system, and have no access to

The imperative that SPLC's clients have timely access to their lawyers is particularly acute because they are subject to ongoing proceedings with potentially dire consequences, Berg Decl., ¶ 28; *1**\$401&\$Kurzban Decl.*, ¶¶ 12-13, and many have impending hearings.

Denying noncitizens in removal proceedings access to their attorneys in violation of the Fifth Amendment unquestionably constitutes irreparable harm. Given the high stakes in bond and removal proceedings and the s

at 653; §; &/+#1\$, -\$:) "28, 430 U.S. 817, 825 (1977) (“[T]he cost of protecting a constitutional right cannot justify its total denial.”); =/+*W, 537 F. Supp. at 582 (“[R]estrictions which are not reasonably related to orderly administration cannot stand.”).

Given the grave consequences that may befall SPLC’s clients absent court intervention, an injunction is warranted. : **\$: *' &&\$L47->\$<+I-\$, -: 840404, 158 F.3d 1313, 1326 (D.C. Cir. 1998) (“It often happens that . . . one party or the other will be injured whichever course is taken. A sound disposition . . . must [then] depend on a reflective and attentive appraisal as to the outcome on the merits.” (citations and internal quotations omitted))

Moreover, an injunction would serve the public interest “in maintaining a system of laws” where the government must comply with its constitutional and other legal obligations. 6PF&+ + *00\$B&+I2-\$B&-\$, -\$F"l2''I2\$&%B&0/) 7"4, 963 F.2d 420, 429 (D.C. Cir. 1992); 1**\$D411-\$. 4''\$: 84'*\$, -\$LAM\$K+%&'I*) *+2\$!11"l24+I*\$!#) "+-, 758 F.2d 708, 711 (D.C. Cir. 1985) (“It has long been settled that a federal agency must adhere firmly to self-adopted rules by which the interests of others are to be regulated.”) (collecting cases).

CONCLUSION

SPLC has demonstrated that Defendants’ conduct is inconsistent with the Constitution and ICE’s own policies, which establish minimum benchmarks for the detention of noncitizens. An injunction is therefore needed to protect the constitutional

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Respectfully submitted,

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