

1 MICHELLE (MINJU) Y. CHO (SBN 321939) mcho@aclunc.org
2 SEAN RIORDAN (SBN 255752) sriordan@aclunc.org
3 AMERICAN CIVIL LIBERTIES UNION
4 FOUNDATION OF NORTHERN CALIFORNIA
5 39 Drumm Street
6 San Francisco, CA 94111
Telephone: (415) 621-2493
Facsimile: (415) 255-8437

ASEEM MEHTA (SBN 338020) aseemm@advancingjustice-alc.org
JINGNI (JENNY) ZHAO (SBN 284684) jennyz@advancingjustice-alc.org
ASIAN AMERICANS ADVANCING
JUSTICE – ASIAN LAW CAUCUS
55 Columbus Avenue
San Francisco, CA 94111
Telephone: (415) 896-1701
Facsimile: (415) 896-1702

7 *Attorneys for Plaintiffs*
8 Additional Counsel Listed On Next Page

9 **UNITED STATES DISTRICT COURT**
10 **NORTHERN DISTRICT OF CALIFORNIA**
11 **SAN FRANCISCO DIVISION**

12 MILTON MENDEZ; GUILLERMO
13 MEDINA REYES; CRUZ LEANDRO
14 MARTINEZ LEIVA; R.H.M.; E.O.A.R.; and
15 all those similarly situated,

16 Plaintiffs,

17 v.

18 U.S. IMMIGRATION AND CUSTOMS
19 ENFORCEMENT; TAE JOHNSON, Acting
20 Director of U.S. Immigration and Customs
21 Enforcement; MOISES BECERRA, Director of
22 the San Francisco Field Office of U.S.
23 Immigration and Customs Enforcement; THE
24 GEO GROUP, INC.; NORBAL VAZQUEZ,
25 Facility Administrator of Mesa Verde ICE
26 Processing Center; MINGA WOFFORD,
27 Facility Administrator of Golden State Annex,

28 Defendants.

Case No. 3:23-cv-00829

**DECLARATION OF R.H.M. IN
SUPPORT OF PLAINTIFFS’
MOTION FOR A TEMPORARY
RESTRAINING ORDER**

1 BREE BERNWANGER (SBN 331731)
2 bbernwanger@lccrsf.org
3 LEE ANN FELDER-HEIM (SBN 341429)
4 lafelderheim@lccrsf.org
5 LAWYERS' COMMITTEE FOR CIVIL
6 RIGHTS OF THE SAN FRANCISCO BAY
7 AREA
8 131 Steuart Street, Suite 400
9 San Francisco, CA 94105
10 Telephone: (415) 543-9444
11 Facsimile: (415) 543-0296

ROXANA MOUSSAVIAN (SBN 329897)
roxana@pangealegal.org
ETAN NEWMAN (SBN 308728)
etan@pangealegal.org
PANGEA LEGAL SERVICES
391 Sutter Street, Suite 500
San Francisco, CA 94108
Telephone: (415) 579-4662
Facsimile: (415) 593-5335

8 MICHAEL KAUFMAN (SBN 254575)
9 mkaufman@aclusocal.org
10 MAYRA B. JOACHÍN (SBN 306065)
11 mjoachin@aclusocal.org
12 AMERICAN CIVIL LIBERTIES UNION
13 FOUNDATION OF SOUTHERN
14 CALIFORNIA
15 1313 W. 8th Street, Suite 200
16 Los Angeles, CA 90017
17 Telephone: (213) 977-9500
18 Facsimile: (213) 915-0220

HONG-AN N. TRAN (SBN 267685)
atran@jenner.com
MEI H. LIU (SBN 318112)
mei.liu@jenner.com
MAURA E. SMYLES (DC BN 90006775)*
msmyles@jenner.com
JENNER & BLOCK LLP
455 Market Street, Suite 2100
San Francisco, CA 94105
Telephone: (628) 267-6800
Facsimile: (628) 267-6859

15 *Attorneys for Plaintiffs*
16 **Admitted pro hac vice*

DECLARATION OF R.H.M.

I, R.H.M., declare under penalty of perjury that the following is true and correct:

1. I make this declaration based on my personal knowledge and information I believe to be true and, if called as a witness, could testify truthfully to these facts.

2. My initials are R.H.M. I am a named plaintiff in the above-captioned case. I am currently detained at the Mesa Verde ICE Processing Center in Dorm C. I am also participating in the peaceful hunger strike at Mesa Verde. This is day 19 of our strike. Approximately 15 of us are actively on hunger strike in Dorm C.

3. Today, March 7, 2023, beginning around 6:30 a.m., I was woken up by a dormmate and fellow hunger striker. He sounded very worried and told me there were GEO staff in our dormitory (Dorm C) that were in full riot gear. He also told me that all the phones and some of the tablets in the dorm were turned off. I tried to make a call to test it; the phone didn't work. I heard from other dormmates around me that the officers had already woken up, handcuffed, and removed another hunger striker in our dorm named Raymundo Dominguez. My dormmates heard he was being forcibly taken to medical.

4. When I got up and went to the podium in our dormitory, I saw approximately five GEO officers in full protective riot gear (Officers Saso, Garcia, Ruiz, Morales and Ruelas). They were all dressed in black wearing helmets and hard plastic on their chests and over their faces, and they were carrying batons and pepper spray. There were four other GEO officers (Romero, Salazar, Castro, and Maui) and two lieutenants (Perez and Morua) that were not wearing full riot gear but who were present. I also noticed that Officers Romero and Maui had cameras and seemed to be recording.

5. Then, I saw some of the officers in riot gear approach another dormmate of mine on hunger strike named Roberto Franco. The officers were telling him to go with them to medical. Roberto refused and said he did not want to go to medical. When he refused, the officers left him alone and went back toward the front of the dormitory, where the entrance was.

6. All of the GEO officers then lined up at the front of the dormitory, in front of the entrance/exit.

7. As other dormmates of mine were waking up and seeing that there were officers in riot gear

1 carrying batons and pepper spray, and noticing that the phones were not working, we began questioning the
2 officers as to what was going on. We asked why they were cutting off our ability to communicate with the
3 outside and why they were armed to attack us. We asked why they were holding us hostage. We requested to
4 speak with police, ICE, Chief Beeman, and our attorneys. The officers denied all of our requests.

5 8. Around 7:45 a.m., the GEO officers stepped outside the dorm. Then, at approximately 7:50 or
6 7:55 a.m., about 10 new officers entered the dorm. All of the officers were wearing camouflage military
7 uniforms with helmets and bullet proof vests. Some of the officers had the words “San Francisco Special
8 Response” on them and their badges had a red bird; the remaining officers had ICE badges on and “police”
9 across their chest. They entered the dorm screaming at all of us, “Get on the floor! Get on the floor!”

10 9. After these officers entered the dorm, there were three targeted and forcible arrests made of
11 three of my dormmates and hunger strikers: Roberto Franco, Jose Hernandez, and Pedro Figueroa.

12 10. When the officers came in shouting, I went to my bed around and sat down there. I started
13 hearing screaming in the dorm. One of my dormmates told me that some officers had grabbed Jose
14 Hernandez. I heard they grabbed him by his legs, dragged him and then got on top of him. Although I didn’t
15 see what they did to Jose, I heard him screaming over and over again, “You’re hurting me! You’re hurting
16 me!”

17 11. From where I sat, I witnessed officers arrest Pedro Figueroa. As the officers entered, Pedro
18 was already talking to an attorney on one of the only working tablets in the dorm. He was trying to explain to
19 the attorney what was going on in the dorm that morning, that we had already been intimidated and
20 threatened by GEO officers in full riot gear, and that new officers in military uniform were entering the
21 dorm.

22 12. Three GEO officers approached Pedro and told him to “cuff up,” which means he needed to
23 submit to handcuffs. Pedro replied that there was no reason for him to leave the dorm and that he did not
24 want to go. Suddenly, the officers yanked Pedro out of his chair and threw him on the floor, face down. Then
25 GEO officers (Saso, Garcia and Morales) got on top of him. I saw them twisting his hands and putting their
26 knees into his back, his neck, and the back of his head. Lieutenant Morua came over to Pedro, grabbed his
27 legs, crossed his ankles, and forced Pedro’s legs behind his back.

1 13. This whole time, Pedro was telling the officers that he wasn't resisting and that they were
2 hurting him. Some of us in the dorm tried to tell the officers that he wasn't resisting and that he would
3 comply, but they didn't listen.

4 14. The whole time, the officers in military uniform were standing by watching all of this happen.
5 And I noticed that I didn't see any cameras.

6 15. Since this morning's events, we have not gotten any explanation whatsoever from GEO or
7 ICE. We have been denied all of our requests to speak to Chief Beeman or an ICE officer. Even though the
8 officers this morning seemed to say that the arrests were for medical reasons, there were no medical staff
9 present.

10 16. Around 12:20 or 12:30 p.m., Chief Beeman, Facility Administrator Vazquez, and another
11 woman from GEO Group entered our dorm. They were walking around but speaking with no one. I spoke to
12 them and told them that I had witnessed the mistreatment they inflicted on my peers, that I saw the retaliation
13 they were committing against them and us. I told them it wasn't right. They smirked and kept walking. They
14 were in the dorm for no more than five minutes. They didn't address any of what we had witnessed that
15 morning.

16 17. What happened this morning was shocking and terrifying. I wouldn't wish it upon anyone. It
17 was disturbing to see my peers get treated like that—see them getting hurt, yelling in pain, calling for help,
18 and instead getting knees in their backs and necks. It was heartbreaking.

19 18. I see it as clear retaliation and punishment for what my peers and I are doing: speaking out
20 about the unjust and abusive treatment and conditions at Mesa Verde.

21 19. I have also personally been experiencing retaliation in the form of sexually abusive pat downs
22 at Mesa Verde.

23 20. I came to this facility from Golden State Annex in January 2022. I noticed that they were
24 doing many more pat downs at Mesa Verde than at Golden State Annex and questioned why that was. I was
25 told by GEO staff that it was required. Still, at that time, the pat downs were not excessive.

26 21. In early April 2022, things changed. I had started speaking up more, writing grievances, and
27 voicing how the conditions at Mesa Verde were not livable. Suddenly I was receiving pat downs going to and
28

1 from medical, coming back from the chow hall, the library, yard, everywhere. I thought it was an accident at
2 first and that maybe the officers didn't do it on purpose. But it continued to happen. The way staff was
3 touching my body was humiliating to me and felt retaliatory. Because of my past trauma, I also felt very
4 triggered by them.

5 22. I finally had the courage make a Prison Rape Elimination Act (PREA) complaint on August
6 28, 2022. I thought they were going to take my complaint seriously, but nothing happened. A GEO employee
7 told me that the police would not want to hear my case because they don't care about what happens at Mesa
8 Verde and they don't want to investigate these kinds of things. I felt so discouraged, unsafe, and taken
9 advantage of. And the excessive pat downs continued.

10 23. Especially after starting our hunger strike this year, I realized that I couldn't go anywhere
11 without being submitted to pat down. For instance, I had attorney phone call and was told I could not speak
12 to my attorney without submitting to a pat down. I told them no, that I had suffered enough, and that I didn't
13 understand why they had to pat me down to see my attorney. I gave them alternatives. I showed them there
14 was nothing around my waistband; I shook my pants and shirt. I even offered to submit to a strip search just
15 to keep their hands off me. They said no, and told me I couldn't see my attorney without submitting to a pat
16 down.

17 24. On March 2, 2022, I had court at 2 p.m. I told the GEO staff escorting me, Lt. Linchfield, that
18 I was going to refuse a pat down to go to court. I said it was unnecessary when I was going to sit with an ICE
19 officer in a room the entire time. I told them the treatment was abusive and retaliatory. Lt. Linchfield told me
20 that Lt. Harrison had ordered that if I did not submit to a pat down, I could not go to court. I refused to be
21 abused further, and the GEO officers refused to let me go to court.

22 25. Later that day, around 2:15 p.m., Officer Mo came to visit me in the dorm and told me that if I
23 refused a pat down, I could be deported. I told Officer Mo that the excessive and sexually abusive pat downs
24 me feel very uncomfortable. I asked him for some dignity and consideration. He told me the pat downs were
25 not going anywhere, and then he left.

26 26. I believe these sexually abusive pat downs are retaliation for me and others speaking up about
27 conditions and treatment here at Mesa Verde. We used to be able to refuse pat downs. Maybe we would get a
28

1 warning or even a write up, but you could still refuse. Now, ever since our strike began and the litigation on
2 our First Amendment rights was filed, officers have started forcing our submission to pat downs. The
3 consequence is now that we are missing court and unable to speak with our legal representation.

4 27. My fellow hunger strikers and I took a brave action and put our lives on the line to be heard.
5 We are peacefully requesting our freedom, dignity, and just treatment. We have not posed any threat to the
6 facility or the staff. We have not done anything that is dangerous toward them whatsoever. Instead, we have
7 asked for conversations with ICE and other officials to try and address our concerns. But what we get in
8 return is the terrorization we experienced today.

9 28. After what happened today, I've thought about ending my hunger strike. I am feeling very
10 fearful for my safety and the safety of my peers at Mesa Verde. I know if I continue to speak up about the
11 injustices here, I will be targeted, just like my four dormmates who were forcibly arrested and taken away
12 today. To see them get their arms twisted, to hear them screaming, to see three officers on top of them,
13 grabbing their legs, sticking knees into their backs, heads, and necks—it's scary and really discouraging. I
14 witnessed the consequences of our speaking up today, and that frightens me. It makes me scared to speak.

15 I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.
16 Executed on March 7, 2023 in Bakersfield, California,

17 /s/ SEE ATTESTATION BELOW
18 R.H.M.

19
20
21 **Attestation Pursuant to Civil L.R. 5-1(h)(3)**

22 As the filer of this document, I attest that I obtained concurrence from R.H.M. in the filing of this
23 declaration. I further attest that I was not able to obtain his physical signature for this declaration because he
24 is detained in Bakersfield, California, and I am located in Oakland, California today.

25 Dated: March 7, 2023

26 /s/ Michelle (Minju) Y. Cho
Michelle (Minju) Y. Cho

27 *Attorneys for Plaintiffs*

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28