

Congress of the United States
Washington, DC 20515

May 22, 2020

Acting Secretary Chad Wolf
U.S. Department of Homeland Security
500 12th St. SW
Washington, D.C. 20536

Acting Director Matthew T. Albence
U.S. Immigration and Customs Enforcement
500 12th St. SW
Washington, D.C. 20536

Dear Acting Secretary Wolf and Acting Director Albence:

We write to express our grave concerns about the safety and well-being of Héctor García Mendoza and to call for answers as to whether Immigration and Customs Enforcement (ICE) deported him on May 19, 2020, in apparent violation of a judicial restraining order preventing his deportation. Given Mr. García Mendoza's role as a named plaintiff in a class action lawsuit against ICE, his removal raises serious questions about whether his deportation may have constituted an act of retaliation. Furthermore, we are appalled at reports that ICE would not confirm specifically where Mr. García Mendoza was deported to or produce flight records in response to repeated requests from his counsel. We ask that ICE immediately provide clarifying information about the legal basis for his removal, his current whereabouts, and how you plan to rectify what appears to be a violation of his due process rights.

Mr. García Mendoza, who was detained at the detention facility run by CoreCivic in Elizabeth, New Jersey, is a named plaintiff, along with three other detainees, in a class action lawsuit demanding the immediate release of all individuals being held in the Elizabeth facility. The lawsuit presents a disturbing picture of unsafe conditions that put detainees at risk of contracting COVID-19, including close quarters and a lack of personal protective equipment and cleaning supplies. Due to visitation restrictions put in place in response to the pandemic, detainees have been forced to struggle through a complicated legal process without access to counsel. As of May 15, 2020, one officer working at the facility had already died from COVID-19, while another 17 employees and at least 18 detainees had tested positive for the virus.

Media reports and information provided by his attorneys suggest that Mr. García Mendoza's removal violated his right to due process. On Monday, May 18, 2020, following the filing of the class action lawsuit on Friday, May 15, 2020, attorneys for the government submitted a letter to the court stating the agency's intention to deport Mr. García Mendoza in the "immediate future." Until that morning, neither Mr. García Mendoza nor his counsel were aware that his removal

order was administratively final. Mr. García Mendoza had appeared at an immigration court hearing without counsel and was ordered removed, but at the time he did not understand this to mean that he had been deemed to have waived his right to an appeal.

After receiving notification on May 18, 2020 of Mr. García Mendoza's impending removal, his attorneys prepared a petition for writ of habeas corpus and an emergency motion for temporary restraining order to prevent his removal, which they filed at roughly 3:00 am on May 19, 2020. Additionally, on the afternoon of May 18, 2020, one of Mr. García Mendoza's attorneys twice reached out to his deportation officer to try and find out more information about his impending removal. She received no response. On May 19, 2020, Mr. García Mendoza's attorney grew concerned when she had not heard from him despite a prearranged legal call scheduled for that morning. She contacted the facility to inquire about the status of the call and was informed that the facility was likely busy dealing with an influx of calls and to wait for his call. Until that time, Mr. García Mendoza had received no notification of his intended removal date. At about 12:00 pm on May 19, 2020, an attorney for Mr. García Mendoza was informed by staff at the Elizabeth Detention Center that Mr. García Mendoza was no longer at the facility. She received this update only after calling the facility a second time to find out why she had not received a call from Mr. García Mendoza.

Throughout the afternoon of May 19, 2020, Mr. García Mendoza's attorneys attempted to obtain more information on his whereabouts and his scheduled deportation, but ICE and the government did not respond to their inquiries. Later that day, during a 5:20 pm conference with the court, Judge Brian Martinotti granted a temporary restraining order to prevent ICE from moving forward with Mr. García Mendoza's removal. However, ICE would not cooperate with Mr. García Mendoza's attorneys. It was not until Congressman Joaquin Castro's office inquired about his whereabouts that ICE stated that Mr. García Mendoza had already been deported to Mexico. Furthermore, according to Mr. García Mendoza's counsel, ICE claimed that they had removed him to Mexico at approximately 5:20 pm, the exact same time as his counsel's conference with the Court.

This questionable timeline of events raises serious questions about whether Mr. García Mendoza was removed to Mexico after a judicial order enjoining his removal was issued. We are alarmed by ICE's seemingly deliberate actions to expedite Mr. García Mendoza's removal despite ongoing legal proceedings and the apparent violation of Mr. García Mendoza's right to due process, as well as ICE's lack of transparency and unwillingness to communicate with his counsel. Given the dubious timeline of events and our concern that Mr. García Mendoza's removal may have been an act of retaliation, we request responses to the following questions no later than May 26, 2020:

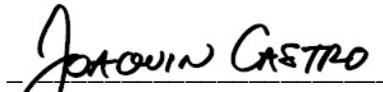
1. Please clarify the exact details of Mr. García Mendoza's removal from the United States, including the exact time he was removed and the specific departure and arrival times and locations of each flight (if multiple). Please provide a full timeline and list of all facilities or airports that he passed through, beginning with his removal from the Elizabeth Detention Center.
2. Please provide details on the nature of each flight that Mr. García Mendoza was placed on including if it was a commercial flight, how many people were on the flight, and if all the passengers were in ICE custody.

3. What was the legal basis for ICE's determination to proceed with transferring Mr. García Mendoza out of the Elizabeth Detention Center for purposes of deportation, despite being on notice that Mr. García Mendoza had a pending request for a temporary restraining order? Please specify when ICE became aware of Mr. García Mendoza's court-ordered stay of removal and the precise steps, if any, ICE has taken to comply with that order, and any legal basis for failing to comply with the order.
4. Was ICE's decision to deport Mr. García Mendoza in the "immediate future" made after the class action lawsuit in which he was a named plaintiff was filed? Please provide any written documentation on this decision.
5. When did ICE officials notify Mr. García Mendoza that he would be moved from the Elizabeth Detention Facility?
6. What specific details were provided to him about where he would be deported to, when were these details communicated, and in what form (written, verbally, etc.)? Were these details provided in Mr. García Mendoza's primary language?

Upholding the right to due process under the law should be a priority of every federal agency. Given the gravity of our concerns, we look forward to your prompt response to our questions.

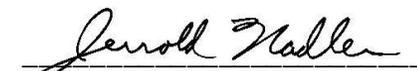
Sincerely,


Albio Sires
Member of Congress


Joaquin Castro
Member of Congress


Frank Pallone, Jr.
Member of Congress

/s/ Bonnie Watson Coleman
Bonnie Watson Coleman
Member of Congress


Jerrold Nadler
Member of Congress


James P. McGovern
Member of Congress


Juan Vargas
Member of Congress


Donald M. Payne, Jr.
Member of Congress

/s/ Jesús G. "Chuy" García
Jesús G. "Chuy" García
Member of Congress

/s/ Mark Pocan

Mark Pocan
Member of Congress

/s/ Nydia M. Velázquez

Nydia M. Velázquez
Member of Congress

/s/ J. Luis Correa

J. Luis Correa
Member of Congress

/s/ Raúl M. Grijalva

Raúl M. Grijalva
Member of Congress

Bill Pascrell Jr

Bill Pascrell, Jr.
Member of Congress

/s/ Adriano Espaillat

Adriano Espaillat
Member of Congress

Barbara Lee

Barbara Lee
Member of Congress

Grace F. Napolitano

Grace F. Napolitano
Member of Congress

Alexandria Ocasio-Cortez

Alexandria Ocasio-Cortez
Member of Congress