

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF VIRGINIA
Alexandria Division

ROGELIO AMILCAR CABRERA DIAZ, et al., on)
Behalf of Themselves and All Other Similarly)
Situating,)

Petitioners,)

v.)

RUSSELL HOTT, Field Office Director, U.S.)
Immigration and Customs Enforcement, et al.,)

Respondents.

No. 1:17-cv-1405 (LMB/MSN)

ORDER

For the reasons stated in open court and in the accompanying Memorandum Opinion, petitioners' Motion to Certify Class [Dkt. No. 11] and Motion for Summary Judgment [Dkt. No. 16] are GRANTED, respondents' Motion for Summary Judgment [Dkt. No. 21] is DENIED, and it is hereby

ORDERED that this civil action be and is CERTIFIED AS A CLASS ACTION pursuant to Federal Rules of Civil Procedure 23(a) and 23(b)(2), with the class defined as all individuals who (1) are in withholding-only proceedings, having established a reasonable fear of persecution or torture, and such proceedings are not administratively final, or if final, a stay of removal has been granted by a United States Court of Appeals; and (2) as of December 7, 2017 or at any time thereafter are detained within the Commonwealth of Virginia under the authority of the United States Immigration and Customs Enforcement Agency; and it is further

ORDERED that petitioners Rogelio Amilcar Cabrera Diaz, Jennry Francisco Moran Barrera, and Rodolfo Eduardo Rivera Flamenco be and are DESIGNATED AS CLASS REPRESENTATIVES of the certified class; and it is further

ORDERED that the class claim is that respondents have erroneously determined that class members are detained pursuant to 8 U.S.C. § 1231, rather than 8 U.S.C. § 1226, and, on that basis, have illegally refused to provide class members who have not been designated as criminal aliens pursuant to 8 U.S.C. § 1226(c) with bond hearings, and as for class members designated as criminal aliens, a hearing under In re Joseph, 22 I. & N. Dec. 799 (BIA 1999), to challenge their classification as criminal aliens subject to mandatory detention; and it is further

ORDERED that Legal Aid Justice Center; Mayer Brown LLP; Murray Osorio PLLC; and the Law Offices of James Reyes PLLC be and are APPOINTED AS CLASS COUNSEL; and it is further

ORDERED that judgment be and is entered in favor of petitioners; and it is further


ORDERED that, within fifteen (15) days of the date of entry of this Order, respondents identify all class members to class counsel and provide a copy of this Order to all class members as well as to any attorney who has noticed an appearance on behalf of any class member in any pending immigration proceeding; and it is further

ORDERED that respondents provide each class member an individualized bond hearing before an immigration judge or a Joseph hearing before an immigration judge within thirty (30) days of the date of entry of this Order.

The Clerk is directed to enter judgment in petitioners' favor pursuant to Fed. R. Civ. P. 58 and to forward copies of this Order to counsel of record.

Entered this ⁴²26 day of February, 2018.

Alexandria, Virginia



/s/ Leonie M. Brinkema
United States District Judge