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UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

ANDRES RAMIREZ-MARTINEZ, MANUEL  
URIOSTEGUI, and ERICSON GONZALES,

Plaintiffs,

vs.

UNITED STATES IMMIGRATION AND  
CUSTOMS ENFORCEMENT; THOMAS S.  
WINKOWSKI, Principal Deputy Assistant  
Secretary of the U.S. Immigration and  
Customs Enforcement; UNITED STATES  
DEPARTMENT OF HOMELAND SECURITY;  
JEH JOHNSON, Secretary of Homeland  
Security; NATHALIE R. ASHER, Director of the  
Seattle Field Office of U.S. Immigration and  
Customs Enforcement,

Defendants.

NO. 3:14-cv-05273-RJB

DECLARATION OF SALVADOR A. MUNGIA  
IN SUPPORT OF MOTION FOR STAY OF  
PLAINTIFF GONZALES'S DEPORTATION

I, Salvador A. Mungia, declare as follows:

1. I am one of the attorneys for Plaintiffs. I am over the age of 18, and am  
competent to testify.

2. Exhibit A is a true copy of a Custody Order of Immigration Judge Theresa  
Scala, dated August 29, 2013.

Declaration of Salvador A. Mungia in Support of  
Motion for Stay of Plaintiff Gonzales's Deportation - 1 of 2

1           3.     Exhibit B is a true copy of an email dated April 3, 2014 from Regan  
2 Hildebrand, Senior Litigation Counsel, United States Department of Justice to Plaintiffs'  
3 Counsel.

4           4.     Exhibit C is a true copy of a letter dated April 8, 2014 from M. Nelson,  
5 Deportation Officer, U.S. Immigration and Customs Enforcement, to Lowell Clark,  
6 Warden/GEO Group.

7           5.     Exhibit D is a true copy of my letter dated April 8, 2014 to James Yi, Office  
8 of the Chief Counsel, United States Immigration and Customs Enforcement.

9           6.     Exhibit E is a true copy of my letter dated April 9, 2014 to Regan  
10 Hildebrand, Senior Litigation Counsel, United States Department of Justice.

11  
12           I declare under penalty of perjury of the laws of the United States of America and  
13 the State of Washington that the foregoing is true and correct.

14  
15           Dated this 21st day of April, 2014.

16  
17                                   /s/ Salvador A. Mungia  
18                                   SALVADOR A. MUNGIA

**CERTIFICATE OF SERVICE**

I hereby certify that on April 21, 2014, I electronically filed the foregoing Declaration of Salvador A. Mungia in Support of Motion to Stay Plaintiff Gonzales's Deportation with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

Priscilla To-Yin Chan  
US ATTORNEY'S OFFICE (SEA)  
700 STEWART ST  
STE 5220  
SEATTLE, WA 98101-1271  
206-553-7970  
Email: Priscilla.Chan@usdoj.gov

Regan Cook Hildebrand  
US DEPARTMENT OF JUSTICE (BOX 868)  
PO BOX 868  
BEN FRANKLIN STATION  
WASHINGTON, DC 20044  
202-305-3797  
Email: Regan.Hildebrand@usdoj.gov

Dated this 21st day of April, 2014.

/s/ La Rond Baker  
LA ROND BAKER  
ACLU OF WASHINGTON  
901 FIFTH AVENUE  
STE 630  
SEATTLE, WA 98164  
206-624-2184  
Email: lbaker@aclu-wa.org

# **EXHIBIT A**



U.S. DEPARTMENT OF JUSTICE  
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW  
IMMIGRATION COURT  
1623 EAST J STREET SUITE 3  
TACOMA, WA 98421

IN THE MATTER OF:

FILE: [REDACTED]

JICA GONZALES, ERICSON GERARD

Docket: TACOMA, WA

RESPONDENT

IN REMOVAL PROCEEDINGS

CUSTODY ORDER OF THE IMMIGRATION JUDGE

Request having been made for a change in the custody status of the respondent pursuant to 8 C.F.R. Part 236 and having considered the representations of the Immigration and Customs Enforcement and the respondent, it is HEREBY ORDERED that:

No Action \_\_\_\_\_

ORDERED No Jurisdiction \_\_\_\_\_

ORDERED that the request for a change in custody status be denied.

Bond to remain at \$ \_\_\_\_\_

ORDERED that the request be granted and that respondent be released from custody under bond of \$ 10,000

OTHER \_\_\_\_\_

*Theresa Scala*

THERESA SCALA  
Immigration Judge

Date: August 29, 2013

Appeal: WAIVED / ~~RESERVED (A/H/B)~~ Both  
Appeal Due By: 9-30-13

CERTIFICATE OF SERVICE

THIS DOCUMENT WAS SERVED BY: MAIL (M) PERSONAL SERVICE (P) FAX (F)  
TO:  ALIEN [ ] ALIEN c/o Custodial Officer [ ] Alien's ATT/REP [ ] P/ICE  
DATE: 08/29/13 BY: COURT STAFF TV  
Attachments: [ ] EOIR-33 [ ] EOIR-28 [ ] Legal Services List [ ] Other

# **EXHIBIT B**

---

**From:** Mungia, Sal [mailto:SMungia@gth-law.com]  
**Sent:** Thursday, April 03, 2014 5:07 PM  
**To:** La Rond Baker; Sarah Dunne; Margaret Chen; Melissa Lee; Nick Straley; john.midgley@columbialegal.org; Andrea Schmitt  
**Subject:** FW: Ramirez TRO

Regan: We are concerned that there are still additional detainees being confined in administrative segregation who are in a similar position as the current plaintiffs? Have all detainees who are similarly situated been released to the general population?

Sal

**Salvador A. Mungia**  
Attorney at Law  
T 253 620 6472  
F 253 620 6565

---

**From:** Hildebrand, Regan (CIV) [mailto:Regan.Hildebrand@usdoj.gov]  
**Sent:** Thursday, April 03, 2014 4:44 PM  
**To:** [andrea.schmitt@columbialegal.org](mailto:andrea.schmitt@columbialegal.org); [lbaker@aclu-wa.org](mailto:lbaker@aclu-wa.org); [melissa.lee@columbialegal.org](mailto:melissa.lee@columbialegal.org); [nick.straley@columbialegal.org](mailto:nick.straley@columbialegal.org); Mungia, Sal; [dunne@aclu-wa.org](mailto:dunne@aclu-wa.org)  
**Cc:** Chan, Priscilla (USAWAW); Cohen, Rebecca (USAWAW)  
**Subject:** Ramirez TRO

Good evening. ICE has informed both the U.S. Attorney's Office and my office the plaintiffs in the Ramirez TRO, which is set for hearing tomorrow at 9:30 AM PST, are no longer in administrative segregation. From our perspective, this seems to vitiate the need for a TRO as there is no longer an emergency and the plaintiffs' claim has become moot. I intend to be filing a motion to that effect. Alternatively, would you be willing to withdraw your motion?

Thanks.

Regan

---

Regan Hildebrand  
Senior Litigation Counsel  
United States Department of Justice  
Civil Division  
Office of Immigration Litigation

District Court Section  
450 Fifth Street NW  
Washington, D.C. 20001

☎ 202-305-3797 | 🖨 202-616-8962 | ✉ [Regan.Hildebrand@usdoj.gov](mailto:Regan.Hildebrand@usdoj.gov)



*This email and any attachments thereto may contain information that is privileged, confidential, or otherwise protected from disclosure under applicable law. If the reader of this transmission is not the intended recipient or the employee or agent responsible for delivering the transmission to the intended recipient, you are hereby notified that any dissemination, distribution, copying or use of this transmission or its contents is strictly prohibited. If you have received this transmission in error, please notify us by email or telephone and delete or destroy the original transmission and any copies (electronic or paper).*

# EXHIBIT C



Office of Enforcement and Removal  
U.S. Department of Homeland Security  
1623 East J Street, Suite 2  
Tacoma, Washington 98421



U.S. Immigration  
and Customs  
Enforcement

April 8, 2014

Lowell Clark  
Warden/GEO  
1623 East J Street  
Tacoma, WA 98421

RE: Acceptance of Detainee Property

Dear Mr. Clark:

The following detainee will be removed to his country of citizenship in the near future. ICE/ERO therefore requests that the individual named below be allowed to deliver a single bag of the detainee's property. The bag cannot be bigger than a standard carry-on (16" wide x 25" long x 12" high) and not weigh more than 40 pounds. Please accept this correspondence to allow delivery of this due to his removal.

**Detainee Name:** GONZALEZ, Erikson  
**Alien Number:** [REDACTED]  
**Dorm Number:** D-3  
**Person Bringing/Mailing Property:** [REDACTED]  
**Address of Person Dropping Property:** [REDACTED]  
**Phone Number of Person Bring/Mailing Property:** [REDACTED]  
**Delivery no sooner than:** 04/08/14 **No Later Than:** 04/08/14

The detainee has been notified that property will only be accepted between 4:00 and 8:00 PM on the dates noted.

Sincerely,

M. Nelson  
DO

Original: Detainee File  
Copy: Front Desk  
ICE  
Detainee  
Property

# **EXHIBIT D**



Salvador A. Mungia  
Direct: (253) 620-6472  
E-mail: smungia@gth-law.com

April 8, 2014

VIA ELECTRONIC AND FIRST CLASS MAIL

James Yi  
Office of the Chief Counsel  
U.S. Immigration and Customs Enforcement  
U.S. Department of Homeland Security  
1000 Second Ave, Suite 2900  
Seattle, WA 98104  
Email: James.Yi@ice.dhs.gov

Office of the Chief Counsel  
U.S. Immigration and Customs Enforcement  
U.S. Department of Homeland Security  
Northwest Detention Center  
1623 East J Street, Suite 2  
Tacoma, WA 98421

RE: ACLU v. Immigration & Customs Enforcement

Dear Mr. Yi:

I am writing on behalf of Mr. Ericson Gonzales who as you know is one of the plaintiffs in the action filed last week arising from retaliatory conduct by ICE at the Northwest Detention Center, *Ramirez-Martinez v. ICE*, C14-5273RJB (W.D. Wash. April 3, 2014). Apparently, Mr. Gonzales has been informed by ICE personnel that he will be deported in the immediate future.

We are asking that ICE immediately intervene and prevent any planned deportation. Mr. Gonzales is exercising his right of access to the courts and needs to remain here in the Western District while the lawsuit is pending. Based on the attached memo, ICE has recognized that deportations should not occur under circumstances like those found here. It states that regarding "plaintiffs in non-frivolous lawsuits regarding civil rights or liberties violations" ICE officials and attorneys "should exercise all appropriate prosecutorial discretion to minimize any effect that immigration enforcement may have on the willingness and ability of victims, witnesses and plaintiffs to ... pursue justice". Memo of June 17, 2011 from John Morton, ICE Director (attached).

Reply to:  
Tacoma Office  
1201 Pacific Ave., Suite 2100 (253) 620-6500  
Tacoma, WA 98402 (253) 620-6565 (fax)

Seattle Office  
600 University, Suite 2100 (206) 676-7500  
Seattle, WA 98101 (206) 676-7575 (fax)



Gordon Thomas Honeywell LLP

April 8, 2014

Page 2

I would appreciate ICE confirming that any planned deportation is being stopped. As time is of the essence, I would appreciate a response to this letter no later than tomorrow morning at 10:00. If I don't hear from you then you understand that we will be seeking a TRO before Judge Bryan as soon as possible. I can be reached at [smungia@gth-law.com](mailto:smungia@gth-law.com) or 253-620-6472.

Thank you.

Very truly yours,



Salvador A. Mungia  
Attorney for Mr. Gonzales

SAM:pq

cc: Raphael Sanchez, U.S. Immigration and Customs Enforcement  
Regan Hildebrand, U.S. Department of Justice  
Priscilla Chan, U.S. Department of Justice

[100086620]


U.S. Department of Homeland Security  
500 12th Street, SW  
Washington, D.C. 20536

JUN 17 2011



U.S. Immigration  
and Customs  
Enforcement

MEMORANDUM FOR: All Field Office Directors  
All Special Agents in Charge  
All Chief Counsel

FROM: John Morton  
Director 

SUBJECT: Prosecutorial Discretion: Certain Victims, Witnesses, and Plaintiffs

Purpose:

This memorandum sets forth agency policy regarding the exercise of prosecutorial discretion in removal cases involving the victims and witnesses of crime, including domestic violence, and individuals involved in non-frivolous efforts related to the protection of their civil rights and liberties. In these cases, ICE officers, special agents, and attorneys should exercise all appropriate prosecutorial discretion to minimize any effect that immigration enforcement may have on the willingness and ability of victims, witnesses, and plaintiffs to call police and pursue justice. This memorandum builds on prior guidance on the handling of cases involving T and U visas and the exercise of prosecutorial discretion.<sup>1</sup>

Discussion:

Absent special circumstances or aggravating factors, it is against ICE policy to initiate removal proceedings against an individual known to be the immediate victim or witness to a crime. In practice, the vast majority of state and local law enforcement agencies do not generally arrest victims or witnesses of crime as part of an investigation. However, ICE regularly hears concerns that in some instances a state or local law enforcement officer may arrest and book multiple people at the scene of alleged domestic violence. In these cases, an arrested victim or witness of domestic violence may be booked and fingerprinted and, through the operation of the Secure

<sup>1</sup> For a thorough explanation of prosecutorial discretion, see the following: Memorandum from Peter S. Vincent, Principal Legal Advisor, Guidance Regarding U Nonimmigrant Status (U visa) Applicants in Removal Proceedings or with Final Orders of Deportation or Removal (Sept. 25, 2009); Memorandum from William J. Howard, Principal Legal Advisor, VAWA 2005 Amendments to Immigration and Nationality Act and 8 U.S.C. § 1367 (Feb. 1, 2007); Memorandum from Julie L. Myers, Assistant Secretary of ICE, Prosecutorial and Custody Discretion (Nov. 7, 2007); Memorandum from William J. Howard, Principal Legal Advisor, Prosecutorial Discretion (Oct. 24, 2005); Memorandum from Doris Meissner, Commissioner, Immigration and Naturalization Service, Exercising Prosecutorial Discretion (Nov. 17, 2000).



Communities program or another ICE enforcement program, may come to the attention of ICE. Absent special circumstances, it is similarly against ICE policy to remove individuals in the midst of a legitimate effort to protect their civil rights or civil liberties.

To avoid deterring individuals from reporting crimes and from pursuing actions to protect their civil rights, ICE officers, special agents, and attorneys are reminded to exercise all appropriate discretion on a case-by-case basis when making detention and enforcement decisions in the cases of victims of crime, witnesses to crime, and individuals pursuing legitimate civil rights complaints. Particular attention should be paid to:

- victims of domestic violence, human trafficking, or other serious crimes;
- witnesses involved in pending criminal investigations or prosecutions;
- plaintiffs in non-frivolous lawsuits regarding civil rights or liberties violations; and
- individuals engaging in a protected activity related to civil or other rights (for example, union organizing or complaining to authorities about employment discrimination or housing conditions) who may be in a non-frivolous dispute with an employer, landlord, or contractor.

In deciding whether or not to exercise discretion, ICE officers, agents, and attorneys should consider all serious adverse factors. Those factors include national security concerns or evidence the alien has a serious criminal history, is involved in a serious crime, or poses a threat to public safety. Other adverse factors include evidence the alien is a human rights violator or has engaged in significant immigration fraud. In the absence of these or other serious adverse factors, exercising favorable discretion, such as release from detention and deferral or a stay of removal generally, will be appropriate. Discretion may also take different forms and extend to decisions to place or withdraw a detainer, to issue a Notice to Appear, to detain or release an alien, to grant a stay or deferral of removal, to seek termination of proceedings, or to join a motion to administratively close a case.

In addition to exercising prosecutorial discretion on a case-by-case basis in these scenarios, ICE officers, agents, and attorneys are reminded of the existing provisions of the Trafficking Victims Protection Act (TVPA),<sup>2</sup> its subsequent reauthorization,<sup>3</sup> and the Violence Against Women Act (VAWA).<sup>4</sup> These provide several protections for the victims of crime and include specific provisions for victims of domestic violence, victims of certain other crimes,<sup>5</sup> and victims of human trafficking.

Victims of domestic violence who are the child, parent, or current/former spouse of a U.S. citizen or permanent resident may be able to self-petition for permanent residency.<sup>6</sup> A U nonimmigrant visa provides legal status for the victims of substantial mental or physical abuse as

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<sup>2</sup> Pub. L. No. 106-386, §§101-113, 114 Stat. 1464, 1466 (codified as amended in scattered sections of the U.S.C.).

<sup>3</sup> William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008, Pub. L. No. 110-457, 122 Stat. 1464, 1491 (codified as amended in scattered sections of the U.S.C.).

<sup>4</sup> Pub. L. No. 106-386, §§1001-1603, 114 Stat. 1464, 1491 (codified as amended in scattered sections of the U.S.C.).

<sup>5</sup> For a list of the qualifying crimes, see INA §101(a)(15)(U)(iii).

<sup>6</sup> See INA §101(a)(51).

a result of domestic violence, sexual assault, trafficking, and other certain crimes.<sup>7</sup> A T nonimmigrant visa provides legal status to victims of severe forms of trafficking who assist law enforcement in the investigation and/or prosecution of human trafficking cases.<sup>8</sup> ICE has important existing guidance regarding the exercise of discretion in these cases that remains in effect. Please review it and apply as appropriate.<sup>9</sup>

Please also be advised that a flag now exists in the Central Index System (CIS) to identify those victims of domestic violence, trafficking, or other crimes who already have filed for, or have been granted, victim-based immigration relief. These cases are reflected with a Class of Admission Code "384." When officers or agents see this flag, they are encouraged to contact the local ICE Office of Chief Counsel, especially in light of the confidentiality provisions set forth at 8 U.S.C. § 1367.

#### No Private Right of Action

These guidelines and priorities are not intended to, do not, and may not be relied upon to create any right or benefit, substantive or procedural, enforceable at law by any party in any administrative, civil, or criminal matter.

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<sup>7</sup> See INA §101(a)(15)(U).

<sup>8</sup> See INA §101(a)(15)(T).

<sup>9</sup> See Memorandum from John P. Torres, Director, Office of Detention and Removal Operations and Marcy M. Forman, Director, Office of Investigations, Interim Guidance Relating to Officers Procedure Following Enactment of VAWA 2005 (Jan. 22, 2007).

# **EXHIBIT E**

Salvador A. Mungia  
Direct: (253) 620-6472  
E-mail: smungia@gth-law.com

April 9, 2014

Regan Hildebrand  
Senior Litigation Counsel  
United States Department of Justice  
Civil Division  
Office of Immigration Litigation  
District Court Section  
405 Fifth Street NW  
Washington, D.C. 20001

RE: Ramirez-Martinez v. ICE

Dear Regan:

This letter is a follow up to the letter that I sent yesterday afternoon that requested ICE stop any plans to deport Mr. Gonzales in the immediate future.

As you know, Mr. Gonzales is one of the plaintiffs in *Ramirez-Martinez v. ICE*, 3:14-cv-05273 (W.D. Wash.), which was filed because ICE officials retaliated against the plaintiffs for engaging in First Amendment protected activities. In the Complaint and Motion for Temporary Restraining Order, Mr. Gonzales pointed out that ICE placed him in solitary confinement for his participation in a peaceful hunger strike. We have learned that, during the period of time leading up to and after the filing of Mr. Gonzales's lawsuit, ICE has used its discretion to expedite the deportation of Mr. Gonzales even though he has a pending U-Visa application that often is the basis for staying a final order of deportation.

The timing of ICE's actions and the speed with which it has taken affirmative steps to deport Mr. Gonzales strongly suggests that the decision to deport Mr. Gonzales at this time is directly related to his plea to the court to enjoin ICE from violating his First Amendment rights to engage in protected speech activities. Below is a summary of the actions that ICE has taken against Mr. Gonzales:

Reply to:

Tacoma Office  
1201 Pacific Ave., Suite 2100 (253) 620-6500  
Tacoma, WA 98402 (253) 620-6565 (fax)

Seattle Office  
600 University, Suite 2100 (206) 676-7500  
Seattle, WA 98101 (206) 676-7575 (fax)



Gordon Thomas Honeywell<sub>LLP</sub>

April 9, 2014

Page 2

- **Monday, March 24, 2014** – Mr. Gonzales and other detainees in the F-3 unit started a peaceful hunger strike to protest national immigration policies and conditions at the Northwest Immigration Detention Center (“NWDC”).
- **Thursday, March 27, 2014** – Corrections Officers at the NWDC placed approximately 20 hunger striking detainees from the F-3 unit into solitary confinement after they showed interest in communicating their concerns to ICE/NWDC officials.
- **Wednesday, April 2, 2014** –
  - The lawsuit *Ramirez-Martinez v. ICE* was filed in the Western District of Washington because ICE was retaliating against peaceful hunger striking detainees in violation of the First Amendment. That same day Plaintiffs, including Mr. Gonzales, filed a Motion for a TRO asking to the court to enjoin ICE from keeping hunger striking detainees in solitary confinement.
  - ICE released the approximately 20 hunger striking detainees from the F-3 unit who were placed in solitary confinement with Mr. Gonzales on March 27, 2014.
  - ICE hand delivered to Mr. Gonzales a letter, signed by the Deputy Field Director, Bryan Wilcox, denying Mr. Gonzales’s Request for a Stay of Removal. To our knowledge hand-delivery of such notices is very unusual at NWDC.
- **Thursday, April 3, 2014** – Defendants filed a Motion to Dismiss in *Ramirez-Martinez* supported by a declaration signed by Bryan Wilcox, Deputy Field Office Director, Seattle Field Office, U.S. Immigration and Customs Enforcement.
- **Friday, April 4, 2014** – At the hearing on Plaintiffs’ TRO Judge Bryan affirmed that although the TRO motion was moot because ICE released Plaintiffs from solitary confinement the underlying retaliation claims were still alive.
- **Tuesday, April 8, 2014** – Mr. Gonzales received a visit from his Deportation Officer M. Nelson. During his visit, Officer Nelson gave Mr. Gonzales a same-day notice letter signed by M. Nelson informing Mr. Gonzales that he is to be “removed to his country of citizenship in the near future.” See attached. The letter states that Mr. Gonzales’s wife is to bring a bag with Mr. Gonzales’s belongings to the facility on Tuesday, April 8, 2014 between 4:00pm and 8:00pm – the day that Mr. Gonzales received the notice.

Mr. Gonzales’s receipt of ICE’s notice of its intent to deport him in the “near future,” so soon after a series of retaliatory actions by ICE in response to his participation in First Amendment protected activities and the filing of a federal lawsuit seeking to vindicate Mr.

Gordon Thomas Honeywell<sup>LLP</sup>

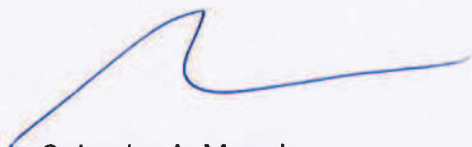
April 9, 2014

Page 3

Gonzales's First Amendment speech rights, suggests that ICE's actions to deport Mr. Gonzales are in retaliation for his filing of a federal lawsuit.

I look forward to discussing this matter with you in more detail today after your 10:00 a.m. conference call. I also thank you for your earlier confirmation that ICE will not deport Mr. Gonzales this morning.

Very truly yours,



Salvador A. Mungia

SAM:sam



Office of Enforcement and Removal  
U.S. Department of Homeland Security  
1623 East J Street, Suite 2  
Tacoma, Washington 98421



U.S. Immigration  
and Customs  
Enforcement

April 8, 2014

Lowell Clark  
Warden/GEO  
1623 East J Street  
Tacoma, WA 98421

RE: Acceptance of Detainee Property

Dear Mr. Clark:

The following detainee will be removed to his country of citizenship in the near future. ICE/ERO therefore requests that the individual named below be allowed to deliver a single bag of the detainee's property. The bag cannot be bigger than a standard carry-on (16" wide x 25" long x 12" high) and not weigh more than 40 pounds. Please accept this correspondence to allow delivery of this due to his removal.

Detainee Name: GONZALEZ, Erikson  
Alien Number: [REDACTED]  
Dorm Number: D-3  
Person Bringing/Mailing Property: [REDACTED]  
Address of Person Dropping Property: [REDACTED]  
Phone Number of Person Bring/Mailing Property: [REDACTED]  
Delivery no sooner than: 04/08/14 No Later Than: 04/08/14

The detainee has been notified that property will only be accepted between 4:00 and 8:00 PM on the dates noted.

Sincerely,

M. Nelson  
DO

Original: Detainee File  
Copy: Front Desk  
ICE  
Detainee  
Property