

ACLU NEWS

American Civil Liberties Union of New Hampshire FALL 2019



FILED: LAWSUIT TO HOLD U.S. ATTORNEY GENERAL BARR IN CONTEMPT

In the midst of an intense immigration case, Jose Daniel Guerra-Castañeda was granted relief by a federal judge: he would receive a temporary block on being deported while his case was resolved. The reason? It was likely that Guerra-Castañeda would be subject to torture if sent back to his home country.

But the order, issued by the U.S. Court of Appeals for the First Circuit—the court just below the U.S. Supreme Court—was violated. Guerra-Castañeda was blindsided. Just two days after the judge’s order was issued, he was deported by Immigration and Customs Enforcement (ICE), and was suddenly facing dreadful conditions in his home country.

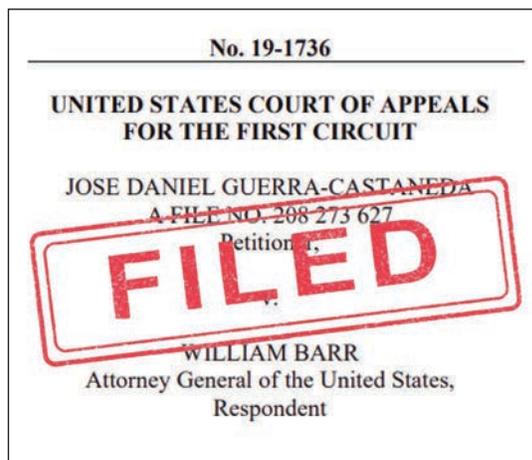
“No one is above the law,” said ACLU of NH legal director Gilles Bissonnette. “When the court issues an order, we are all bound to uphold it—especially the United States government.”

But alarmingly, it seems these illegal deportations are not rare. Sworn statements from immigration lawyers around the country show at least seven of these cases from the past year alone, indicating that Guerra-Castañeda’s case is not a one-off or rare circumstance. In two of those cases, the person was illegally removed from the country despite the court prohibiting their deportation.

“The growing trend of illegal deportations is deeply troubling,” said SangYeob Kim, staff attorney with the ACLU of NH Immigrants’ Rights Project. “We are asking the court to hold the U.S. government in contempt to ensure that these illegal deportations do not happen again.”

The most egregious part of these violations is that there is no possible relief for Guerra-Castañeda and those in similar positions, because they’ve already been deported. The problem of illegal deportations must be stopped at the source, and that’s why the ACLU of NH is taking this fight as far as it needs to go.

“No human being should be sent by the United States to a country where they will be tortured or persecuted before they ever have an opportunity to challenge their removal,” says Bissonnette. “The federal government should to be held in contempt of court and fined every day until our client is returned so he can continue litigating his case.”



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TRANS JUSTICE VICTORIES

Three bills became law this year that strengthen lived equality for transgender people and build on last year’s landmark bill protecting Granite Staters from discrimination on the basis of gender identity. Now, New Hampshire allows for accurate and affirming identification by providing for a third “X” gender marker on state identification cards, like drivers’ licenses. Additionally, the state extended nondiscrimination protections to areas not previously covered, such as health insurance, as well as to children in public schools.

MESSAGE FROM THE EXECUTIVE DIRECTOR



As we continue to encounter an astonishing number of assaults on civil liberties at the federal level, the ACLU of New Hampshire is proud to report on our winning record in the Granite State for 2019.

For the first time, we're using the first-in-the-nation primary to ensure presidential candidates make clear commitments to protect civil liberties before the election. Hundreds of our volunteers have asked questions of almost every candidate and we have hosted eight candidates at our speaker series with UNH Franklin Pierce School of Law. The primary is just around the corner, and all voters should know where the candidates stand.

In the State House, we had many victories. New Hampshire repealed the death penalty, implemented a third "X" gender marker for non-binary Granite Staters, and expanded our nondiscrimination laws to apply to schools. And we look forward to the 2020

legislative session to work once again on things that didn't get done in 2019, such as fair chance hiring practices and ensuring fair elections through an independent redistricting commission.

Our legal team is busier than ever with several federal court cases, including a voting rights case that seeks to undo a law that makes it more burdensome and expensive to vote. We're also continuing to sue on behalf of immigrants in New Hampshire, with one case asking the court to hold the U.S. Attorney General in contempt after wrongfully deporting someone to unsafe conditions.

We know that with your support, we can keep this momentum going. The fight is never over, and we're honored to be alongside you protecting civil rights in New Hampshire.



Devon Chaffee
Executive Director

PUTTING CIVIL RIGHTS FRONT & CENTER



The ACLU of NH is working on the ground day in and day out talking to candidates, training volunteers, and talking to voters about why they should vote with Rights For All in mind.

In the first half of 2019, the ACLU's Rights For All

campaign set out with a mission: ask presidential candidates about specific civil rights commitments on the record. We trained more than 200 volunteers, who attended more than 200 candidate events and recorded over 100 videos asking civil rights questions to candidates. We secured firm commitments from a majority of presidential candidates on reproductive rights, LGBTQ rights, and immigration. Mission accomplished!

Now, we have a new mission: educate voters about the civil rights positions of candidates. Our volunteers are knocking on doors, talking to voters, and urging Granite Staters to vote like their rights depend on it, because they do.

We are also continuing to host candidates at *Civil Liberties and the Presidency*, a speaker series hosted by the ACLU of NH and UNH Franklin Pierce School of Law. Eight candidates have participated, answering a myriad of civil rights questions from attendees, including on issues about Customs and Border Protection check points, facial surveillance, adding a third gender marker to government issued IDs, and protecting the right for all eligible voters to vote.

There's less than four months to go, and civil rights deserve to be front and center of the conversation. The ACLU of NH will continue to make that happen. And we aren't stopping with the primary. We are planning a robust 2020 campaign focused on making civil rights a prominent part of our state elections, including the gubernatorial race. If you're running for office in New Hampshire next year, we want you talking about civil rights!

To learn where presidential candidates stand, visit www.rightsforall.us.

AT THE STATE HOUSE



We are looking ahead to an exciting 2020 legislative session. We are particularly excited by the number of bipartisan bills set to continue New Hampshire's commitment to criminal justice reform. A few of our priorities on this front include reducing drivers'

license suspensions for non-driving related offenses, drug sentencing reform, and improving the process for testing post-conviction DNA. As part of our Smart Justice Campaign, we are committed to centering the voices of people directly impacted by the criminal justice system in our legislative work.

2020 is a census year in the United States, and all eyes are looking ahead to redistricting in 2021. New Hampshire made real progress towards independent redistricting legislation in 2019, but in the end, the legislature was unable to override the Governor's veto of HB706. This discouraging result did not dent the incredible grassroots and bipartisan momentum for this work. We are optimistic that 2020 will be the year that New Hampshire enacts independent redistricting reform.

We are also looking forward to continuing the incredible momentum towards transgender lived equality in New Hampshire. Starting in January, Granite Staters will have the option of an "X" on their drivers' license, rather than an "M" or an "F." Next session, we will again champion legislation to provide a similar third option on birth records. All Granite Staters should have accurate and affirming identification.

Part of our legislative agenda includes the equally important work of defeating anti-civil rights legislation. For instance, we are gearing up to defeat an array of bad bills aimed at restricting reproductive rights. We are excited to continue the collaboration with our Reproductive Rights Council in maintaining New Hampshire's support for reproductive rights.

After the start of the next legislative session, we will resume publishing our *Civil Rights Sentinel*, a weekly printed and digital report of the bills on which the ACLU of NH is active as well as our position. We will also be resuming our *Call-To-Action* digital weekly publication, which includes ways for people to get involved such as calling or emailing elected officials about specific bills, opportunities to testify at a committee hearing on a particular issue, or attending rallies and events.

MORE LEGAL POWER

With the ACLU of NH legal team now at three attorneys, we have greatly improved our capacity to challenge government abuses and overreach in the courts. There are many, many cases currently on the docket, with several having the having potential to impact Granite Staters every day.



We're in federal court fighting against a burdensome, unconstitutional new voting law in New Hampshire that impacts college students by making it more difficult for them to vote. We filed a preliminary order preventing the enforcement of HB 1264 and we're working hard to make sure

the law is not in effect for the presidential primary. The motion seeks a temporary order barring the state from using voter registration or voting history as evidence in any prosecution for failing to obtain a New Hampshire driver's license or vehicle registration.

We're still fighting our federal lawsuit challenging New Hampshire's unconstitutional criminal defamation law. In that case, our client made a comment about the police on social media, and was subsequently arrested by the police for the comment—violating his right to free speech.

We're also still fighting for the right to due process for people being boarded in emergency rooms who may be going through a mental health crisis. It's unacceptable that Granite Staters are being involuntarily held for days or weeks without any ability to challenge their detention.

And we're fighting to protect privacy in New Hampshire. We filed a brief addressing whether or not the federal government should be allowed to request sensitive medical records without a warrant. We believe that a warrant is required. We're also currently challenging the City of Manchester's planned use of surveillance cameras on Elm Street.

We've also filed four public records lawsuits addressing police accountability, sued local police departments and one jail that have unlawfully detained immigrants, and filed a brief addressing race in police stops.

Additionally, our Immigrants' Rights Project is doing incredible work and we've received a large number of court rulings that will be life changing for our clients and for people in similar future positions.



PROTECTING IMMIGRANTS' RIGHTS IN STATE AND FEDERAL COURTS

The number of immigrants being detained in New Hampshire vastly exceed the number lawyers available to assist them. In our new partnership with UNH Franklin Pierce School of Law, students are working alongside our legal team to help provide adequate representation to detainees. Under the supervision of SangYeob Kim, our immigration staff attorney, students are trained to be practice-ready, allowing them to move from learning the law to doing the law. Students are assuming chair level roles in hearings, assisting our team in and out of the courtroom.

With ten active cases, we have also been busy at the courthouse. We're in federal court fighting on behalf of a man who was illegally deported, and we filed a Freedom of Information Act request to the ICE Boston Field Office requesting data concerning their third country deportation practice.

We've also seen several victories this year. We helped secure the immediate release of a permanent state resident unlawfully detained by ICE, a federal court granted our emergency motion to stop the transfer of an immigrant who was to be deported, filed a class action lawsuit challenging the government's practice of denying due process to detained immigrants, and saw success when the federal government dropped its appeal of our July 2018 court victory which found that ICE had to provide our client with a bond hearing.

And lastly, the U.S. Supreme Court has agreed to review a federal appeals court ruling on an ACLU case, *Thuraissigiam v. USDHS*, which concluded that asylum seekers are entitled to federal court review of their expedited orders. Lee Gelernt, deputy legal director at ACLU National, said "It is a foundational principal of our Constitution that individuals deprived of their liberty have access to a federal court—this includes asylum seekers whose lives are in danger."