

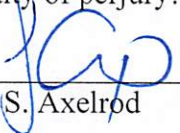
Declaration of Lily S. Axelrod

1. My name is Lily S. Axelrod. I am an immigration attorney at Siskind Susser P.C. in Memphis, Tennessee. I serve as the liaison to the Memphis Immigration Court for the Midsouth Chapter of the American Immigration Lawyers Association. I am also a member of the National Immigration Project of the National Lawyers Guild, the International Bar Association, and the Memphis Bar Association. I am licensed to practice by the Supreme Judicial Court of the Commonwealth of Massachusetts.
2. My practice focuses on complex removal defense matters before the Memphis Immigration Court. I represent non-detained clients from the entire geographic area of the court, from east Tennessee (5-7 hours away by car) to northwest Arkansas (5 hours away). Before I moved to Memphis in September 2016, I represented detained and non-detained respondents before the Boston Immigration Court, and in state and federal criminal proceedings in eastern and central Massachusetts.
3. When the Department of Homeland Security (DHS) detains noncitizens in the Memphis area, it sends them to detention centers in rural Louisiana within a few days. These detainees often seek counsel close to their families and communities here in the Midsouth. My office receives several inquiries a week from detainees and their loved ones seeking representation before the detained immigration courts in Louisiana.
4. Unfortunately, I decline all of these inquiries and have instructed our staff to refer them to Louisiana counsel who regularly practice in the detention centers. When DHS detains my existing clients and sends them to Louisiana, I must also regretfully refer their cases to Louisiana attorneys until and unless they are released. This frustrates and confuses my clients and their families.
5. In 2017, I decided to decline all detained matters because I do not believe that I can be an effective advocate for clients who cannot regularly and promptly communicate with me confidentially, before courts whose procedures are inconsistent and change without notice, and opposite government counsel who do not answer their phones.
6. In 2016 and 2017, I represented several Memphis-area respondents in bond hearings before the Oakdale Immigration Court, which at the time also served Jena detainees. I also represented several Louisiana detainees in Motions to Reopen. In recent years I have also assisted several Siskind Susser clients whose cases are transferred to Louisiana when DHS detains them, requiring me to file Motions to Withdraw.
7. My notes and time logs from these cases reflect that I spend almost as much time “playing phone tag” with government officials and addressing apparent errors by court clerks and detention center employees as I do on client communication and substantive legal work.

8. During business hours, neither the court clerks nor the Office of Chief Counsel regularly answer their phones or return voicemails. I often have to call many times over several days in order to speak to a person.
9. Communicating with my clients is even harder. My clients can only call me collect, or on their own expensive phone accounts which take several days to set up. These phone calls are not private from other detainees or detention center staff. To arrange a confidential call, I have had to call the detention center (whose phone was not always answered during business hours), find out who was the social worker assigned to my client, leave a message for the social worker requesting a private attorney call, and wait for the social worker to call me back with an assigned time. These calls are limited in time to 20 or 30 minutes, often take at least 48 hours to schedule, and require me to rearrange my existing commitments to accommodate the appointment assigned by the detention center staff. Video chat is not available, so it is challenging to prepare my clients to testify without the ability to observe their body language or give feedback on their demeanor. Fortunately I speak fluent Spanish, but for other languages (especially rarer ones like Guatemalan indigenous languages spoken by many of my clients) it would be challenging or impossible to arrange a telephonic interpreter.
10. Reaching clients by mail is equally inefficient. On at least one occasion, the detention center improperly rejected a time-sensitive FedEx to a detained client, even though I had followed the directions posted on the center's website to the letter. This error caused me several days' delay in filing a motion with the court that required a signed declaration from my client.
11. I have also had frequent frustrations with procedural issues in the detained courts, which seem to change without notice. For example, several times a court has received my filing (as indicated by FedEx delivery confirmation with the name of the clerk who signed for the package) but did not enter it in the system, requiring several phone calls to determine what happened and then time and expense to re-send a filing and call several more times to confirm its acceptance. I have also had to spend hours following up after clients are released from detention. The courts are supposed to transfer venue back to Memphis after receiving notification DHS notification of the client's release, but this sometimes requires many phone calls or a redundant motion from the respondent. I have one former client who was released from detention nearly a year ago whose case is still incorrectly venued at LaSalle.
12. I have never represented a Louisiana detainee in an individual merits hearing (trial). I do not believe I can ethically and competently prepare clients for complex and sensitive testimony over the telephone. It would be prohibitively expensive for my clients and inconvenient for my family for me to travel 5 to 7 hours each way to rural Louisiana from Memphis to meet with clients in person for the 10 – 40 hours that it typically takes me to prepare an asylum declaration and testimony.

13. I regret declining Louisiana detained cases, especially for my own existing clients who suddenly find themselves isolated from their communities and hoping to maintain a relationship with trusted counsel at a terrifying time.
14. I predict that the current COVID-19 pandemic is making it even more challenging for Louisiana detainees to access counsel, who are working from home under stressful conditions and increasing economic pressures.
15. Recognizing that detainees are particularly vulnerable to rapid transmission and inadequate medical care for COVID-19, I have considered changing my policy and temporarily accepting Louisiana bond cases during the pandemic. Unfortunately, I have decided against it. My office has closed, and I have been working from home for the past two weeks. I am also sharing childcare responsibilities for our rambunctious toddler with my husband, a full-time graduate student. Under these conditions I cannot work regular full-time hours and do not have extra capacity to take on new, time-sensitive cases.
16. Even if I had the time to devote to detained cases, it would likely be financially imprudent. My revenue has dropped drastically in the last three weeks, with almost no new consultation appointments scheduled and many current clients asking to delay or reduce their scheduled payments due to layoffs or income reduction. Like my non-detained clients, many Louisiana detainees and their families work in food service, home cleaning or janitorial services, hospitality, and construction, all of which have been hard hit by the pandemic and social distancing practices. To make my services accessible to financially-strapped families, I would likely have to set a low-bono fee that would not fairly compensate me for my time, at a moment when my firm cannot afford to take any risks with our ability to make payroll.
17. From informal conversations with other removal defense practitioners in Tennessee, it seems I am hardly alone. Many of us have taken on full-time caretaking responsibilities and are facing severe revenue reductions and the possibility of laying off staff. I cannot imagine that many of my colleagues are in a position to offer pro-bono or low-bono bond representation. And of course none of us can travel to Louisiana to meet detainees in person for representation in the merits of their cases. Memphis has been under a stay-at-home order since Tuesday March 24. Legal service providers are not exempt.
18. Moreover, we cannot put ourselves, our families, and our businesses at risk by exposing ourselves to the serious possibility of infection with COVID-19 at a detention center. While my husband and I are young and healthy, we have been taking social distancing very seriously so that we can remain available to safely care for our aging parents if necessary.

The above is true and correct to the best of my knowledge and memory. Signed and sworn under penalty of perjury:



Lily S. Axelrod

March 29, 2020