

news

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ACLU WINS RELEASE OF TORTURED REFUGEE **U.S. Attorney Will Not Appeal Immigration Judge's Decision**

SAN DIEGO –In response to a lawsuit filed by the ACLU and other groups, the Department of Homeland Security agreed to release an HIV-positive torture victim from Mexico who was detained by immigration officials for nearly two years despite a judge having granted her relief.

Oscar “Diana” Santander, who suffered torture in her home country at the hands of police and other government officials, was granted asylum and relief under the Convention Against Torture last May by an immigration judge. But the government continued to incarcerate her at the San Diego Correctional Facility in Otay Mesa, while it appealed a portion of the ruling. Although the grant of asylum was reversed by the Board of Immigration Appeals, the immigration judge recently reaffirmed the grant of relief under the Convention Against Torture. The government decided not to appeal that ruling and released Ms. Santander late last week.

Ms. Santander was represented by the ACLU’s Southern California and San Diego affiliate offices, together with Casa Cornelia Law Center and the private law firm Greenberg Glusker.

“While we are gratified that the U.S. government finally agreed to end Diana’s detention, it is shameful that the government detained an HIV-positive torture victim for nearly two years and wasted thousands of taxpayer dollars in the process. Diana will never get those years of her life back,” said Ahilan Arulanantham, director of the ACLU of Southern California’s immigrants’ rights and national security project. “The government had no reason to continue to imprison a woman who had won relief under the Convention Against Torture. This case presents another stark example of the government’s misguided addiction to incarceration.”

Santander first gained notoriety after she spoke out in the aftermath of the death of Victoria Arellano, another transgender immigration detainee who died of AIDS after the government failed to provide her with adequate medical care. Although the government never disputed that Santander was an HIV positive torture victim, it nevertheless fought Santander’s release while it appealed the decisions granting her relief under refugee protection laws. As a result, the government incarcerated her for an additional nine months after she first won her case.

“The Ninth Circuit Court of Appeals has twice stated that people who have prevailed in their asylum applications cannot be detained for a prolonged period. That court has also twice held that foreign nationals detained for a prolonged period must be afforded a hearing where the government bears the burden to show that their detention remains justified,” said Bardis Vakili of the Casa Cornelia Law Center. “It is unfortunate that the government chose to ignore the governing federal law for so long in this case.”

Santander was held an additional six months after her lawyers filed the lawsuit on her behalf.

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