

Q&A report

Question submitted in Q&A window during webinar	Answer(s)
Does the government need to answer the petition and admit or deny each paragraph?	Yes, they will have to do that. If you move for a TRO or PI that will probably get addressed before you get to the deadline for the government's answer. Sometimes the judge will issue an order to show cause that also requires briefing that happens before the answer.
What about indefinite detention where removal proceedings have been terminated but noncitizen is detained? What is the argument?	It depends on the specific posture. There are cases about withholding of removal specifically in some circuits.
How do you prove up a medical condition that makes a person vulnerable to Covid? Are medical records/medical expert testimony required?	CDC criteria + evolving research (e.g. medical journals) + health expert. Having a health expert declaration in your case is critical for COVID cases.
Is there a link with a list of all the various Habeas/Class actions going on?	<p>Here's a partial list of our (NIP) cases: https://nipnlg.org/our_lit/practice_advisories/2020_21Mar_COVID_19.html</p> <p>And the UMich clearinghouse I believe is also trying to keep track: https://clearinghouse.net/results.php?searchSpecialCollection=62</p>
Is there a link to the Dada order?	<p>https://nipnlg.org/PDFs/practitioners/our_lit/impact_litigation/2020_24May_dada-v-witte-r-r.pdf And here is the underlying Report & Recommendation with the fact vs conditions analysis: https://nipnlg.org/PDFs/practitioners/our_lit/impact_litigation/2020_30Apr_dada-v-witte-opinion.pdf</p>
Can you please give citation to the 5th circuit cases previously mentioned?	<p>This is the Dada v Witte R&R: https://nipnlg.org/PDFs/practitioners/our_lit/impact_litigation/2020_30Apr_dada-v-witte-opinion.pdf</p> <p>This is the order adopting the R&R in Dada v Witte: https://nipnlg.org/PDFs/practitioners/our_lit/impact_litigation/2020_24May_dada-v-witte-r-r.pdf</p> <p>And here is the Tamayo Espinoza case: https://nipnlg.org/our_lit/impact/2020_16Apr_lit-tamayo-espinoza-v-witte.html</p>
How do attorneys not associated with NGOs or clinics find doctors and experts?	<p>One way to do it is see who submitted declarations in some of the bigger cases and then reach out to them. Some of their info is publicly available (e.g. if they are faculty at schools, etc.).</p> <p>Another way is to identify someone who is a public health expert at a local university and reaching out to ask for a general declaration, and then finding a local MD to weigh in on the specific medical vulnerabilities of your clients</p> <p>Even as NGOs etc. we've had to do some digging to find the right experts in places, so it's not a lost cause. Also, there were a couple of generally available declarations that were circulated, one of them is in the NIP practice advisory, that anyone can use in their litigation for the overall points (though not, of course, for the</p>

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Has anyone gotten a ruling under the Rehab Act? What kind of relief?	The Fraihat class action included a ruling under the Rehab Act I believe. (That case was brought by SPLC.)
Has anyone done a combination - like indefinite detention and potential COVID exposure for someone who does not have a particular medical vulnerability?	Yes, we've brought prolonged detention claims also for clients who had them in some of our cases. Not all, but some. You should evaluate the particulars of your clients' situation but I think it's a good approach. COVID can also be a factor that comes into the 5A reasonableness analysis in a pre-removal prolonged detention claim.
On the COVID-19 constitutional claims do you allege deprivation of life or liberty or both?	both
How important are community connections/sponsors? Many of the folks we hve left really have no one and we never get bond or DO to let folks out by using local safe houses (kinda like annuciation house)....perhaps the federal court isn't as concerned about this?	Release plans are really important in that context. It's much harder when there isn't a clear place they can go, but if there are providers that are able to assist with putting together release plans that can up your chances.
Will you be discussing Thuraissiagam and how that might or might not be applied to habeas beyond expedited removal	live answered
Fraihat includes people with "serious psychiatric illness" as medically vulnerable but CDC guidance is not great. Does anyone know of 5th circuit case law where mental health is alleged as the medical vulnerability?	live answered
Can you point us to a good source of guidance in 5th Circuit cases for indefinite or prolonged detention? I'm especially interested in people who would be deported to Cuba or other countries who aren't accepting US deportees.	I don't have Fifth Circuit specific guidance but this is some general guidance on prolonged detention habeases https://www.aclu.org/sites/default/files/field_document/2018_03_21_jennings_v_rodriguez_practice_advisory.pdf
How do you handle the verification for a client who may not speak or read English?	This can vary by district court but often the lawyer is allowed to do the verification based on information and believe, as long as the source of the information is provided (e.g. client). Check local court rules.
Will we be given a course number for TX cle compliance?	TAMU Law will submit your CLE credit directly to the State Bar of Texas for all registrants who: (1) Entered their Texas Bar Card number on the registration form, AND (2) Attended the entire webinar. You may also self report. CLE Course Number: 174088681
Thank you so much! It was excellent!	
Great presentation, thank you!	

While the panelists are all attorneys, they are discussing the law generally, and nothing in the webinar or Q & A session should be considered as legal advice. Attendees should consult their own legal advisor to address their own unique circumstances.