

EXHIBIT K

DECLARATION OF MELISSA SMYTH

I, Melissa Smyth, declare:

1. I am a Staff Attorney in the Immigration Practice at Brooklyn Defender Services, and I represent J.A.V. in his removal proceedings.
2. This is a supplemental declaration to that submitted by J.A.V. dated March 14, 2025.
3. J.A.V. is a national and citizen of Venezuela who entered the United States around May 3, 2023. He was processed by U.S. immigration authorities and released on his own recognizance on May 4, 2023.
4. Removal proceedings were first initiated through a Notice to Appear filed with EOIR on May 22, 2024, and then dismissed upon joint motion by the parties on June 11, 2024 for him to pursue an affirmative asylum application.
5. J.A.V. filed for asylum in the United States based on his political views and having been attacked by criminal gangs. He is gay, and suffered verbal and physical violence and harassment on account of his sexual orientation, including by gangs in Venezuela. J.A.V. is HIV positive and is terrified that he will suffer severe illness and death if he does not have access to daily medications and consistent medical care.
6. In New York, he was receiving stabilizing medical treatment and support. He was working and had a close-knit group of friends.
7. J.A.V. has never been arrested, charged, or convicted of any criminal offense in the United States. His only record of any legal infraction was a ticket issued for non-payment of a subway fare, for which he paid a fine.
8. J.A.V. has no criminal record in Venezuela.
9. J.A.V. is not and has never been a member of a gang.
10. J.A.V. has several artistic tattoos, which he has had for many years, including when DHS initially processed and released him on recognizance and when DHS joined his motion to dismiss removal proceedings.
11. After ICE arrested J.A.V. at his USCIS asylum interview on February 28, 2025, ICE officers suggested that they believed some of his tattoos were gang-related and asked him about Tren de Aragua. J.A.V. denied being a member of a gang or having any connections to gang members.
12. DHS filed a new Notice to Appear after arresting J.A.V. at his USCIS asylum interview.
13. On March 14, 2025, ICE prepared J.A.V. to be put on a plane, but did not inform him where the plane was going. However, the flight did not go forward and J.A.V. was returned to El Valle that night.
14. On March 15, 2025, ICE again prepared J.A.V. to be put on a plane, along with a group of other Venezuelan ICE detainees. He was transported by bus to another facility where the group of detainees were loaded onto a plane, except for J.A.V. and another individual. ICE officers said that he had “won the lottery.” Several other individuals were subsequently

removed from the plane after boarding, before it took off. J.A.V. was returned to El Valle that night.

15. For all the reasons he fled to the United States and applied for asylum, J.A.V. fears being sent to El Salvador. Given the horrendous and notorious conditions of El Salvador's prisons, his health, safety, and his life would be at serious risk if detained there, or if removed from the United States before his asylum case is fully heard in immigration court. He is at serious risk of death if sent to the Terrorism Confinement Center in El Salvador.

I, Melissa Smyth, swear under penalty of perjury that the forgoing declaration is true and correct to the best of my knowledge and recollection.



03/19/2025

Name: Melissa Smyth