Just Futures Law Urges North Carolina Supreme Court
to Restore Rights in State Court to Immigrants

On Monday, November 4, 2019, the North Carolina Supreme Court heard oral arguments in Chavez, et al v. Carmichael. Petitioners Carlos Chávez and Luis López appealed the North Carolina Court of Appeals’ decision, which stripped all immigrants of the fundamental right to request freedom from detention in state court.

The justices heard arguments that addressed, among others, the jurisdiction of state courts, 287(g) agreements and immigration detainers, and the state writ of habeas corpus. Sejal Zota, Legal Director of Just Futures Law, and Rob Heroy of Goodman, Carr, Laughrun, Levine & Greene represented Mr. Chávez and Mr. López before the North Carolina Supreme Court. Zota argued, “North Carolina’s habeas courts must have the authority to determine whether state law authorizes state officers to detain noncitizens in its jails. A duly-authorized 287(g) agreement does not strip the state courts of jurisdiction to examine threshold factual issues to verify the claim of federal custody.” Zota called for a ruling affirming state court jurisdiction and a reversal of the Court of Appeals’ sweeping decision.

A coalition of North Carolina grassroots community groups filed a friend of the court brief objecting to the decision to deny immigrants the right to habeas corpus. Other groups, including the ACLU of North Carolina, the North Carolina Justice Center, and law professors and immigration experts, also filed friend of the court briefs arguing against the decision. The U.S. government filed a friend of the court brief supporting the decision. The Supreme Court is expected to issue a ruling in Chavez in upcoming months.

Background: Mr. Chávez and Mr. López were detained by Mecklenburg County sheriff’s deputies after they posted their criminal case bonds. They immediately went to superior court and asked a state judge to release them, arguing that they were being unlawfully detained. The state judge ordered their release, but the sheriff’s office, which had entered into a 287(g) agreement with the federal government, had turned them over to ICE instead. The sheriff’s office then asked the Court of Appeals to overrule the decision to free Mr. Chávez and Mr. López. The Court of Appeals issued a broad decision eliminating an immigrant’s right to state court, even where the ICE detainer is unlawful or mistakenly names the wrong person, including a U.S. citizen.

A copy of the briefs in the case and additional information is available at: https://justfutureslaw.org/chavez-v-carmichael/.

###