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North Carolina High Court Partially Reverses Court of Appeals, Reopens Potential Path for Immigrants Seeking Judicial Review When Sheriffs Hold Them for ICE

On Friday, June 5, 2020, the North Carolina Supreme Court decided Chavez, et al v. Carmichael. Petitioners Carlos Chávez and Luis López had appealed the North Carolina Court of Appeals’ decision, which stripped state courts of the authority to order the release of individuals held by sheriffs for immigration purposes.

Significantly, the North Carolina Supreme Court vacated those portions of the Court of Appeals’ opinion that addressed the authority of North Carolina sheriffs who have not entered into a 287(g) agreement to detain individuals pursuant to immigration administrative warrants and detainers. In North Carolina, sheriffs in ninety-two counties have not entered into 287(g) agreements. This opinion clears the path to challenge immigration detention in those jails.

Sejal Zota, Legal Director of Just Futures Law, said, “We are encouraged that the North Carolina Supreme Court’s unanimous decision reopens the courthouse doors to immigrants in counties without 287(g) agreements to challenge unlawful detentions before a state court. North Carolina state law clearly does not authorize such arrests. Just Futures Law urges anyone in this situation to contact our organization.” Zota and Rob Heroy of Goodman, Carr, Laughrun, Levine & Greene represented Mr. Chávez and Mr. López before the North Carolina Supreme Court.

The Court also reversed the Court of Appeals sweeping ruling that North Carolina state courts lacked all jurisdiction to hear cases such as Mr. Chávez and Mr. López’s. But disappointingly, the Court found that where the sheriff asserts that detention is pursuant to a 287(g) agreement, the state court must deny release and is powerless to further examine whether the immigration detainer and warrant in fact named the person being held; rather, the forum for such a claim is federal court.

The decision, briefs, and additional case information are available at the following link: https://justfutureslaw.org/chavez-v-carmichael/.

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