

Rhode Island ACLU expands lawsuit over Chinese immigrant's death

John Marion
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The Rhode Island branch of the ACLU filed an amended lawsuit July 23 with the federal court for the District of Rhode Island in the case of Hiu Lui Ng. Ng, a Chinese immigrant, died in August 2008 at the age of 34 while a prisoner in a state detention facility.

The ACLU's suit, originally filed in February 2009, details the inhumane, and eventually deadly treatment received by Ng at the hands of ICE officers and the staff of the Wyatt Detention Facility in Central Falls, Rhode Island. The purpose of last week's amendment was to add Memorial Hospital in Pawtucket, Rhode Island to the list of defendants.

According to the lawsuit, Ng, a father of two who had married a naturalized American citizen in 2001, was arrested by the federal Department of Homeland Security in July 2007 because of a clerical error dating from February 2000.

In a Kafka-esque series of events, Ng was arrested immediately after an immigration court in New York had approved an I-130 immigration petition filed by his wife on his behalf, which would have enabled Ng to obtain a US visa. Ng was arrested, however, because in 2000 the US Immigration and Naturalization Service had mailed him a Notice to Appear that he never received because it was sent to the wrong address.

Ng had come to the United States from China in 1992 on a B-2 visa, and along with his parents and sister had applied for asylum in 1994. In the intervening years, he worked his way through community college, ran his own computer consulting firm in New York, and bought a home with his wife.

After his July 2007 arrest, Ng was held in the Wyatt Detention Facility and county jails in Massachusetts and Vermont for the rest of his life. In April 2008 he began complaining of chronic back pain, which was not diagnosed as liver cancer until August 1, 2008, five days before his death.

The ACLU's suit details the cruel and criminal treatment that hastened Ng's death. Even when the pain became so bad that he was unable to walk, prison staff refused him a wheelchair or any painkillers stronger than ibuprofen. At one point he was forced to spend three days in solitary confinement in the prison's "pit." When his attorney tried to visit him, prison staff insisted that they meet in the visitation area, effectively denying the visit because of Ng's inability to walk even short distances from his cell.

Memorial Hospital was added to the suit because on July 26, 2008, a Saturday, they would not perform an MRI test, instead insisting that it be done the following Monday. However, prison staff refused to take Ng to the hospital on July 28, and the test was not done until August 1, after Ng's attorney had filed a petition for habeas corpus. On July 30, Ng was instead driven to Hartford, Connecticut, where ICE officials tried to talk him into accepting deportation. During that trip, he was handled so roughly by prison staff that his weakened spine broke. He died in Rhode Island Hospital on the morning of August 6.

One of the prisons at which Ng was kept, the Franklin County Jail in St. Albans, Vermont, had no medical facility. He was made to spend 78 days there, despite acute weight loss and back pain so serious that he slept on the floor for support. According to the notes in its 2008 audited financial statements, the Wyatt Detention Facility had only four medical beds for a population of more than 700 inmates.

The case caused a crisis for the Wyatt facility at the end of 2008 and beginning of 2009. Wyatt's executive director, who had paid out more than half a million dollars to his own consulting company in 2008, was fired. The mayor of Central Falls, Charles D. Moreau, tried, unsuccessfully, to sell the prison to a private corporation. The prison's 2008 audited financial statements

questioned its status as a “going concern” after ICE cancelled its contract in January 2009. However, the prison continues to function two years later.

According to the Wyatt Detention Facility web site, nonviolent immigrants like Ng are being kept in medium- or maximum-security wings. The facility’s 2008 annual report lists immigrants as being the second-highest percentage of total inmates, at nearly 28 percent.

The ICE contract had put the price of human misery at \$101.76 per day per detainee, according to the financial statements. The financial statements also describe a bond issue of \$106.7 million in 2005, which enabled capitalist speculators to earn interest from the same misery.

The ICE’s decision to cancel the contract was triggered by Ng’s death, a decision motivated more by concerns over public relations than the well being of detainees. In fact, the Wyatt Facility’s 2008 Annual Report boasted that in February 2008—just six months before Ng’s death—“ICE officials conducted an inspection tour and the Wyatt received accolades for its operational standards” and that in April 2008 the “Department of Justice conducted an operations audit and the Wyatt received an excellent rating with no standards out of compliance.”

In addition, the cancellation of the ICE contract has not kept the US Marshals Service from using the Wyatt facility, where as of April 2010 it was keeping nearly 600 prisoners, according to the *Providence Journal*.

At the beginning of 2010, ICE, which had been named as a defendant in the ACLU’s lawsuit, requested that it be dropped from the suit, despite its documented mistreatment of Ng in Hartford and the refusal of its Boston Field Office to respond to a written request from his attorney, according to the ACLU. ICE is concerned about its ability to continue hiding its mistreatment of detainees at a time when deportations from the US are increasing exponentially. The August issue of *Harper’s* magazine reports that during Obama’s first year as president the agency deported more than three times as many people, nearly 400,000, as during Bush’s first year.

ICE continues to work with Rhode Island’s state police on deportation cases. A March 2008 executive order issued by Governor Donald Carcieri, a former bank executive, ordered that “the Rhode Island State Police ... shall work ... with ICE to receive training necessary to enable them to assist ICE personnel in the enforcement of federal immigration laws,” and that certain staff from the state’s Department of Corrections would be supervised by ICE.

Carcieri issued the order to target undocumented

immigrants and pit them against other workers in the face of an economic crisis that was gathering steam in the spring of 2008. The order declares that “the presence of significant numbers of people illegally residing in the State of Rhode Island creates a burden on the resources of state and local human services ... educational institutions and other governmental institutions and diminishes opportunities for citizens and legal immigrants.” At the time, the state’s unemployment rate was 7 percent; it has since increased to 11.6 percent according to the US Bureau of Labor Statistics.

The governor’s executive order has led to such practices as state police demanding the identification of passengers in cars they pull over for traffic violations, according to a recent *Boston Globe* article. In another example, the *Providence Journal* cited “the arrests of 31 undocumented immigrant janitors during a July 2008 raid on Rhode Island courthouses.”

The Wyatt Detention Facility was built by Central Falls, Rhode Island after a 1991 law gave the state’s cities and towns the authority to build prisons but incorporate them separately. The impoverished city was the only municipality to take advantage of the law, which “declared that a need for economic development projects exists within the state and that the development of a detention facility would help to meet the need for economic development.”

As is the case with many former mill towns in New England, the city’s economy has been devastated. According to the www.city-data.com, the median household income in Central Falls was estimated at \$29,000 in 2008 and a paltry \$22,600 in 2000.

The 1991 law is not the last time Rhode Island has targeted this working class city as a guinea pig. In February 2010, the state’s education commissioner ordered the firing of all the teachers and staff at Central Falls High School, a so-called failing school, a move applauded by Barack Obama and his education secretary Arne Duncan.



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