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**FEDERAL BUREAU OF PRISONS ORDERED TO
ASSESS SECURITY IMPLICATIONS OF VIDEOPHONES**

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In a case brought by the Committee and the law firm of Ballard Spahr, the U.S. District Court for the District of Columbia has issued the first judicial guidance that videophones may be necessary to ensure effective telephone communication for deaf individuals.

In a hearing on a motion for preliminary injunction in *Berke v. Federal Bureau of Prisons, et al.*, No. 1:12-cv-1347-ESH, Judge Ellen Huvelle ordered the Federal Bureau of Prisons to complete an evaluation of videophone technology, to assess whether provision of a videophone to a deaf prisoner would constitute a fundamental alteration of the Bureau's program or result in an undue burden to the agency. The Judge found that the TTY, the older telephone technology which the Bureau had proposed to make available, would not provide communication in the deaf individual's native language. She noted technology has changed since the 1984 regulation requiring TTY's, and that most deaf individuals, including the plaintiff's family, no longer own this technology, and thus cannot communicate with someone using a TTY. She also ruled that provision of email access does not resolve the issue of telephone access for prisoners who are deaf.

Judge Huvelle found that the Bureau, upon receipt of the videophone request, should have performed an analysis of security issues a videophone might present. If there was a security issue, a written denial of the videophone should have been signed by a designee of the U.S. Attorney General. However, the Judge declined to order the Bureau to provide a videophone without such a security analysis. She therefore ordered the Bureau, within the next eight months, to perform this security analysis for the minimum security facility to which the deaf individual is assigned, and report its conclusions to the Court.

Judge Huvelle also signed an order assuring that the deaf individual will be provided access to sign language interpreter services during orientation, medical, disciplinary and educational activities. The order also requires that the prisoner will be provided with visual alarms, closed-caption televisions, TTY services, and other accommodations.

Representation in this case was provided by the Washington Lawyers' Committee for Civil Rights and Urban Affairs, and Ballard Spahr LLP. The Washington Lawyers' Committee is a non-profit organization established in 1968 to provide legal services to address discrimination. Ballard Spahr, a national firm of over 500 lawyers with more than 40 practice areas, has a demonstrated and strong *pro bono* commitment.