

HERNANDEZ MOVED TO MONROE CO. JAIL

Hernandez

21-year-old accused of making terror threat about East High via Facebook

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The Rochester woman detained by authorities and accused of writing a threatening Facebook post appeared Monday morning in City Court.

City Court Judge Stephen Miller on Monday remanded Abigail Hernandez, 21, to the Monroe County Jail until March 15. She is scheduled to return to court on that date.

At a press conference Friday afternoon, the Rochester Police Department announced Hernandez was charged with making a terroristic threat, a felony charge in New York state. She allegedly posted on the East High School Facebook page, on the afternoon of Feb. 15: "I'm coming tomorrow morning and I'm going to shoot all of ya bitches."

Hernandez was arraigned in City Court last week and was set to be released after her family posted \$15,000 bail. But before that could happen, she was detained by immigration authorities and taken to the Buffalo Federal Detention Center in Batavia.

Hernandez, who was wearing an orange jumpsuit when she entered the courtroom Monday, is considered an undocumented immigrant and is facing deportation as well as the criminal charge.

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Eufracio Torres, father of Abigail Hernandez, leaves court Monday with his daughter's attorney, on the right, Emily Rosmus. TINA MACINTYRE-YEE/ @TYEE23/STAFF PHOTOGRAPHER



An exterior of East High School. JAMIE GERMANO/@JGERMANO1/STAFF PHOTOGRAPHER



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In court Monday, public defender Emily Rosmus asked Miller to reimpose a nominal bail, so that Hernandez could be held instead at the Monroe County Jail. Rosmus said she'd been unable to meet with her client while she was being held by federal authorities.

Miller imposed a bail of \$100, indicating that Hernandez would remain in local custody as long as the family did not post bail again. If the bond is paid, Hernandez would be released but returned to the Federal Detention Center.

Monroe County Assistant District Attorney Gregory Colavecchia said the case would be presented to a grand jury.

Her parents said Hernandez was not capable of carrying out the threat she is accused of making. They say she has special needs and is very dependent on her family.

The move to the Monroe County Jail will allow Hernandez to see her family, something that was not occurring despite attempts by her parents during her days in Batavia.

Outside court on Monday, Hernandez's father, Eufrazio Torres, said he's looking forward to seeing his daughter, whom he has not seen or spoken with since she was taken into custody last week.

Documents outline allegations

Court documents allege that Hernandez created an account under the name "Martin Doll" on Facebook while using her mobile phone. The threat was posted underneath a photo of East High teachers and students.

According to City Court documents, Hernandez confessed to the crime while being questioned by police on Feb. 15.

Emily Rosmus, a public defender representing Hernandez, said she does not know if Hernandez is also facing federal criminal charges.

But federal authorities have commenced removal (deportation) proceedings against the woman, whose name they list as Abigail Hernandez-Arellano.

A federal immigration judge will determine whether she remains in the country or is returned to her native Mexico, said Khaalid H. Walls, a spokesman for U.S. Immigration and Customs Enforcement.

Walls said the agency has had no prior contact with Hernandez. He declined to comment on her mental health status or whether she suffered from any developmental disabilities. She came to the United States from Mexico 18 years ago with her parents, they said, and qualifies for “dreamer” status under Deferred Action for Childhood Arrivals rules.

Hernandez was 3 when she entered the United States.

Hernandez’s father said he and his wife have green cards, and their two younger children are American citizens. But they did not obtain the necessary documents for Abigail when she was brought to this country.

The DACA policy allows young people who were brought here unlawfully as minors to live, attend school and work without fear of deportation as long as they abide by the law and meet a range of guidelines. If a so-called Dreamer is charged with a crime, judged a threat to public safety or found to have violated program rules, ICE can commence removal proceedings.

Hernandez is currently a student at Edison Career & Technology High School, and previously attended East High before she was moved to Edison for a special education program better suited to her needs.

Her father works 80 hours a week as a bus driver for two different companies and owns seven houses in northeast Rochester, including the family’s home off Portland Avenue.

Advocates speak out

Beatriz Lebron, a member of the Rochester City School District’s school board, raised questions about how Hernandez was treated by police.

“She should not have been questioned without her parents there or legal representation; she may not have known what her rights were,” Lebron said.

“I think people are hypersensitive right now about the (Parkland) thing — as they should be — but that doesn’t mean we should take mental disability and mash it together with mental health, because they’re two separate things.”

Lebron said she is working with various local agencies, including Legal Aid Society, to find ways to help the family.

Because she’s being held at the county jail, RCSD is obligated to educate her there.

Among Hernandez’s supporters at the courthouse Monday was Karen Fox, an East High parent who has known Hernandez for seven years.

“I just want her to know that we’re here for her and we love her,” Fox said. “There’s just no way she did this. She can get mouthy at times, and probably make comments she shouldn’t make. But violent? Never, ever.”

While not familiar with the details of Hernandez’s case, Stephanie Woodward, director of advocacy for the Center for Disability Rights in Rochester, said there could be deep concerns related to Hernandez’s intellectual capacity and her civil rights.

“There’s always a concern that an individual understands their rights, particularly when they’re being interrogated,” said Woodward. “People with intellectual disabilities can be susceptible to confessions, to saying things that are not true, just to get it to stop.”

Woodward said she could not say that this is what happened in Hernandez’s case, but that it is important that there be an accurate assessment made soon of Hernandez’s cognitive abilities.

“That should be reviewed soon to determine whether her confession is valid, whether she has the ability to make those kinds of decisions and whether she needs additional supports,” she said. “It’s not too late at this point; any confession she may have given should be reviewed with scrutiny depending on the outcome of any cognitive testing.”

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