

## Hernandez back in federal custody after plea agreement

### Hernandez

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Rochester Democrat and Chronicle USA TODAY NETWORK

Abigail Hernandez, a 21-year-old Rochester woman accused of making terroristic threats at a city high school, accepted a plea agreement Wednesday morning. She was detained by federal immigration agents as she was released from the Monroe County Jail several hours later.

Abigail Hernandez was charged in March with two counts of making a terroristic threat. She was a student at Edison Career and Technology High School at the time and graduated, while still incarcerated, on Monday.

She pleaded guilty to third-degree falsely reporting an incident, a misdemeanor, Wednesday morning. In court, she acknowledged making two threatening Facebook posts against East High in Rochester as her stepfather and numerous other supporters looked on.

Eufracio Flores, whom Hernandez calls her father, said he has been overwhelmed by the support she has received, much of it from people he'd never met. He thanked them for making sure that Hernandez was not forgotten.

"We've been waiting for her to come home for four months," Flores said outside court. "All of my family is happy. Today is a beautiful day."

The criminal charges stemmed from allegations that she posted a threatening message on the East High School Facebook page on the afternoon of Feb. 15, declaring: "I'm coming tomorrow morning and I'm going to shoot all of ya bitches."

After the school called the threat

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**Eufracio Flores**

Abigail's stepfather



**Eufrazio Flores, stepfather of Abigail Hernandez, speaks outside court after her plea Wednesday. At right is Hernandez's teacher and mentor, Rita Gaither. SEAN LAHMAN/@SDOWDPHOTO/STAFF PHOTOGRAPHER**

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into police, she was interviewed at her house early the morning of Feb. 16, then ultimately taken into custody Feb. 20.

While Hernandez never planned to carry out any threatening activity at East High, she created public alarm and inconvenience, said Assistant District Attorney Greg Colavecchia, who prosecuted the case. Hernandez was born in Mexico and is not a U.S. citizen but has qualified for Deferred Action for Childhood Arrivals status, according to her family. Having the felony terroristic threat charge dropped would not necessarily shield her from deportation.

County Court Judge Vincent Dinolfo Wednesday said the plea will minimize Hernandez's exposure to immigration issues, but she could still be deported.

Removal proceedings were initiated shortly after her arrest, and Hernandez was held for almost a month at the Buf falo Federal Detention Center in Batavia.

"Ultimately, this was a fair resolution in the case in that it ensured that my client would not be exposed to a felony conviction," Hernandez's lawyer Michael Geraci said following the misdemeanor plea. Because the conviction is typically considered a petit offense, he said, "it'll put her hopefully in a strong position going forward if there is any action taken against her immigration status to ensure that Abigail remains here."

Judge Dinolfo ordered Hernandez to be released on her own recognizance Wednesday, but Geraci acknowledged the possibility that Hernandez might be scooped up by agents with the Department of Homeland Security Immigration and Customs Enforcement as she left the jail.

"I can't speak for ICE or what they'll do," Geraci said as the court hearing ended Wednesday morning. "I can only speak to ... what we think and hope they'll do, which is to let her get back into the community."

Instead, ICE agents were waiting and took Hernandez into custody as she was discharged from the jail around 2:30 Wednesday afternoon.

Colavecchia said he felt the plea agreement was appropriate given the nature of the crime, Hernandez's background and that Hernandez had never before been arrested.

He also commended City School District officials and Rochester police officers "for taking appropriate actions" in investigating this case.

"You can never take a threat like this too seriously, and they did just that in solving this case," Colavecchia said.

Hernandez was a special education student who participated in the Special Olympics and, according to her family, has a developmental disability. She received a non-Regents certificate through the state Alternate Assessment program, designed for "students with the most severe disabilities."

While Hernandez's parents have offered no specifics about her disability, they say she has special needs and is very dependent on her family.

Among the supporters in court Wednesday was Rita Gaither, Hernandez's teacher and mentor from the Rochester City School District. She praised the staff at the jail for "gracing Abby with such extraordinary care" during the months she spent in custody. But she also urged the people who showed up to rally for this young woman to continue the fight.

"It's really time for our community to come together and get involved. Abby is just one of many people facing this issue of deportation," Gaither said. "It's time for the sensationalism to stop. We need to bind together and make sure that this does not happen to another person."

Judge Dinolfo said that under the agreement, Hernandez would likely be placed on probation for three years. She is scheduled to be sentenced July 19.

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**Abigail Hernandez was arraigned in March on two counts of making terroristic threats in Monroe County Court. She later pleaded guilty to third-degree falsely reporting an incident, a misdemeanor.**  
POOL PHOTO/WHEC-TV