

Current cases pending as of 07/19/18
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D.C. CIRCUIT

District of Columbia

Mejia-Mejia v. ICE, et al. (D.D.C., Case No. 1:18-cv-01445)

On June 19, 2018, the plaintiff, Beata Mariana de Jesus Mejia-Mejia (“Ms. M.”) filed a complaint and habeas petition seeking reunification with her 7-year-old son. Ms. M. argued that the defendants’ policy of forcibly separating children from their parents contravenes the Fifth Amendment Due Process Clause, the International Convention on Civil and Political Rights, the U.N. Convention Relating to Status of Refugees and the International Child Abduction Convention. Ms. M. was reunited with her son on June 22. On June 29, Ms. M. submitted a notice of intent to continue prosecuting the case. On July 13, Ms. M. filed an amended complaint.

Plaintiff’s counsel: Andrew Tate, Dallas LePierre and Mario Williams from NEXUS DERECHOS HUMANOS ATTORNEYS, INC. (Atlanta, GA) and John M. Shoreman from MCFADDEN & SHOREMAN, LLC.

M.G.U., et al. v. Nielsen, et al. (D.D.C., Case No. 1:18-cv-01458)

On June 20, 2018, plaintiffs, three individuals currently held in immigration detention in Texas, who were separated from their children after crossing the US-Mexico border, filed a complaint challenging the government’s policy of indefinitely separating immigrant parents from their children. On June 22, plaintiffs sought a TRO requiring the defendants to provide reliable, daily information to plaintiffs concerning the well-being of their children. On June 26, plaintiffs filed a motion for preliminary injunction seeking immediate reunification with their children. Following a TRO hearing the parties met and resolved several issues raised in the TRO. The Court held a hearing on plaintiffs’ motion for preliminary injunction and on July 16, issued an order granting the TRO in part and denying it in part as moot. The Court ordered defendants to facilitate daily phone calls between the plaintiffs and their children, as well as weekly phone calls between the plaintiffs and their children’s case managers. On July 16, the Court issued an order preventing the removal of one of the plaintiffs prior to the court’s decision on the motion for preliminary injunction. As of July 12, one of the plaintiffs was reunited with her children. **On July 18, the Court granted plaintiff’s motion for a preliminary injunction, ordering the defendants to reunify plaintiff E.F. with her son on or before midnight on July 20.**

Plaintiffs’ counsel: David Ball, Anand Sithian, Katherine Fell, Meredith Arfa and Steven Kerzog from PAUL, WEISS, RIFKIND, WHARTON & GARRISON LLP and Jerome William, Amanda Chisholm and Peter McGraw from TEXAS RIOGRANDE LEGAL AID, INC.

Ramirez v. Sessions (D.D.C., Case No. 1:18-cv-01516)

The plaintiff filed the complaint on June 26, 2018. No substantive motions have been filed. Access to this case is restricted.

Plaintiff’s counsel: John M. Shoreman from MCFADDEN & SHOREMAN, LLC and Julie J. Oinonen from WILLIAMS OINONEN, LLC and Mario B. Williams from NEXUS DERECHOS HUMANOS ATTORNEYS, INC.

American Immigration Council vs. ICE, et al. (D.D.C., Case No. 1:18-cv-01531) [FOIA]

On June 26, 2018 the plaintiff filed a complaint under FOIA to compel the disclosure of records, properly requested by plaintiff and other organizations engaged in assistance to refugees and asylum seekers, regarding the separation of families who arrive at the U.S.-Mexico border, which plaintiff argues have been improperly withheld. Plaintiff argues that the defendants have failed to properly respond to FOIA requests within the obligatory 20 day period and that plaintiff has “exhausted his administrative remedies,” and thus may seek judicial review. Plaintiff seeks production of responsive records and for defendants to be enjoined from further withholding responsive records. Summonses have been issued to the defendants.

Plaintiff’s counsel: Emily Creighton from AMERICAN IMMIGRATION COUNCIL and Ni Qian from WILMER CUTLER HALE AND DORR LLP

Jacinto-Castanon de Nolasco, et al. v. ICE, et al. (D.D.C., Case No. 1:18-cv-01536)

On June 27, 2018, the plaintiffs, Alma Zuli Jacinto-Castanon de Nolasco and her two sons, filed a complaint and habeas petition challenging the continued separation of Ms. Jacinto-Castanon and her children. Plaintiffs allege that defendants’ conduct violated the Fifth Amendment Due Process Clause and the APA, as well as a number of international treaties. Plaintiffs also submitted a motion for preliminary injunction, requesting the Court order defendants to immediately reunite Ms. Jacinto-Castanon with her sons. On July 9, defendants filed their opposition to the plaintiffs’ motion for preliminary injunction, arguing that granting injunctive relief in this action would interfere with the administration of the *Ms. L., et al. v. ICE, et al.*, (S.D. Cal.) class action. On July 12, the court heard oral argument on the motion for preliminary injunction. **On July 18, the Court granted plaintiff’s motion for a preliminary injunction, ordering the defendants to reunify plaintiff Jacinto-Castanon with her sons on or before midnight on July 20.**

Plaintiffs’ counsel: Clayton D. LaForge, Claudia O’Brien and Timilin Sanders from LATHAM & WATKINS LLP

FIRST CIRCUIT

District of Massachusetts

Gonzales-Garcia v. Sessions (D. Mass. Case No. 1 :18-cv-11340) [Voluntarily Dismissed]

On June 27, 2018, asylum-seeking Plaintiff filed a complaint against the U.S. for separating her from her 7-year-old daughter S.K., placing S.K. in a shelter for over 6 weeks, and refusing to release her daughter. Plaintiff requested that the Court (1) declare that Defendants’ continued custody violates due process, the Equal Protection Clause, the APA and the Flores Settlement, (2) immediate release of S.K. to Plaintiff’s custody, and (3) preliminarily and permanently enjoining Defendants from continuing to separate Plaintiff and S.K. On July 5, Plaintiff stated that unification had occurred and voluntarily dismissed the case.

Plaintiffs’ Counsel: Susan B. Church and Heather Yountz from DEMISSIE & CHURCH and Ronaldo Rauseo-Ricupero from NIXON PEABODY, LLP

SECOND CIRCUIT

Southern District of New York

N.T.C., et al. v. ICE, et al. (S.D.N.Y., Case No. 1:18-cv-06428) [Class Action – CLOSED AND TRANSFERRED TO S.D. Cal.]

On July 16, The Legal Aid Society filed a class action lawsuit against the federal government on behalf of migrant children who were separated from their parents by the Trump administration and detained in New York State. The lawsuit seeks to ensure that the children are made aware of their reunification plan and are afforded an opportunity to consult with their parents and lawyers to explore asylum and other forms of relief.

On July 17, the Court ordered that defendants are restrained from taking any action to remove minor children clients of the Legal Aid Society from New York State who are in ORR custody without providing 48 hours' advance notice of such forthcoming action to children and their counsel (including the location to which the minor child client will be moved, the location where the child's parent or parents currently reside, and whether the movement is for the purpose of release, detention, and/or repatriation), in order to permit consultation among the child, the child's parent or other close family member(s), and counsel to protect the child's ability to make informed decisions about his or her legal rights and potential claims.

The Court also ordered that on July 18 at 3 p.m., the parties should submit a letter to the Court addressing: (1) whether there would be any impediment, legal or practical, to the Plaintiffs' intervening in the Ms. L litigation in the Southern District of California (and, in the Government's case, whether it would consent to Plaintiffs' intervention in the Ms. L litigation); (2) in the alternative, whether this case should be transferred to the Southern District of California to be consolidated with the Ms. L litigation; (3) whether there is any relief that Plaintiffs are seeking here that could not be obtained in the Ms. L litigation if intervention were granted; and (4) whether the order granting temporary relief should be extended (and, if so, for how long) to allow Plaintiffs' to seek intervention and relief in the Ms. L litigation.

July 19 update: the case was transferred to the S.D. Cal. to be considered in conjunction with the claims in *Ms. L*. The court concluded the classes in the two cases concern the same families: plaintiffs in *N.T.C.* seek relief on behalf of children whose parents are class members in *Ms. L*. The court also found that the relief plaintiffs seek in *N.T.C.* is directly related to the reunification process being supervised by the *Ms. L* court. The court also concluded that "in the absence of a single judge presiding over both cases, there is a real risk of inconsistent decisions and conflicting orders — a particularly intolerable risk given the gravity and urgency of the issues in these cases (and the prospect of similar litigation being filed in other states where children separated from their parents are being held)."

Plaintiffs' Counsel: Scott Alan Rosenberg from THE LEGAL AID SOCIETY (CIVIL DIV. NYC), Jennifer L. Levy from OFFICE OF THE PUBLIC ADVOCATE, Gregory Paul Copeland from THE LEGAL AID SOCIETY (MANHATTAN) and Sarah Telo Gillman from THE LEGAL AID SOCIETY

SEVENTH CIRCUIT

Northern District of Illinois

W.S.R. v. Sessions, et al. (N.D. Ill., Case. No 1:18-cv-04265), C.D.A. v. Sessions, et al. (N.D. Ill., Case No. 1:18-cv-4291)

On June 20, 2018, plaintiff W.S.R., an asylum-seeking 16 year old citizen of Brazil, filed a complaint challenging the government's forcible separation of him from his father shortly after they crossed the U.S.-Mexico border. (W.S.R. v. Sessions, et al. (Case. No 1:18-cv-04265). On June 20, plaintiff C.D.A., a 9 year old citizen of Brazil, filed a similar complaint. (C.D.A. v. Sessions, et al. (Case No. 1:18-cv-4291). Note that W.S.R. and C.D.A. are not related, but the two cases have proceeded on the same track. On June 29, Plaintiffs filed motions for a TRO, which were granted in part and converted to a preliminary-injunction motion in part. The Court order noted that the government would confer with plaintiffs' counsel on facilitating counsel's access to plaintiffs' respective fathers and on facilitating communication between plaintiffs and their respective fathers. On July 5, the Court held a preliminary injunction hearing, took the motions under advisement and held a brief under-seal portion of the hearing with W.S.R. On July 9, the Court entered a Memorandum Opinion and Order, ordering the government to reunite W.S.R. and C.D.A. with their respective fathers within 72 hours of the posting of the order on the docket and prohibiting the government from removing from the U.S. W.S.R.'s father without W.S.R. or C.D.A.'s father without C.D.A. The Court entered an order on July 12 indicating that the reunification of W.S.R. and C.D.A. with their respective fathers had occurred. **The next status hearing has been set for July 25, 2018.**

Plaintiffs' Counsel: Amy Michelle Rubenstein, John R. Wellschlager, Katrina A Hausfeld, Leeanne Sara Mancari, Peter J. Farrell from DLA PIPER LLP (US) and Thomas P. Yardley from ROBBINS, SALOMON & PATT, LTD. and Amy Maldonado from MALDONADO LAW

NINTH CIRCUIT

Southern District of California

Ms. L., et al. v. ICE, et al. (S. D. Cal., Case No. 3:18-cv-00428) [Class Action]

On February 26, 2018, the ACLU filed a complaint seeking to reunite Ms. L, an asylum-seeking mother, and her 7-year-old daughter fleeing violence in the Democratic Republic of Congo. The complaint alleges that defendants' policy of forcibly separating children from their parents violates the Fifth Amendment Due Process Clause, federal asylum statutes and the APA. On March 9, the complaint was amended to add Ms. C. as a plaintiff, and to add class action claims on behalf of hundreds of other asylum-seeking parents who have been separated from their children, without any assertion of abuse, neglect, or parental unfitness, with no hearings of any kind and a motion for class certification was made.

Ms. L and her daughter were reunited in March, but the Court allowed the national class-action lawsuit to continue. On June 26, the Court granted Plaintiffs' motion for class-wide preliminary injunction, ordering all children separated from their parents to be returned to their families within 30 days and allowing just 14 days for the return of children under age 5. The Court also ordered that parents be allowed to speak by phone with their children within 10 days. On July 16, the Court granted a motion for an emergency TRO, blocking the Trump administration from deporting parents and children that it forcibly separated. **The Court issued the stay on deportations until at least July 23 and pending further briefing. Defendants' answer to the second amended complaint is due on August 16.**

Plaintiffs' Counsel: Anand Venkata Balakrishnan, Judy Rabinovitz, Lee Gelernt and Spencer E. W. Amdur from ACLU IMMIGRANTS RIGHTS PROJECT, Stephen B. Kang from AMERICAN CIVIL LIBERTIES UNION FOUND. OF NORTHERN CALIFORNIA AND Bardis Vakili from ACLU FOUNDATION OF SAN DIEGO & IMPERIAL COUNTIES

Western District of Washington

Padilla, et al. v. ICE, et al. (W.D. Wash., Case No. 2:18-cv-00928) [Class Action]

On June 25, 2018, the plaintiffs filed a class action challenging the federal government's policy of indefinitely separating immigrant parents from their children and, further, prolonging separation by failing to expeditiously conduct credible fear interviews which would invoke the right for detainees to present their asylum case before a judge and to request individual custody hearings. Named plaintiffs were separated from their children (aged between 5 and 8 years old) in May 2018 and seek reunification. Plaintiffs argue defendants' actions violate the Fifth Amendment Due Process Clause & APA. 5 U.S.C. § 706(2)(A) (prohibiting arbitrary and capricious agency action). On July 15, 2018, plaintiffs filed an amended complaint.

Plaintiffs' Counsel: Benjamin J Hodges, Joanna Plichta Boisen, Thomas Fitzgerald Ahearne, Kevin Ormiston, William F. Abrams from FOSTER PEPPER PLLC, Leila Kang, Glenda Melinda Aldana Madrid and Matt Adams from NORTHWEST IMMIGRANT RIGHTS PROJECT,

State of Washington, et al. v. United States, et al. (W.D. Wash., Case No. 2:18-cv-00939) [17 States + District of Columbia]

On June 26, 2018, 17 states and the District of Columbia brought a complaint for declaratory and injunctive relief against the United States government seeking to protect the States and their residents against the Trump Administration's practice of refusing entry and its cruel and unlawful policy of forcibly separating families who enter the country along the Southwestern border. The States seek an order that (1) enjoins the federal government from refusing to process asylum seekers who arrive at Southwestern border ports of entry; (2) declares family separation for deterrence illegal; (3) requires prompt family reunification for those already separated; (4) prevents immigration officials from predicating familial reunification on the withdrawal of asylum claims, acquiescence to removal, payment of the costs of reunification, or other conditions unrelated to the safety of the child; and (5) confirms that the indefinite detention of families by the federal government is illegal. On July 2, Plaintiffs filed a motion for expedited discovery and regular status conferences. On July 11, Defendants filed a motion to dismiss. Both motions are still pending.

Plaintiff's Counsel: Attorney Generals from the respective States.

TENTH CIRCUIT

District of New Mexico

Southwest Environmental Center v. Sessions et al. (D.N.M. Case No. 2:18-cv-00632) [Environmental]

On July 4, 2018, Plaintiff conservation organization harmed by Family Detention Policy including construction and operation of new detention facilities in the Southwest, moved to enjoin the Family Detention Policy. Plaintiff requests that the Court: (1) enjoin defendants from enforcing Zero-Tolerance Memorandum, (2) enjoin Defendants from enforcing Family Detention Policy, (3) enjoin Defendants from constructing any new facilities, (4) order Defendants to release people detained on misdemeanor immigration charges pursuant to the Family Detention Policy, (5) order Defendants to publish rules, policies and interpretations related to Family Detention Policy, (6) pay attorney fees, and (7) any other relief just and

proper. On July 5, Plaintiffs filed a motion for preliminary injunction preventing Defendants from taking any action to implement Zero-Tolerance Memorandum, Family Detention Policy or Family Separation Order, until lawsuit is resolved.

Plaintiff's Counsel: David Baake from [?] (david.baake@gmail.com)

District of Connecticut

J.S.R. v. SESSIONS No. 3:18-cv-01106-VAB

Writ of habeas corpus ad testificandum