

Federal Court Allows Challenge to Government Policy of Using Detained Immigrant Children as Bait to Arrest Families

Article By:

Jennifer Schaller

A November 15th ruling in the District Court for the Eastern District of Virginia could have a major effect on the Trump Administration's policy, which unnecessarily detains 1000's of immigrant children for extended periods of time and which in effect traps certain sponsor's of the detained immigrant children who try to claim them. The Government's motion to dismiss a [lawsuit](#) brought on behalf of detained immigrant children was denied by the court on five of the six counts of the amended complaint allowing the lawsuit to move forward. Judge Leonie Brinkema's decision also has implications for immigration battles to come, not only in Virginia but throughout the United States. (see *J.E.C.M., a minor, by and through his next friend JOSE JIMENEZ SARAVIA, et al. v. SCOTT LLOYD, Director, Office of Refugee Resettlement, et al.* [Case No.1:18-CV-903-LMB](#)).

[Legal Aid Justice Center \(LAJC\)](#), together with the Washington, D.C. intellectual property law firm of [Sterne, Kessler, Goldstein, and Fox](#) (Sterne Kessler), brought this first-of-its-kind class action lawsuit on behalf of four minor immigrants challenging the Trump Administration's recent policy of sharing the sponsor information of immigration children and information about the sponsors' household members with U.S. Immigration and Customs Enforcement (ICE). This policy has resulted in the arrest of people who come forward to help undocumented migrant children [including family and friends that came forward to bring their children home](#).

In [April 2018](#), the Department of Health and Human Services (DHS) and the Department Health and Human Service (HHS) entered into an agreement, which went into effect May 13, 2018, for the Office of Refugee Resettlement (ORR), the branch of HHS that is in charge of housing immigrant children, [to transfer fingerprints and other information on immigrant children's sponsors and other adult members of the sponsor's household to ICE](#).

[As reported by the Guardian in September](#): ICE's acting deputy director, Matthew Albence, said at a Senate committee hearing:

We've arrested 41 individuals thus far. Our data that we've received thus far indicates close to 80% of the individuals that are either sponsors or household members of sponsors are here in the country illegally, and a large chunk of those are criminal aliens. So we will continue to pursue those individuals.

The November 15th ruling stems from a case where four children were detained and held in custody for a five-month period by the ORR in Virginia, while their relatives attempted to bring them home.

The children involved in the lawsuit claimed they were fleeing violence and neglect in their home countries of Honduras and Guatemala. Honduras, El Salvador, and Guatemala, [consistently rank among the most violent countries in the world](#). Together these countries form a region known as the Northern Triangle, whose extreme violence stems from civil wars in the 1980s, which left a legacy of violence and fragile governmental institutions. The region remains menaced by corruption, drug trafficking, and gang violence despite tough police and judicial reforms [according to the Council on Foreign Relations](#).

In this case, three of the four detained children were reunited with their families weeks before the court's ruling. One of the children was reunited only one week before the court's decision. For the three children who were released from custody first, their cases were dismissed by the court. The court allowed the case to go forward for the fourth child, who remained in custody for a six-month period and was held apart from his sister for the duration of the proceedings.

Groups including the [Center for Human Rights & Constitutional Law](#) and the LAJC's lead attorney on the case, [Becky Wolozin](#), say the lawsuit highlights how:

The Trump administration has been carrying out a backdoor family separation agenda, keeping immigrant children apart from their families and using children as bait to break up the very families they have traveled so far and risked so much to join.

Working alongside Sterne Kessler, Wolozin and the LAJC challenged [the ICE Policy](#) for unaccompanied children entering the country and other related issues, which has resulted in arrests of families and friends trying to bring their children home. With more than 13,000 children being held by the ORR, this case's outcome will possibly impact all families covered under [the Administration's current detention policies](#).

Wolozin goes on to highlight the importance of this decision as being "An important victory and decision for immigrant families and children who are being detained." Per Wolozin, Judge Brinkema acknowledged Constitutional violations in this case and the violation of the [Administrative Procedure Act](#) (APA) in administering her decision.

Sterne Kessler Director, [Salvador Bezos](#), head of the firm's immigration pro bono practice, says, "For years, ORR has neglected its obligations under the Administrative Procedure Act." Bezos further noted, "The APA provides essential protections against this kind of agency overreach. I am proud of my colleagues' and LAJC's efforts to force the government to meet its obligations to the children in its custody."

LAJC's Legal Director of the Immigration Advocacy Program, Simon Sandoval-Moshenberg, also weighed in on the decision, saying "ORR is supposed to protect vulnerable immigrant children. Instead, it is placing them in harm's way under the guise of child welfare." "[These] policies and their enforcement undermine successfully placing children with their families and the vast surveillance actions are destabilizing immigrant communities."

Wolozin, further details the importance of the decision. She states:

The exponential increase in the number of immigrant children in government custody has not been

caused by more children crossing the border, but instead by ORR's own policies dramatically increasing the amount of time ORR holds children in its custody. In denying the motion to dismiss, Judge Brinkema recognized the failure of due process for these children and their families, the disregard for the requirements of the Administrative Procedure Act, and importantly, the tantamount importance of protecting all people's constitutional right to family unity, even when not between a parent and a child.

The Virginia case will move forward as LAJC works to certify the class and the parties work to complete discovery.

Monday another setback for the Trump Administration was issued by [Judge Jon S. Tigar of the United States District Court in San Francisco](#), which may at least temporarily, stall the administration's attempt to clamp down on the rights of immigrants seeking asylum in response to the wave of Central Americans crossing the border. Judge Tigar ordered the Trump administration to resume accepting asylum claims from migrants no matter where or how they entered the United States. "Whatever the scope of the president's authority, he may not rewrite the immigration laws to impose a condition that Congress has expressly forbidden," Judge Tigar wrote in his order and issued a temporary restraining order that blocks the government from carrying out [a new rule issued this month that denies protections to people who enter the country illegally](#). The order, which suspends the rule until the case is decided by the court, applies nationally.

Copyright ©2025 National Law Forum, LLC

National Law Review, Volume VIII, Number 327

Source URL: <https://natlawreview.com/article/federal-court-allows-challenge-government-policy-using-detained-immigrant-children>