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14 UNITED STATES DISTRICT COURT
15 CENTRAL DISTRICT OF CALIFORNIA
16 WESTERN DIVISION

17 JENNY LISETTE FLORES, *et al.*,

18 Plaintiffs,

19 v.

20 PAM BONDI, Attorney General of the
21 United States, *et al.*,

22 Defendants.

No. CV 85-4544-DMG-AGR_x

PLAINTIFFS' OPPOSITION TO MOTION TO
TERMINATE SETTLEMENT

Hearing: July 18, 2025

Time: 2:00 p.m.

Hon. Dolly M. Gee

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1 **I. INTRODUCTION**

2 Defendants move to terminate the settlement approved by this Court in 1997
3 in its entirety and as to all Defendants. Defendants’ motion, however, is but one
4 more of their “thinly-veiled motions for reconsideration of prior Orders rejecting
5 similar arguments.” *Flores v. Barr*, 407 F. Supp. 3d 909, 927 (C.D. Cal. 2019),
6 *aff’d in part and rev. in part sub nom. Flores v. Rosen*, 984 F.3d 720 (9th Cir.
7 2020) (“*Flores IV*”). To paraphrase a more sober era’s head of state, there they go
8 again.

9 As will be seen, Defendants’ principal arguments have been briefed, argued,
10 and decided ad nauseam. Their instant brief is festooned with arguments this Court
11 and the Ninth Circuit have repeatedly rejected. It also features arguments
12 Defendants failed to raise despite having many years to do so. Nothing of
13 significance in law or fact has changed since Defendants’ last go-round.

14 Defendants move for complete, not partial, termination of the Settlement. By
15 dint of passing mention in their brief, they improperly invite the Court to grant
16 partial termination should wholesale termination be denied. Defendants fail,
17 however, to meet Rule 60’s requirements for partial or total termination.

18 Additionally, Defendants offer no valid reason to terminate the Settlement
19 on equitable grounds. The Executive freely entered into the Settlement. Congress
20 later preserved the Settlement in both the Homeland Security Act of 2002, Pub. L.
21 107-296; 116 Stat. 2135 (2002) (“HSA”), and the William Wilberforce Trafficking
22 Victims Protection Reauthorization Act of 2008, Pub. L. No. 110-457, 122 Stat.
23 5044 (2008) (“TVPRA”).

24 Defendants are, and for years have been, free to exit the Settlement simply
25 by promulgating regulations consistent therewith, as they agreed they would. The
26 Department of Health and Human Services (“HHS”) did so, in part, just last year.
27 There is no reason it and the Department of Homeland Security (“DHS”) should
28 not finish the job. They have not, and their motion should accordingly be denied.

1 **II. PROCEDURAL POSTURE OF THE CASE AT BAR**

2 Plaintiffs initiated this case some four decades ago. *Flores v. Meese*, 681 F.
3 Supp. 665 (C.D. Cal. 1988). After litigating for more than a decade, the Parties
4 agreed to settle. This Court approved the Parties’ agreement pursuant to Fed. R.
5 Civ. P. 23(e) on January 28, 1997. Plaintiffs’ Motion to Enforce the Settlement,
6 Feb. 2, 2015, Ex. 1 [Doc. # 101].¹

7 The Settlement covers children in immigration-related detention, whether
8 unaccompanied or accompanied by their parents, *Flores v. Lynch*, 828 F.3d 898,
9 905-07 (9th Cir. 2016) (“*Flores I*”), and obliges Defendants to pursue a “general
10 policy favoring release” of children unless continued detention is “required either
11 to secure [their] timely appearance . . . or to ensure the minor’s safety or that of
12 others.” FSA ¶¶ 11, 14. It further requires that DHS and, until recently,² ORR,
13 house the general population of children in non-secure facilities licensed to care for
14 dependent minors. *Id.* ¶¶ 12A, 19.

15 Finally, the FSA requires DHS and its subordinate entities, Customs
16

17 ¹ In the HSA Congress dissolved the Immigration and Naturalization Service
18 (“INS”) and transferred most of its functions to DHS. Congress directed, however,
19 that HHS’s Office of Refugee Resettlement (“ORR”) should have charge of
20 detained unaccompanied minors. 6 U.S.C § 279. In both the HSA and the TVPRA
21 Congress preserved the Settlement as a binding agreement. *Flores v. Sessions*, 862
F.3d 863, 870-71, 871 n.7 (9th Cir. 2017) (“*Flores IP*”).

22 Additional appellate opinions addressing the Settlement include *Flores v. Barr*,
23 934 F.3d 910 (9th Cir. 2019) (“*Flores IIP*”).

24 ² See Order re Defendants’ Motion to Terminate Flores Settlement Agreement as to
25 Defendant HHS, *Flores v. Garland*, No. CV 85-4544-DMG (AGRX), 2024 WL
3467715 (C.D. Cal. June 28, 2024) [Doc. #1447] (“HHS Terminate Order”).

26
27 ORR’s Settlement obligation to house children in non-secure dependent care
28 facilities is now required by federal regulation. 45 C.F.R. §§ 1001, 410.1302
(2024).

1 and Border Protection (“CBP”) and Immigration and Customs Enforcement
2 (“ICE”) to house children in safe and sanitary facilities until such time as
3 they may be transferred to a licensed dependent care facility.³ *Id.*

4 The Settlement also contains rulemaking and “sunset” provisions. In the
5 former, the Government agreed to promulgate regulations that “implement” the
6 “relevant and substantive terms” of the agreement and that such regulations “shall
7 not be inconsistent” with the Settlement. *Id.* ¶ 9.

8 The latter, Paragraph 40, provided: “All terms of this Agreement shall
9 terminate the earlier of five years from the date of final court approval of this
10 Agreement or three years after the court determines that the INS is in substantial
11 compliance with the Agreement . . .”

12 On December 7, 2001, however, the Parties amended Paragraph 40 to
13 provide: “All terms of this Agreement shall terminate 45 days following
14 defendants’ publication of regulations implementing this Agreement. . . .” *Id.* ¶ 40
15 (as amended Dec. 7, 2001), Defendants’ Memorandum of Points and Authorities in
16 Support of Motion to Terminate, May 22, 2025 (“Ds. 2025 MTT”), Ex. J at 32
17 [Doc. # 1567-15].

18 In 2019, DHS and HHS published regulations aimed at sunsetting the
19 Settlement. Apprehension, Processing, Care, and Custody of Alien Minors and
20 Unaccompanied Alien Children, 84 Fed. Reg. 44,392-535 (Aug. 23, 2019) (“2019
21 Regulations”). Defendants thereafter sought to exit the agreement on the weight of
22 the 2019 Regulations, but this Court and the Ninth Circuit held that those
23 regulations failed to comply with paragraph 40 and that the Settlement would
24 accordingly remain in force. *Flores v. Barr, supra*, 407 F. Supp. 3d 909; *Flores IV*.

25
26 ³ In 2022, the Court approved the Parties’ supplemental agreement that specifies
27 the requirements facilities in CBP’s Rio Grande Valley and El Paso sectors must
28 meet to be considered safe and sanitary. Order Granting Final Approval of
Settlement [Doc. # 1278].

1 Last year, HHS published the Unaccompanied Children Program
2 Foundational Rule, 89 Fed. Reg. 34,384 (Apr. 30, 2024) (*codified at* 45 C.F.R. pt.
3 410) (“Foundational Rule”), which incorporated many of the agency’s Settlement
4 obligations. This Court thereafter partially terminated the FSA as to HHS, but only
5 to the extent the Foundational Rule was consistent with the Settlement. HHS
6 Terminate Order, *supra*.

7 DHS has never undertaken similar, consistent rulemaking.

8 **III. 8 U.S.C. § 1252(f)(1) DOES NOT STRIP THIS COURT OF JURISDICTION OVER**
9 **THE SETTLEMENT.**

10 Defendants first argue that 8 U.S.C. § 1252(f)(1) precludes this Court from
11 overseeing the Settlement. It does not.

12 The section provides:

13 Regardless of the nature of the action or claim or of the identity of the party
14 or parties bringing the action, no court (other than the Supreme Court) shall
15 have jurisdiction or authority to enjoin or restrain the operation of the
16 provisions of part IV of this subchapter, as amended by the Illegal
17 Immigration Reform and Immigrant Responsibility Act of 1996, other than
18 with respect to the application of such provisions to an individual alien
19 against whom proceedings under such part have been initiated.

20 Part IV of the referenced subchapter refers to “sections 1221 through 1232
21 of the INA.” *Biden v. Texas*, 597 U.S. 785, 798 (2022). This is “a carefully worded
22 provision depriving the lower courts of power to ‘enjoin or restrain the operation
23 of’ certain sections of the *statute*.” *Id.* at 800 (emphasis added). It “does not
24 deprive the lower courts of all subject-matter jurisdiction over claims brought
25 under sections 1221 through 1232 of the INA.” *Id.* at 798.

26 Nothing in the subchapter speaks to the Court’s authority to enforce a
27 settlement, particularly one that resolves constitutional claims and does not enjoin
28 the operation of any statute at all. *See Garland v. Aleman Gonzalez*, 596 U.S. 543,

1 553 n.4 (2022) (“*Aleman*”) (“[A] court may enjoin the unlawful operation of a
2 provision *that is not specified in § 1252(f)(1)* even if that injunction has some
3 collateral effect on the operation of a covered provision.”).

4 Nor does the Settlement conflict with anything in part IV of the INA. Both
5 this Court and the Ninth Circuit have held that accompanied children facing
6 expedited removal are entitled to the Settlement’s protections. *See, e.g., Flores IV*
7 984 F.3d at 738-39. Nothing in part IV addresses conditions of detention.⁴ The
8 FSA, by contrast, governs the treatment of children while held in immigration
9 detention by requiring minimum conditions.

10 Defendants’ argument, accordingly, boils down to this: “aliens in *expedited-*
11 *removal* proceedings ‘shall be detained pending a final determination of credible
12 fear of persecution and, if found not to have such a fear, until removed.’” Ds. 2025
13 MTT at 23 (citing 8 U.S.C. § 1225(b)(1)(B)(iii)(IV)) (emphasis added).

14 Section 1252(f)(1) does not warrant the sweeping relief Defendants seek—
15 indeed, it warrants no relief at all.

16 /

17 /

18 /

19

20 ⁴ The closest sections 1221-32 come to regulating detention conditions is granting
21 authority for land acquisition and building construction in 8 U.S.C. § 1231(g).

22 As for unaccompanied children, the TVPRA, and not part IV of the INA “as
23 modified by the IIRIRA” in 1996, governs children’s custody and release. *See*
24 *Galvez v. Jaddou*, 52 F.4th 821, 830-31 (9th Cir. 2022) (“The TVPRA was enacted
25 in 2008; it could not have enacted a law that was amended by the IIRIRA of
26 1996.”); *Saravia v. Sessions*, 280 F.Supp.3d 1168, 1204 n.19 (N.D. Cal. 2017)
27 (“Because this preliminary injunction neither enjoins nor restrains the proper
28 operation of any part of Part IV of the immigration statutes, 8 U.S.C. § 1252(f)(1)
does not bar the relief ordered.”). Section 1252(f)(1) is thus irrelevant to the
Settlement’s protections for unaccompanied children. *See Flores I*, 828 F.3d at 904
(explaining that the “TVPRA partially codified the Settlement.”).

1 removal proceedings because they are subject to mandatory detention.”).
2 Defendants also argued that, under 8 U.S.C. § 1252(f)(1), the Court could not
3 prohibit detention on a class-wide basis. *Id.* at 1066.

4 This Court disagreed: “While the expedited removal statute generally
5 requires detention, 8 C.F.R. section 212.5 gives Defendants the discretion to
6 release certain detainees on a case by case basis, including class members
7 (juveniles), who are in various stages of the expedited-removal process. Thus, the
8 Agreement does not contravene the expedited removal statute.” *Id.* at 1065. The
9 Court rejected Defendants’ argument that its order would contravene
10 section 1252(f)(1), noting that the Court was merely ordering Defendants to
11 comply with the Settlement. *Id.* at 1066-67 & n.19. *See also id.* at 1066 (FSA’s
12 requiring individualized determination of flight risk did “not dictate how
13 Defendants must exercise their discretion to parole or release minors in every
14 single case”).

15 Defendants appealed, but they failed to mention § 1252(f)(1) in their brief
16 and nowhere argued that this Court had exceeded its jurisdiction. *See* Brief for
17 Appellants, *Flores v. Sessions*, No. 17-56297, ECF No. 6 (9th Cir. Jan. 5, 2018).
18 Defendants thus forfeited their instant argument. *Flores III*, 934 F.3d at 917-18.

19 With respect to accompanied children facing expedited removal, the Ninth
20 Circuit held similarly:

21 The government has discretion to place noncitizens in standard removal
22 proceedings even if the expedited removal statute could be applied to them.
23 In other words, the government may place minors into standard,
24 nonexpedited removal proceedings and thus comply with the Agreement by
25 avoiding any mandatory detention allegedly required for expedited removal.
26 *Flores III*, 934 F.3d at 916–17 (citation omitted).

27 The Settlement, the court concluded, “‘creates a presumption in favor of
28 releasing minors.’ That presumption is fully consistent with the Act’s expedited

1 removal provisions.” *Id.* (citations omitted).

2 **B. 8 U.S.C. § 1252(f)(1) does not deprive the Court of subject matter**
3 **jurisdiction or remedial power over the Settlement.**

4 Defendants rely on *Aleman* to argue that 8 U.S.C. § 1252(f)(1) suddenly
5 divests the Court of jurisdiction to oversee the Settlement. Ds. 2025 MTT at 22.
6 Their argument is both untimely and meritless.

7 Fed. R. Civ. P. 60 is the procedural mechanism underpinning Defendants’
8 instant motion. Rule 60(c) requires that a party seek modification of a judgment on
9 account of a change in decisional law “within a reasonable time.” Fed. R. Civ. P.
10 60(c). Defendants “bear[] the burden of showing timeliness.” *Moses v. Joyner*, 815
11 F.3d 163, 166 (4th Cir. 2016); *Cotterill v. City & Cnty. of San Francisco*, No. 23-
12 15162, 2025 WL 484697, at *1 (9th Cir. Feb. 13, 2025).

13 Nowhere in their 15,000-word brief do Defendants explain why they delayed
14 *three years* before arguing *Aleman* in this Court. The Court should decline to
15 entertain that argument now. *See. e.g., Moses*, 815 F.3d at 166 (district court “acted
16 well within its discretion” in holding 15-month delay after change in decisional
17 law unreasonable under Rule 60(c)); *In re Hammer*, 940 F.2d 524, 526 (9th Cir.
18 1991) (affirming denial of Rule 60(b) relief based on movant’s “unexcused two-
19 year delay in objecting to default judgment”).

20 Even were Defendants’ resort to *Aleman* timely, they would remain
21 undeserving of another bite at a meritless apple.

22 Rule 60(b)(4) permits relief from a *void* judgment, which requires an
23 infirmity so “fundamental” that there is not “even an ‘arguable basis’ for
24 jurisdiction.” *United Student Aid Funds, Inc. v. Espinosa*, 559 U.S. 260, 270-71
25 (2010).

26 Section 1252(f), however, does not “strip[] the lower courts of subject matter
27 jurisdiction. . .” *Biden*, 597 U.S. at 798; *see also Avco Corp. v. Aero Lodge No.*
28 *735, Int’l Ass’n of Machinists & Aerospace Workers*, 390 U.S. 557, 561 (1968)

1 (“The nature of the relief available after jurisdiction attaches is, of course, different
2 from the question whether there is jurisdiction to adjudicate the controversy.”).
3 *Aleman* clearly did not eliminate every “arguable basis” for the Court’s jurisdiction
4 to oversee the FSA.

5 Defendants fare no better under Rule 60(b)(5). Not every change in law
6 justifies Rule 60(b)(5) relief. Rather, “modification of a consent decree may be
7 warranted when the statutory or decisional law has changed to make legal what the
8 decree was designed to prevent.” *Rufo v. Inmates of Suffolk Cnty. Jail*, 502 U.S.
9 367, 388 (1992).

10 In *Aleman*, the district court held that 8 U.S.C. § 1231(a)(6) “requires the
11 Government to provide bond hearings” and “entered class-wide injunctive relief”
12 requiring the government to conduct such hearings. *Aleman*, 596 U.S. at 546. The
13 Supreme Court reversed, holding that “§ 1252(f)(1) generally prohibits lower
14 courts from entering injunctions that order federal officials to take or to refrain
15 from taking actions to enforce, implement, or otherwise carry out the specified
16 statutory provisions” through “classwide injunctive relief.” *Id.* at 550. The Court
17 explicitly recognized that § 1252(f)(1) does not bar injunctions merely because
18 they have “some collateral effect on the operation of a covered provision.” *Id.* at
19 553 n.4.

20 In exercising jurisdiction over the Settlement, this Court neither enjoined nor
21 restrained the operation of any statute. It is the FSA, “the agreement of the parties,
22 rather than the force of the law upon which the complaint was originally based,
23 that creates the obligations embodied in a consent decree.” *Local No. 93, Intern.*
24 *Ass’n of Firefighters, AFL-CIO C.L.C. v. City of Cleveland*, 478 U.S. 501, 521-22

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1 (1986).⁶

2 Finally, *Aleman* nowhere suggests that § 1252(f)(1) bars the Executive’s
3 settling a class action simply because the agreement touches upon DHS’s detention
4 authority. *Cf., id.* at 525 (“[A] federal court is not necessarily barred from entering
5 a consent decree merely because the decree provides broader relief than the court
6 could have awarded[.]”).⁷ Post-*Aleman*, Defendants have regularly settled class
7 actions touching upon detention and removal. *See, e.g., Hernandez Roman v.*
8 *Mayorkas*, Case No. 5:20-cv-00768-TJH-PVC, ECF No. 2636-2 (C.D. Cal. 2024)
9 (requiring COVID-19 protocols in ICE detention center and protecting released
10 class members from re-detention); *Cancino v. Mayorkas*, Case No. 3:17-cv-00491-

11
12 ⁶ *Agostini v. Felton*, 521 U.S. 203 (1997), Ds. 2025 MTT at 22, is not to the
13 contrary. In *Agostini*, the Supreme Court held that Establishment Clause
14 jurisprudence had changed such that the defendant’s conduct no longer “run[s]
15 afoul of any of three primary criteria we currently use to evaluate whether
16 government aid has the effect of advancing religion.” *Id.* at 234. The Court held
17 that Rule 60(b)(5) relief was appropriate to vacate a permanent injunction
18 overtaken by new substantive law. The Court cautioned, however, against courts
19 concluding that decisional law has been overruled “by implication.” *Id.* at 237.
20 *Aleman* says nothing about the substantive legal violations that the FSA settled or
21 this Court’s jurisdiction to oversee the Settlement. At most, it impacted the
22 availability of one *remedy* for such violations, leaving open many others. This is
23 not the stuff of Rule 60(b)(5) relief.

24 ⁷ This Court additionally based its order disapproving DHS’s 2019 regulations on
25 the All Writs Act, 8 U.S.C. § 1651. *Flores v. Barr*, 407 F. Supp. 3d at 929.
26 Defendants point to no authority that § 1252(f)(1) strips a court’s authority under
27 that Act.

28 Further still, this Court had authority under the Administrative Procedure Act
29 (“APA”) to “issue all necessary and appropriate process to postpone the effective
30 date of an agency action... [o]n such conditions as may be required and to the
31 extent necessary to prevent irreparable injury.” *Immigrant Defs. L. Ctr. v. Noem*,
32 No. CV 20-9893 JGB (SHKX), 2025 WL 1172442, at *5 (C.D. Cal. Apr. 16, 2025)
33 (quoting 5 U.S.C. § 705). “Numerous courts have also rejected the argument that
34 Section 1252(f)(1) bars APA relief.” *Id.* at *14 (collecting cases).

1 JO-AHG, ECF Nos. 250-2, 252 (S.D. Cal. 2024) (class action settlement for
2 immigration detainees requiring, *inter alia*, DHS to promptly present class
3 members for immigration court hearings and bond hearings); *Padilla v. ICE*, Case
4 No. 2:18-cv-00928-MJP, ECF Nos. 215-2, 225 (W.D. Wash. 2024) (class action
5 settlement requiring DHS to conduct credible fear interviews under 8 U.S.C. §
6 1225(b)(1) within 60 days); *Jimenez v. Mayorkas*, Case No. 1:18-cv-10225-MLW,
7 ECF Nos. 654-1, 677 (D. Mass. 2025) (protecting class members from ICE
8 enforcement and providing a process to reopen and dismiss their removal cases).

9 Defendants will doubtlessly continue to enter into such agreements
10 whenever they think it convenient.

11 **C. Defendants’ § 1252(f)(1) argument is waived and time-barred.**

12 8 U.S.C. § 1252(f)(1) has been law since 1996, when it was added by the
13 Illegal Immigration Reform and Immigrant Responsibility Act of 1996
14 (“IIRIRA”). *See Galvez*, 52 F.4th at 830.

15 Defendants entered into the FSA—and agreed that this Court would retain
16 jurisdiction to oversee it—in 1997. Apart from their failed attempt in 2017,
17 Defendants have spurned multiple opportunities to argue § 1252(f)(1):

- 18 • Defendants felt unconstrained by § 1252(f)(1) when they bargained for the
19 quietude the Settlement affords them. They then joined in moving the Court
20 to approve the agreement and “expressly stated that they knew ‘of nothing in
21 this Agreement that exceeds the legal authority of the parties or is in
22 violation of any law.’” *Flores v. Sessions*, 394 F. Supp. 3d at 1065 n.15
23 (citing FSA ¶ 41); *see also Flores I*, 828 F.3d at 910 (noting that the IIRIRA
24 was passed “in 1996, before the Settlement was approved”).
- 25 • Again in 2001, Defendants agreed to modify the FSA’s sunset clause,
26 heedless of § 1252(f)(1).
- 27 • In 2015, Defendants unsuccessfully opposed including accompanied
28 children within the Settlement’s protections without mentioning

1 § 1252(f)(1), and they failed again to raise it on motion for reconsideration.
2 *Flores v. Lynch*, 212 F. Supp. 3d 907, 914-915 (C.D. Cal. 2015), *aff'd in*
3 *part, rev'd in part, Flores I*.

- 4 • In 2018, as noted above, Defendants appealed the Court’s order in *Flores v.*
5 *Sessions*, 394 F. Supp. 3d 1041, but did not contest the Court’s holding with
6 regard to 8 U.S.C. § 1252(f)(1). Brief for Appellants, *Flores v. Sessions*, No.
7 17-56297, ECF No. 6 (9th Cir. Jan. 5, 2018).
- 8 • In 2019, Defendants moved to terminate the Settlement based on the 2019
9 Regulations. Defendants never raised § 1252(f)(1). *See* Defendants’ Notice
10 of Termination of *Flores* Settlement Agreement (Aug. 30, 2019) [Doc. #
11 639] (“Ds. 2019 MTT”); Defendants’ Response in Opposition to Plaintiffs’
12 Motion to Enforce Settlement (Nov. 09, 2018) [Doc. # 521]. Nor did
13 Defendants argue on appeal that the Court’s injunction violated § 1252(f)(1).
14 *See* Defendants-Appellants’ Opening Brief, No. 19-56326, ECF No. 10 (9th
15 Cir. Dec. 20, 2019).

16 These are the tip of a larger iceberg.⁸

17 Thus, even assuming, *arguendo*, that § 1252(f)(1) were to strip the Court of
18 jurisdiction over the FSA, Defendants invited the error. *United States v. Perez*, 116
19 F.3d 840, 845 (9th Cir. 1997) (“If the defendant has both invited the error, and
20 relinquished a known right, then the error is waived[.]”); *see also Flores III*, 934

21
22 ⁸ *See, e.g.*, Defendants’ Protective Notice of Motion to Modify Settlement
23 Agreement at *9, 18 (Mar. 27, 2015) [Doc. #120] (failing to raise a § 1252(f)(1)
24 argument when seeking to modify the Settlement to permit family detention);
25 Defendants’ Response to Order to Show Cause Why Remedies Should Not Be
26 Implemented, at *12-13, 20-22, 24 (Aug. 6, 2015) [Doc. #184] (same);
27 Defendants’ Response in Opposition to Motion to Enforce Settlement, etc. (Jun.
28 24, 2016) [Doc. #208] (failing to raise § 1252(f)(1) when defending family
detention); Defendants’ Response in Opposition to Plaintiffs’ Motion to Enforce
Settlement (Nov. 09, 2018) [Doc. #521] (failing to raise § 1252(f)(1) in defense of
2019 DHS regulations and in support of terminating the Settlement).

1 F.3d at 917-18 (“[A] party cannot offer up successively different legal or factual
2 theories that could have been presented in a prior request for review.”) (quoting
3 *Sec. Inv’r Prot. Corp. v. Vigman*, 74 F.3d 932, 937 (9th Cir. 1996)).

4 Defendants will no doubt reply that § 1252(f)(1) injects a jurisdictional
5 defect that may not be waived. Plaintiffs disagree.

6 “By its plain terms, and even by its title, [§ 1252(f)(1)] is nothing more or
7 less than a limit on injunctive relief.” *Reno v. Am.-Arab Anti-Discrimination*
8 *Comm.*, 525 U.S. 471, 481 (1999). Nowhere does the statute “strip[] the lower
9 courts of subject matter jurisdiction. . .” *Biden*, 597 U.S. at 798 (decided after
10 *Aleman*).

11 Although “subject-matter jurisdiction, because it involves a court’s power to
12 hear a case, can never be forfeited or waived,” *United States v. Cotton*, 535 U.S.
13 625, 630 (2002), arguments regarding limitations on a court’s *remedial* authority
14 may be forfeited. *Atlas Life Ins. Co. v. W.I. Southern, Inc.*, 306 U.S. 563, 568 n.1
15 (1939) (“Unlike the objection that the court is without jurisdiction as a federal
16 court, . . . the parties may waive their objections to the equity jurisdiction by
17 consent, or by failure to take it seasonably.”) (internal citations omitted); *see also*
18 *Conn. Gen. Life Ins. Co. v. New Images of Beverly Hills*, 321 F.3d 878, 882 (9th
19 Cir. 2003) (challenge to court’s equitable authority raised for the first time on
20 appeal waived); *Ellipso, Inc. v. Mann*, 480 F.3d 1153, 1160 (D.C. Cir. 2007)
21 (appellant “waived any objection to any asserted misuse of the court’s equitable
22 powers” by failing to raise it). Objections to remedial orders are forfeitable
23 provided subject-matter jurisdiction exists. *See Ruhrgas AG v. Marathon Oil Co.*,
24 526 U.S. 574, 583-584 (1999).

25 Principles of invited error, waiver, and forfeiture accordingly bar
26 Defendants’ resort to § 1252(f)(1).

27 /

28 /

1 **D. Section 1252(f) does not require wholesale termination of the FSA.**

2 It is next clear that the detention and release of *unaccompanied* class
3 members is regulated by the TVPRA, and § 1252(f)(1) is therefore immaterial to
4 the Court’s authority to oversee the Settlement on behalf of unaccompanied
5 children.

6 Defendants also appear to concede that § 1252(f)(1) does not bar the
7 Settlement’s protecting children *not* placed in expedited removal proceedings. Ds.
8 2025 MTT at 24 (“Outside of expedited-removal proceedings, the Government has
9 discretion to detain or release an alien on bond pending a decision on whether he or
10 she is to be removed . . .”). There is no gainsaying that many class members are
11 simply not placed in expedited removal proceedings.⁹

12 Defendants’ motion, however, seeks termination of the *entire* Settlement,
13 regardless of a child’s status as accompanied or unaccompanied and regardless of
14 whether they are facing expedited removal. It is too late for Defendants to
15 moderate their sweeping demand. *Flores IV*, 984 F.3d at 737 (“[T]he district court
16 did not abuse its discretion in declining to terminate those portions of the
17 Agreement covered by the HHS regulations. The government moved the district
18 court to terminate the Agreement in full, not to modify it or terminate it in part. . .
19 .”).¹⁰

21 ⁹ During recent monitoring visits to ICE family detention sites, Plaintiffs’ counsel
22 encountered children in a wide variety of procedural postures, including those who
23 appeared to be outside of the expedited removal process. *See, e.g.*, Ex. 6,
24 Declaration of E.M.L. (“E.M.L. Dec.”) ¶¶ 5-6, 43 (high school junior with pending
25 asylum application detained on a family road trip); Ex. 14, Declaration of E.D.C.
26 (Karnes), March 27, 2025 (“E.D.C. Dec.”) ¶ 2 (high school freshman who had
27 lived in the U.S. since he was five.).

28 ¹⁰ Defendants’ suggesting the appropriateness of partial termination in their brief
does not convert their motion into one for partial termination in the alternative.
Greisen v. Hanken, 925 F.3d 1097, 1115 n.6 (9th Cir. 2019).

1 **IV. DEFENDANTS ARE NOT IN SUBSTANTIAL COMPLIANCE WITH THE FSA.**

2 Defendants next argue that the Settlement should be terminated because
3 HHS’s “new policy guidance eliminates any basis for concluding that the
4 Foundational Rule does not satisfy the FSA.” Ds. 2025 MTT at 26.

5 Defendants continue that DHS’s 2019 Regulations constitute substantial
6 compliance by their very existence. *Id.* at 27. Defendants’ arguments fail.

7 First, in 2024 this Court terminated those provisions of the Settlement that
8 HHS implemented via federal regulations. HHS Terminate Order, *supra*.
9 Defendants nowhere argue that HHS has promulgated regulations implementing
10 the remainder of its Settlement obligations, nor do they contend that DHS has
11 promulgated regulations that cure the conflicts in the 2019 Regulations that this
12 Court and the Ninth Circuit held preclude terminating the Settlement.

13 Defendants instead offer a litany of scurrilous grievances about the
14 Settlement and this Court’s orders construing it. *E.g.*, Ds. 2025 MTT at 35 (“While
15 the scope of the FSA was broad from the beginning, this Court’s interpretation and
16 enforcement of the FSA have significantly expanded it beyond lawful bounds.”);
17 *id.* at 36 (“this Court has repeatedly applied the FSA to situations the parties did
18 not anticipate . . .”).

19 In deciding a motion to terminate based on substantial compliance, courts
20 weigh whether a party has shown “good-faith commitment to the whole of the
21 court’s decree . . .” *Jeff D. v. Otter*, 643 F.3d 278, 288 (9th Cir. 2011) (*quoting*
22 *Freeman v. Pitts*, 503 U.S. 467, 491 (1992)). “Another factor to be considered is
23 the Defendants’ ‘record of compliance,’ . . . which over course of the litigation has
24 been far from exemplary.” *Id.* The Court should also give “[e]xplicit consideration
25 [to] the goals of the decree[]” and find that “those goals have been adequately
26 served” before vacating the Settlement. *Id.* at 289.

27 Termination is unavailable if Defendants have violated the FSA in ways that
28 are neither “unintentional” nor “minor [and] trivial,” or which “substantially []

1 defeat the object which the parties intend to accomplish.” *Id.* (quoting *Wells Benz,*
2 *Inc. v. United States*, 333 F.2d 89, 92 (9th Cir. 1964)); *see also Rouser v. White*,
3 825 F.3d 1076, 1081 (9th Cir. 2016) (“[C]ourts don’t release parties from a consent
4 decree unless they have substantially complied with *every one* of its provisions.”).

5 **A. HHS’s internal policies do not constitute substantial compliance.**

6 Defendants argue that HHS is in substantial compliance with the FSA
7 simply by virtue of having adopted internal policies. Policies, however, fall short
8 of the Settlement’s rulemaking requirement. ORR’s internal policies would not
9 warrant terminating the Settlement even were they consistent with the agreement—
10 and they are not.

11 Plaintiffs did not settle for *policy* making— they settled for *rulemaking*. By
12 definition, HHS is not substantially complying with the Settlement until it
13 promulgates regulations that are consistent with the agreement. Defendants’
14 substantial compliance argument is a non sequitur.

15 First, ORR’s Policy Guide is not equivalent to a federal regulation. *Compare*
16 *United States v. Nixon*, 418 U.S. 683, 695 (1974) (regulations have “force of law”),
17 *with United States v. Fifty-Three (53) Eclectus Parrots*, 685 F.2d 1131, 1136 (9th
18 Cir. 1982) (internal agency policy unenforceable unless “promulgated pursuant to a
19 specific statutory grant of authority and in conformance with the procedural
20 requirements imposed by Congress.”).

21 Second, ORR easily and frequently amends the Policy Guide. ORR has
22 unilaterally changed the Guide dozens, if not hundreds, of times. *See ORR*
23 *Unaccompanied Alien Children Bureau Policy Guide: Record of Posting and*
24 *Revision Dates*, [https://acf.gov/orr/policy-guidance/unaccompanied-children-](https://acf.gov/orr/policy-guidance/unaccompanied-children-program-policy-guide-record-posting-and-revision-dates)
25 [program-policy-guide-record-posting-and-revision-dates](https://acf.gov/orr/policy-guidance/unaccompanied-children-program-policy-guide-record-posting-and-revision-dates) (last visited June 20,
26 2025).

27 Third, ORR even failed to amend the Guide “in response to . . . the Court’s
28 June 28, 2024 order” until May 19, 2025— nearly a year after the Court partially

1 terminated the Settlement as to HHS—and a mere *three days* before Defendants
2 filed their instant motion. Ds. 2025 MTT at 19.

3 Finally, the Policy Guide is *still* inconsistent with the FSA. For example, the
4 Guide nowhere restricts ORR’s stepping up a child to a “heightened supervision”
5 facility on account of petty or isolated offenses. *See* HHS Terminate Order, *supra*,
6 2024 WL 3467715 at *6 (FSA “disallow[s] isolated or petty offenses to have *any*
7 effect upon ORR’s decision to place a child in a heightened supervision . . .
8 facility”). Rather, it permits such placements based on “a non-violent criminal or
9 delinquent history not warranting placement in a secure facility.” Supp.

10 Declaration of Toby Biswas ¶ 7 [Doc. # 1567-5] (quoting Policy Guide § 1.2.4).

11 As for out-of-network facilities, or OONs, the Policy Guide vaguely requires
12 that such facilities “generally adhere to” the standards applicable to in-network
13 facilities. *Id.* ¶ 11. Defendants acknowledge that children placed in OONs may not
14 receive all required services. *Id.* ¶¶ 11-13, 16-18.

15 And in reality, children’s experience in ORR restrictive custody is worse
16 than the Policy Guide permits. Children detained at the Murphy Harpst out-of-
17 network heightened supervision facility, for example, report being held in prison-
18 like dormitories and experiencing seclusion and denial of recreation. *See* Ex. 16,
19 Declaration of J.J.Z.Y. (Murphy Harpst) ¶¶ 25, 27-28, 31, February 18, 2025
20 (“J.J.Z.Y. Dec.”) (“It’s like a prison here. There is a tiny window all the way up in
21 our room that lets in a tiny bit of sun but that’s it . . . When you break a rule, it’s 24
22 hours locked in your room. If you try to leave to the living room area, they grab
23 you and put you back.”); Ex. 15, Declaration of R.H.L. (Murphy Harpst) ¶¶ 4, 14,
24 February 18, 2025 (“During the day, sometimes they take us to go out to activities
25 but sometimes they leave us locked up inside. Sometimes when you misbehave
26 they don’t take you outside for a day. You cannot go out into the sun except to eat .
27 . . They put me in the solitary room once after a fight for twenty minutes. They
28 have put other kids there, too.”); Ex. 17, Declaration of J.B.Z.V. (Murphy Harpst)

1 ¶¶ 9, 13, 16, 26, September 12, 2024 (“If there is an argument between kids, the
2 staff will grab kids and lock them in a small room for a few hours until they calm
3 down . . . My bedroom feels like a prison cell.”).¹¹

4 ORR has also begun arbitrarily distending children’s confinement. The
5 average length of ORR custody for children discharged from ORR climbed from
6 49 days in February 2025, to 112 days in March. In April 2025, it increased to 217
7 days. In May 2025, it was 191 days. Fact Sheets and Data, ORR, *Average Monthly*
8 *Data*, <https://acf.gov/orr/about/ucs/facts-and-data> (last visited June 15, 2025).

9 Release statistics corroborate: in February 2025, an average of 2,778
10 children were in ORR custody, of whom the agency released 1,858. In March,
11 ORR had an average of 2,173 children, but released only 343. In April, an average
12 of 2,281 children were in ORR custody; the agency released just 45. In May, an
13 average of 2,433 children were in custody; the agency released just 118. *Id.*; *see*
14 *also* Fact Sheets and Data, ORR, *Released to Sponsors*, available at
15 <https://acf.gov/orr/about/ucs/facts-and-data> (last visited June 15, 2025).¹²

16 ORR also appears to have eviscerated the independence of its Ombuds
17 Office, abruptly firing its recently hired Ombuds and much of its staff and
18 restricting the Office’s ability to monitor detention sites, and investigate
19 complaints of abuse or neglect. *See* Ex. 3, Declaration of Mary Giovagnoli, June
20 13, 2025, ¶¶ 21, 25 (“As a practical matter, my termination and that of other
21

22 ¹¹ The Settlement proscribes such conditions. FSA ¶ 8 (medium secure facilities
23 shall “not be equipped internally with major restraining construction”); FSA Ex.
24 1.A.5, 1.C. (disciplinary sanctions shall not “adversely affect either a minor’s
25 health, or physical or psychological well-being” or “deny minors . . . exercise”).

26 ¹² ORR appears committed to prolonging children’s detention through multifarious
27 techniques. *See, e.g., Angelica S. v. HHS*, __ F. Supp. 3d __, 2025 WL 1635369, at
28 *7-9, 12 (D.D.C. June 9, 2025) (finding that ORR likely acted arbitrarily and
capriciously in imposing restrictive documentation requirements on children’s
proposed custodians).

1 probationary employees deprived the office of its leader and cut the Ombuds office
2 in half . . . a career official in the Office of Administration, with no expertise in
3 children’s issues or immigration, was [appointed] as the Acting Ombuds . . . I am
4 deeply concerned that the current administration intends to sideline the Ombuds
5 office.”). A robust Ombuds Office was prominent among the internal oversight
6 mechanisms Defendants argued warranted releasing ORR from the FSA’s state
7 licensing requirement. HHS Terminate Order, *supra*, 2024 WL 3467715, at *4.

8 Such backsliding is a far cry from substantial compliance. Scant foresight is
9 required to predict that ORR can and will revert to policies that violate the
10 Settlement were it free to do so.

11 **B. DHS’s regulations remain violative of the Settlement; its internal**
12 **policies are no substitute for consistent regulations.**

13 Defendants next argue that the 2019 Regulations and DHS current internal
14 policies “provide all the relief originally sought” in this action. Ds. 2025 MTT at
15 52. That is both inaccurate and no reason to terminate. Again, neither CBP’s
16 Transport, Escort, Detention, and Search Standards (“TEDS”) nor ICE’s Family
17 Residential Standards (“FRS”), are binding or even minimally resistant to arbitrary
18 change.¹³

19
20 ¹³ Indeed, DHS’s detention standards are not even consistently available to the
21 public.

22 ICE purports to follow *modified* FRS to govern its treatment of children in FRCs.
23 Such modifications are neither publicly available nor have Defendants provided
24 them to Plaintiffs. On June 4, 2025, Plaintiffs’ counsel sent a letter memorializing
25 a May 30, 2025 conference of counsel during which Defendants described
26 modifications to the previous standards. Ex. 1, Declaration of Leecia Welch
27 (“Welch Dec.”), Ex. A (Plaintiffs’ Counsel Letter to Defendants’ Counsel re:
28 Dilley Modified Standards), June 19, 2025; *see also* Ex. 2, Declaration of Javier
Hidalgo ¶ 11, June 20, 2025. Defendants did not respond to this communication.
Further, ICE routinely violates the publicly available and modified standards. See
id. ¶¶ 10-17.

1 Defendants’ argument is also a straw man. Rather than show that the TEDS,
2 the FRS or the 2019 Regulations are consistent with the Settlement, Defendants
3 argue that “[t]he conditions of confinement today are far from the conditions that
4 prevailed *in the original litigation.*” Ds. 2025 MTT at 27 (emphasis added). That is
5 beside the point.

6 It is well established that litigants may settle for relief greater than the
7 Plaintiffs’ complaint initially sought or even what the law requires. *Local No. 93,*
8 *Intern. Ass’n of Firefighters, AFL-CIO C.L.C.*, 478 U.S. at 522 (“[I]t is the
9 agreement of the parties, rather than the force of the law upon which the complaint
10 was originally based, that creates the obligations embodied in a consent decree.”).
11 What matters, then, is whether DHS’s regulations accord with *the Settlement.*

12 DHS cannot be in substantial compliance with the Settlement when both this
13 Court and the Ninth Circuit have ruled that the 2019 Regulations are inconsistent
14 with the Settlement and the agency has failed to amend those regulations.
15 Defendants again invite the Court to revisit issues the Ninth Circuit has foreclosed.
16 *Flores IV*, 984 F.3d at 744 n.11 (“The significant inconsistencies between the DHS
17 regulations and the Agreement detailed in this opinion preclude a finding of
18 substantial compliance.”).

19 **C. DHS continues to flout the FSA.**

20 And even were DHS’s policies to comport nominally with the FSA, they
21 would not amount to substantial compliance because DHS simply does not
22 consistently follow them. *Flores v. Sessions*, *supra*, 394 F. Supp. 3d at 1054.

23 CBP has persistently failed to provide children with safe and sanitary
24 conditions. *See, e.g., id.* at 1056 (describing, *inter alia*, “unsanitary conditions with
25 respect to the holding cells and bathroom facilities, and lack of privacy while using
26 the restroom, access to clean bedding, and access to hygiene products (i.e.,
27 toothbrushes, soap, towels)”); *Flores v. Johnson*, 212 F. Supp. 3d 864, 882 (C.D.
28 Cal.), *clarified on denial of reconsideration sub nom. Flores v. Lynch*, 212 F.

1 Supp. 3d 907 (C.D. Cal. 2015), *aff'd in part, rev'd in part and remanded, Flores I*,
2 (“voluminous evidence . . . of the egregious conditions of the [CBP] holding
3 cells”); *Flores v. Sessions*, 394 F. Supp. 3d at 1053 (“ample evidence that CBP
4 stations in the RGV Sector must be brought into compliance with the Agreement”);
5 Order Re Plaintiffs’ Ex Parte Application for Restraining Order and Order to Show
6 Cause Re Preliminary Injunction, March 28, 2020 [Doc. #740] (detained children
7 exposed to COVID-19).¹⁴

8 CBP’s violations continue despite Defendants’ formally agreeing in 2022 to
9 improve conditions children experience in CBP custody. *See* CBP Settlement
10 Agreement, May 21, 2022 [Doc. #1254-1].

11 Plaintiffs are concurrently presenting evidence of substandard conditions
12 and prolonged detention prevailing today in CBP facilities nationwide. *See* Motion
13 to Enforce Flores Settlement Agreement, June 17, 2025 [Doc. #1575] at 2-10, 13-
14 17 (“CBP MTE”).

15 One class member describes the recent treatment she received in CBP
16 custody thusly:

17 They told us to “shut the f___ up” and that asylum had been canceled by
18 President Trump and that there would be no asylum for five years. They
19 handcuffed my mom and they ordered us into a car and took us to Chula
20 Vista detention center. We were still soaking wet and dirty and cold and
21 stinky . . . I heard one officer say about us ‘they smell like sh___,’ and
22 another officer responded “they are sh___.” . . . They treat us like we are not
23 human beings.

24 CBP MTE, Ex. 21, Declaration of S.G. (Chula Vista) ¶¶ 4, 6, 8-9, April 10, 2025

26
27 ¹⁴ Defendants do not argue that conditions in CBP facilities are *actually* safe and
28 sanitary. They rather grudgingly concede CBP facilities “lack [] amenities.” Ds.
2025 MTT at 54.

1 [Doc. # 1575-23] (“S.G. Dec.”); *see also, e.g.*, CBP MTE, Ex. 22, Declaration of
2 A.K. (Otay Mesa) ¶ 19, March 26, 2025 [Doc. # 1575-24] (“When my daughter
3 was sick, a member of medical staff said it’s my own fault . . . because it was my
4 decision to bring her here. When I asked for medication, staff told us to go home
5 and we’d get it there.”); CBP MTE, Ex. 23, Declaration of S.K. (Otay Mesa) ¶¶ 14,
6 16, May 25, 2025 [Doc. # 1575-25] (“For five days we were without a window,
7 without sun. There was a light on 24 hours . . . [C]an you imagine being three years
8 old and told not to move for five days? Officers would stop by the room and if the
9 children were moving, the officer would tell them that if they didn’t stop they
10 would be taken away.”); S.G. Dec. ¶ 5 (“The sleeping place was actually a prison
11 cell. It is very, very cold. There is no door for the toilet, and the floor is very dirty.
12 It’s very embarrassing to not have privacy to use the toilet.”).¹⁵

13 Defendants next demand that ICE, too, be allowed to exit the FSA. But ICE,
14 too, has repeatedly breached the FSA. *Flores v. Barr*, No. CV-85-4544-DMG,
15 2020 WL 2758792, at *12 (C.D. Cal. Apr. 24, 2020) (holding that “Plaintiffs’
16 deluge of declarations . . . have raised significant concerns by a preponderance of
17 the evidence about each FRC’s ability to provide safe and sanitary conditions,”
18 requiring heightened monitoring to protect children from exposure to COVID-19,
19 and finding evidence of “unnecessary delay and failure to make and record prompt
20

21 ¹⁵ Corroborating, Dr. Paul Wise, the Court’s independent monitor, reports multiple
22 recent violations in CBP facilities, including (1) routine separation of children
23 from their family for no articulated reason; (2) lack of visitation with family; (3)
24 insufficient warm clothing; (4) practices inconsistent with a child-friendly, trauma-
25 informed environment; and (5) failure to properly implement the CBP Settlement
26 Agreement’s caregiver program. *See, e.g.*, CBP Juvenile Care Monitor Report at 2-
27 6, January 30, 2023 [Doc. # 1326]; CBP Juvenile Care Monitor Report, May 27,
28 2025 [Doc. # 1570]; CBP Juvenile Care Monitor Report at 6, September 15, 2023
[Doc. # 1360] (CBP held “children of the same gender as their parent, some as
young as 8 years of age” separately from their parents, doing “significant, and
potentially lasting, harm to children.”).

1 and continuous efforts at release”); *Flores v. Barr*, No. CV85-4544-DMG, 2020
2 WL 2758795, at *1 (C.D. Cal. May 22, 2020) (“The ICE report continues to show
3 lack of compliance with Paragraph 18 of the FSA, which requires Defendants to
4 ‘make and record the prompt and continuous efforts on its part toward family
5 reunification and the release of the minor.’”).

6 Against this record, Defendants point to ICE standards that discourage
7 commingling of minors with unrelated adults and stipulate that children should
8 receive “education, recreation, [and] visitation . . .” Ds. 2025 MTT at 27-28. The
9 reality of DHS detention does not square with Defendants’ rosy claims.

10 For example, children detained at the Dilley FRC report that ICE had opened
11 a “school” for them just two days before class counsel visited the facility. The
12 FRC’s educational program provided school-age children—several of whom were
13 high school students who had been pursuing college preparatory curricula in the
14 United States—only one hour of instruction daily. *See, e.g.*, A.T. Dec. ¶ 45 (“There
15 is a school we can go to for an hour. It was just opened yesterday.”); Ex. 10,
16 Declaration of N.K.N.N. (Dilley) ¶ 11, June 5, 2025 (“it’s not really school. It’s for
17 much younger kids. Mostly I take books out of the library and read.”); E.M.L. Dec.
18 ¶ 43 (“If they let me out of here I will have to do summer school to make up all the
19 school I have missed.”); Ex. 9, Declaration of C.C.B.C. (Karnes) ¶ 20, March 27,
20 2025; Ex. 7, Declaration of Y.F.A. (Dilley) ¶ 10, May 1, 2025; Ex. 14, Declaration
21 of E.D.C. (Karnes) ¶ 19, March 27, 2025 (“E.D.C. Dec.”) (“There is no actual
22 school here. It makes kids sad that they are missing school. One girl here is a
23 junior from a high school in Texas and she’s feeling sad because she had her whole
24 senior year planned out. Her thirteen-year-old brother was sad because he missed
25 out on his football tournament.”).

26 Youth further report being allowed no in-person visitation at Dilley. They
27 report having to pay by the minute even for phone calls, which few can afford. *See,*
28 *e.g.*, Ex. 8, Declaration of C.M.Z. (Dilley) ¶ 12, June 5, 2025 (“When we got here,

1 we were given a coupon for 3 minutes each to use the phone. After that, my
2 children and I have to pay to use the phone to call family”); Ex. 13, Declaration of
3 R.B.C. (Karnes) ¶ 10, March 27, 2025; E.M.L. Dec. ¶ 34; Ex. 12, Declaration of
4 I.K. ¶ 45 (Karnes), March 27, 2025 (“I.K. Dec.”); E.D.C. Dec. ¶ 23; CBP MTE,
5 Ex. 9, Declaration of M.I.J (San Diego) ¶ 14, March 26, 2025 [Doc. # 1575-11].

6 Similarly, there is little “recreation” for children, Ds. 20225 MTT at 52, who
7 feel trapped, isolated, bored, and intimidated by harsh treatment from staff. *See*,
8 *e.g.*, Ex. 11, Declaration of S.L. (Dilley), May 2, 2025 ¶¶ 16, 22 (“They aren’t used
9 to being isolated like this . . . some of the staff treat you like dogs. They will
10 whistle at you when they want you to do things.”); Ex. 5, Declaration of L.J.H.G.
11 (Dilley) ¶¶ 13, 21-22, June 5, 2025 (“The staff here call us inmates because it is
12 like a prison . . . There are balls that my son plays with, but there aren’t actual
13 activities for kids . . . Children are not allowed to have toys or crayons in their
14 rooms.”).

15 DHS’s ongoing violations of the Settlement belie Defendants’ claim that
16 internal policies meaningfully protect vulnerable children. Defendants demand
17 release from the Settlement not because they have complied with and will continue
18 to observe its fundamental principles, but because they want the “flexibility” to
19 treat children however they wish. Ds. 2025 MTT at 30, 37, 53. Stated otherwise,
20 Defendants ask for “relief . . . [because] it is no longer convenient to live with the
21 terms of a consent decree.” *Rufo*, 502 U.S. at 383. That is not substantial
22 compliance. It is not even close.

23 **V. PARTIAL TERMINATION IS NOT AVAILABLE ON DEFENDANTS’ INSTANT**
24 **MOTION.**

25 **A. Defendants explicitly move only for complete, not partial,**
26 **termination.**

27 Defendants unambiguously insist on nothing short of the wholesale
28 termination of the Settlement. Ds. 2025 MTT at 1 (motion “to terminate the FSA

1 completely and with respect to all Defendants”). At no point did Defendants raise
2 partial termination during the Parties’ L.R. 7-3 conference. *See* Welch Dec., Ex. B
3 (Email from K. Masetta-Alvarez to C. Holguín, *et al.*, May 9, 2025).¹⁶ Partial
4 termination is therefore unavailable. *Flores IV*, 984 F.3d at 737 (affirming decision
5 to keep FSA fully in effect where “[t]he government moved the district court to
6 terminate the Agreement in full, not to modify it or terminate it in part”); *Greisen*,
7 925 F.3d at 1115 n.6 (“briefly allud[ing]” to an issue in an opening brief is
8 “insufficient to raise the issue”).¹⁷

9 **B. DHS’s 2019 regulations do not warrant partial termination.**

10 Yet even had they actually moved for partial termination, Defendants would
11 not satisfy Rule 60’s requirements therefore.

12 First, in *Flores IV* the Ninth Circuit never suggested that partial termination
13 as to DHS might be appropriate. The court’s differential treatment of HHS and
14 DHS is logical given the *fundamental* flaws in DHS’s 2019 Regulations. The Ninth
15 Circuit emphasized that “[a]ny motion to terminate the Agreement in part [as to
16 HHS] would have to take into account our holding in *Flores I* that the Agreement
17 protects both unaccompanied and accompanied minors.” *Flores IV*, 984 F.3d at
18

19 ¹⁶ Defendants also fail to brief the legal standard for partial termination and do not
20 mention partial termination until page 30 of their brief.

21 If anything, Defendants raised partial termination more clearly in 2019. *See* Ds.
22 2019 MTT [Doc. # 639] at 15 (“[T]o the extent the Court believes further litigation
23 over specific issues addressed by the Rule is warranted, it should agree the
24 Agreement is terminated except as to those specific issues.”). The Ninth Circuit
25 nonetheless held partial termination unavailable. *Flores IV*, *supra*.

26 ¹⁷ Defendants’ assertion that FSA ¶¶ 11, 12, and 25 “have terminated”
27 automatically following the Ninth Circuit’s mandate, Ds. 2025 MTT at 31,
28 misstates the court’s holding. The Ninth Circuit was explicit that the FSA “remains
in effect, notwithstanding the overlapping HHS regulations. . .” *Flores IV*, 984
F.3d at 737. Any partial termination would accordingly require a separate motion.

1 744 n.12. Defendants have not cured the serious inconsistencies between the 2019
2 Regulations and the Settlement,¹⁸ and partial termination as to DHS is accordingly
3 foreclosed.

4 Even had *Flores IV* authorized it, Defendants have failed to establish that
5 they meet the requirements for partial termination as to DHS on the strength of the
6 2019 Regulations.

7 The apposite legal standard is set out in *Freeman v. Pitts, supra*. Compare
8 *Jeff D.*, 643 F.3d at 288 (applying *Freeman* standard to termination of consent
9 decree based on compliance), and *Flores v. Garland*, 2024 WL 3467715, at *9
10 (declining to apply *Freeman* standard to partial termination as to HHS because
11 Defendants had moved based on changed factual conditions rather than
12 compliance). Partial termination turns on three factors: “[1] whether there has been
13 full and satisfactory compliance with the decree in those aspects of the system
14 where supervision is to be withdrawn; [2] whether retention of judicial control is
15 necessary or practicable to achieve compliance with the decree in other facets of
16 the [] system; and [3] whether the [defendant] has demonstrated . . . its good-faith
17 commitment to the whole of the court’s decree.” *Freeman*, 503 U.S. at 491.

18 Far from showing a good-faith commitment to the whole of the Settlement,
19

20
21 ¹⁸ For example, Defendants assert that the 2019 Regulations are consistent with
22 Paragraph 12. They are not. Paragraph 12’s central protection is that children must
23 be promptly released or transferred to a licensed, non-secure facility. FSA ¶ 12A.

24 The standards set out in Paragraph 12A afford children minimally acceptable
25 conditions in the immediate aftermath of arrest, but barely acceptable conditions
26 are no substitute for prompt transfer or release. *Flores v. Johnson*, 212 F. Supp. 3d
27 864, 881 (C.D. Cal. 2015) (“[T]he Agreement holds Defendants to a lower
28 standard—‘safe and sanitary’—with respect to the temporary holding cells.”). Yet
no consistent regulation requires the prompt release or transfer of accompanied
minors out of CBP facilities. *Flores IV*, 984 F.3d at 739 (affirming injunction of
regulation relating to transfer and placement).

1 Defendants continue to importune that accompanied minors are undeserving of its
2 protections, and they have failed to comply with the Settlement as a whole. DHS
3 cannot show “full and satisfactory compliance” with the provisions it proposes to
4 terminate. *Id.* On the contrary, it transparently seeks to terminate those provisions
5 so that it may detain children for longer and in facilities that the Settlement
6 forbids.¹⁹

7 **VI. NO CHANGED CIRCUMSTANCES WARRANT TERMINATION OF THE FSA ON**
8 **EQUITABLE GROUNDS**

9 To prevail on a motion for equitable termination under Rule 60(b),
10 Defendants must carry “the burden of establishing that they have substantially
11 complied with the [decree] or that facts or law have changed so that ‘it is no longer
12 equitable that the judgment should have prospective application.’ *Jeff D.*, 643 F.3d
13 at 288 (citing *Jeff D. v. Kempthorne*, 365 F.3d 844, 851 (9th Cir.2004) (quoting
14 Rule 60(b)(5) as then phrased); *Rufo*, 502 U.S. at 383; *see also Horne v. Flores*,
15 557 U.S. 433, 453 n.5 (2009) (courts considering Rule 60(b)(5) motion must
16 “engage in the changed-circumstances inquiry prescribed by *Rufo*” and be “true to
17 the *Rufo* standard”). “The party seeking relief bears the burden of establishing that
18 changed circumstances *warrant relief*.” *Horne*, 557 U.S. at 447.

19 Defendants identify no substantial legal or factual change since this Court
20 and the Ninth Circuit last considered and rejected their last go-round.

21 /

22
23 ¹⁹ Defendants’ suggestion that *any* regulations—even inconsistent ones—warrant
24 termination is foreclosed. *See Flores IV*, 984 F.3d at 741 (“[I]t certainly does not
25 follow that the executive branch retained the power to bring about termination
26 through the promulgation of *inconsistent* regulations.”). A federal agency “cannot
27 usurp the power of a district court to construe the provisions of an order it has
28 issued . . . simply by issuing a regulation interpreting that order or declining to
follow it.” *Nehmer v. U.S. Dep’t of Veterans Affairs*, 494 F.3d 846, 860 (9th Cir.
2007).

1 **A. Defendants’ arguments are barred by the mandate rule.**

2 Defendants make no secret that they wish to relitigate issues that have
3 already been decided, often multiple times. Yet they offer no reason for the Court
4 to ignore the Ninth Circuit’s mandate or to excuse their untimely requests for
5 reconsideration of issues previously litigated, waived, or forfeited.

6 Defendants instead suggest their disagreement with prior rulings is *itself* a
7 basis for equitable termination. Such an argument borders on the frivolous. As has
8 been seen, this Court lacks jurisdiction to revisit Ninth Circuit holdings (1) that
9 DHS’s regulations are inconsistent with the Settlement and is therefore not in
10 substantial compliance with it, *Flores IV*, 984 F.3d at 744 & n.11; (2) that neither
11 the HSA nor the TVPRA, nor an “increase in family migration” are changed
12 circumstances warranting termination. *Id.* at 741-42.

13 **B. No change in law warrants termination.**

14 As has been seen, to win termination based on a change in law, Defendants
15 must show that “the new law makes complying with the consent decree
16 ‘impermissible,’ or, on the other hand, if it ‘make[s] legal what the decree was
17 designed to prevent.’” *Id.* at 741. Defendants fail to identify any such change in
18 law.

19 The Ninth Circuit and this Court have repeatedly held that neither the
20 TVPRA nor HSA make the Defendants’ continued adherence to the Settlement
21 inequitable. *E.g., Id.* at 741-44; *see also Flores II*, 862 F.3d at 880-881; *Flores I*,
22 828 F.3d at 908, 909-910.

23 Defendants offer, without analysis, that the Laken Riley Act, Pub. L. 119-1,
24 139 Stat. 3 (2025), makes complying with the Settlement impermissible. But
25 Defendants fail to identify any actual conflict between the Settlement and the
26 Laken Riley Act, for there is none. Indeed, Congress nowhere even mentions
27 children in DHS or HHS custody in Laken Riley, nor are children even among the
28 express targets of Laken Riley. *Cf. Matter of Devison*, 22 I. & N. Dec. 1362, 1365

1 (BIA 2000) (juvenile delinquency adjudications not considered criminal
2 convictions).

3 **C. Defendants fail to show that new facts warrant termination.**

4 Defendants also fail to show that an unforeseen change in facts has made
5 enforcement of the Settlement inequitable. They repeat tired tropes about the
6 “surge in border encounters,” Ds. 2025 MTT at 50, which this Court and the Ninth
7 Circuit have repeatedly held fail to warrant modifying the Settlement. *Flores IV*,
8 *supra*, 984 F.3d at 742-43; *Flores I*, 828 F.3d at 910; *Flores v. Barr*, *supra*, 407 F.
9 Supp. 3d at 928 (“The Court declines to reiterate yet again why an increase in
10 numbers of families detained at the southern border does not justify, much less
11 require, dissolution of the parties’ bargained-for agreement . . .”) (citation omitted).

12 Defendants’ claim that the FSA incentivizes unauthorized entry has fared no
13 better. *Flores v. Johnson*, *supra*, 212 F. Supp. 3d at 876, 886 (Defendants’
14 evidence of “the deterrent effect of the detention policy. . . [is] distinctly lacking in
15 scientific rigor.”);²⁰ *Flores v. Sessions*, 2018 WL 4945000, at *2 (C.D. Cal. 2018);

17 ²⁰ To this day, no credible evidence shows that prolonging children’s detention or
18 subjecting them to inappropriate conditions during confinement discourages
19 others’ unauthorized entry. *See, e.g.*, Ex. 4, Declaration of Tom Wong ¶¶ 12, 26,
20 27-34, June 18, 2025 (“I conducted such analysis and concluded that there was no
21 statistically significant increase in U.S. Border Patrol apprehensions of families at
22 the southwest border after the 2015 Flores ruling” recent data supports the same
23 conclusion: “Family migration has fluctuated significantly since 2019, ranging
24 from a monthly high of 123,815 to a low of 829. Given that the Flores settlement
25 has remained constant during this period, there is no evidence of correlation—
26 much less causation—between recent family migration numbers and the Flores
27 settlement. Suggesting otherwise would be irresponsible and inaccurate.”); Report
28 of the DHS Advisory Committee on Family Residential Centers, June 4, 2025,

1 *Flores v. Lynch, supra*, 212 F. Supp. 3d at 914-15.²¹

2 Even assuming, arguendo, there were evidence that the Settlement
3 encourages unauthorized entry, such evidence would not justify detaining children
4 to deter others. Order, *R.I.L-R v. Johnson*, Case No. 15-11 (JEB), ECF No. 32
5 (D.D.C. Feb. 20, 2015) (enjoining ICE “from detaining class members for the
6 purpose of deterring future immigration to the United States and from considering
7 deterrence of such immigration as a factor in such custody determinations”); *see*
8 *also Kansas v. Crane*, 534 U.S. 407, 412 (2002) (civil detention may not “become
9 a ‘mechanism for retribution or general deterrence’—functions properly those of
10 criminal law, not civil commitment”) (*quoting Kansas v. Hendricks*, 524 U.S. 346,
11 372-73 (1997) (Kennedy, J., concurring)).

12 Defendants’ desire, howsoever ardent, to detain children indefinitely in
13 prison-like settings does not constitute a changed circumstance warranting
14 termination.

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19 _____
20 *available at* [www.ice.gov/sites/default/files/documents/Report/2016/ACFRC-sc-](http://www.ice.gov/sites/default/files/documents/Report/2016/ACFRC-sc-16093.pdf)
21 [16093.pdf](http://www.ice.gov/sites/default/files/documents/Report/2016/ACFRC-sc-16093.pdf) (last visited June 8, 2025) (“DHS should not use detention for the
22 purpose of deterring future family migration or punishing families seeking asylum
in the U.S. Any contrary policy is unlawful, and ineffective.”).

23 Defendants offer no substantial evidence that the Settlement encourages
24 unauthorized entry. The best they manage is a reference to an exhibit filed in an
25 unpublished case from 2007, which merely recounts the government’s having then
26 discontinued a purported “catch-and-release” policy. Ds. 2025 MTT at 11 n.5.
Their argument for termination is otherwise entirely sound bite and ipse dixit.

27 ²¹ Defendants’ statistics on unauthorized entries are old news. Migration numbers
28 are currently the lowest in decades despite the FSA. CBP MTE, Ex. 2, de Gramont
Dec. ¶ 30 [Doc. # 1575-4].

1 **D. The Settlement does not violate separation of powers or the**
2 **Administrative Procedure Act.**

3 Although Defendants again assert that the Settlement violates separation of
4 powers and the APA, they tie neither of these arguments to any change in law or
5 fact. In all events, the FSA neither contravenes the INA nor dictates who may enter
6 or remain in the United States. It simply requires that Defendants treat children
7 humanely while they are in Defendants’ custody. Neither the Settlement nor this
8 Court’s order construing it threatens the constitutional order.

9 Defendants freely negotiated the Settlement and agreed that this Court
10 would retain authority to oversee it. This Court has repeatedly held that the
11 agreement does not, therefore, infringe the prerogatives of the executive branch.
12 *E.g.*, Order Denying Defendants’ “Ex Parte Application for Limited Relief From
13 Settlement Agreement,” *supra*, 2018 WL 4945000 at *5 [Doc. # 455] (“The Court
14 did not force the parties into the agreement nor did it draft the contractual
15 language.”); *Flores v. Barr*, *supra*, 407 F. Supp. 3d at 925 (FSA “can be
16 overridden by the legislative branch;” “[t]his Court cannot abrogate the consent
17 decree, however, by judicial fiat”); *see also*, *Berne Corp. v. Gov’t of Virgin*
18 *Islands*, 105 Fed. Appx. 324, 331 (3d Cir. 2004) (“[T]he District Court did not
19 exceed its judicial power when it enforced the Settlement Agreement.”).

20 The government’s ability to enter into settlements is “the essence of
21 sovereignty” itself. *United States v. Bekins*, 304 U.S. 27, 51-52 (1938). Refusing to
22 honor its agreements is “a privilege no sovereign enjoys except in a despotic
23 society.” *Miller v. United States*, 140 F. Supp. 789, 795 (Ct. Cl. 1956); *All to End*
24 *Repression v. City of Chicago*, 742 F.2d 1007, 1020 (7th Cir. 1984) (“[W]ho will
25 make a binding agreement with a [government] that is free to walk away from an
26
27
28

1 agreement whenever it begins to pinch?”).²²

2 Nor is Defendants’ complaining that the Settlement has endured “five
3 Presidential administrations” at all compelling. Ds. 2025 MTT at 41. Any of these
4 prior administrations could have exited the Settlement simply by promulgating
5 rules that are consistent with it. If Defendants wish to exit the FSA, that path
6 remains open to them, too.

7 Defendants next assert that the Settlement’s termination clause
8 impermissibly infringes upon their APA rulemaking prerogatives. That argument,
9 too, has previously failed, and it remains meritless.

10 Defendants raised a nearly identical argument in their 2019 motion to
11 terminate the FSA. *See* Ds. 2019 MTT at 2 (“[A] settlement that provided for the
12 issuance of rules without regard to considerations required under the APA would
13 violate the APA and impermissibly bind federal action in perpetuity.”).

14
15 ²² For its part, Congress has passed two bills—the HSA and the TVPRA—that
16 preserved the Settlement, while failing to enact several that would have weakened
17 or terminated it.

18 The Flores Settlement Update and Establishment Act of 2022, H.R.8356, 117th
19 Congress (2021-22), would have allowed DHS to detain children for up to 120
20 days before transferring them to a licensed facility and would have barred HHS
21 from releasing a child to anyone not “lawfully present” in the United States. The
22 bill never received a vote.

23 A 2019 Senate bill would have allowed indefinite detention of children and made it
24 so that the “Flores settlement . . . shall not restrict any activities . . . [and DHS]
25 shall have sole discretion as to detention standards of alien minors. . .” Secure and
26 Protect Act of 2019, S.1494, 116th Congress (2019-2020). The bill never reached a
27 vote.

28 In 2018, Congress received H.R.6190/S.3093, 115th Congress (2017-18), that
proposed giving DHS authority to detain accompanied children indefinitely and
excuse it from “the stipulated settlement agreement . . . commonly known as the
‘Flores settlement agreement’” with regard to accompanied minors. That bill, too,
never reached a vote.

1 This Court disagreed. *Flores v. Barr*, *supra*, 407 F. Supp. 3d at 925
2 (“Defendants argue that applying a non-APA standard to review the New
3 Regulations would ‘create additional procedures for rulemaking ...’. But the Court
4 has not created ‘additional procedures’ by enforcing an agreement into which
5 Defendants willingly entered and agreed to be bound.”);²³ *see also* *Berger v.*
6 *Heckler*, 771 F.2d 1556, 1579 (2d Cir. 1985) (no error where “Secretary [of HHS]
7 has merely been required to redraft her regulations to bring them into conformity
8 with a court order to which she has consented”). Defendants lost their instant APA
9 argument, and the law-of-the-case doctrine precludes their re-arguing it now.

10 Yet even were Defendants’ APA argument properly at issue, it would have
11 no greater merit. The Settlement simply does not prevent Defendants from
12 following APA rulemaking procedures.²⁴

13
14 ²³ On appeal, Defendants argued that their having followed APA rulemaking
15 protocols was *sufficient* to terminate the Settlement regardless of any conflicts, but
16 *not* that the Settlement’s rulemaking requirement is itself impermissible. *See*
17 Defendants-Appellants’ Opening Brief, No. 19-56326, 2019 WL 7494614, at *23-
24, 53-55 (9th Cir. 2019). This argument was therefore forfeited.

18 The Ninth Circuit affirmed, *Flores IV*, 984 F.3d at 741, and Defendants did not
19 seek further review.

20 Defendants also waived their instant APA argument on at least two additional
21 occasions: first, when they agreed to ¶¶ 9 and 40 of the FSA; and second, when
22 they agreed to amend the ¶ 40 termination clause in 2001. *Cf. Flores I*, 828 F.3d at
23 908 (“[T]he government waived its ability to challenge the class certification when
it settled the case and did not timely appeal the final judgment.”).

24 ²⁴ When it promulgated its 2019 Regulations, DHS followed APA procedures, but
25 the overwhelming majority of commenters objected only to its failure to comply
26
27
28

1 Just last year, HHS managed to promulgate regulations implementing most
2 of its Settlement obligations. HHS considered thousands of comments in the course
3 of promulgating those rules. *See* Preamble, ORR Foundational Rule, 89 Fed.Reg.
4 34,384; Comments, Unaccompanied Children Program Foundational Rule,
5 *available at* <https://perma.cc/DL56-J2TT> (last visited June 18, 2025).²⁵ This was
6 hardly “an empty charade.” *DS. 2025 MTT* at 47 (quoting *Conn. Light & Power*
7 *Co. v. Nuclear Regul. Comm’n*, 673 F.2d 525, 528 (D.C. Cir. 1982)).²⁶

8 _____
9 with the FSA. *See* 2019 Regulations, 84 Fed. Reg. at 44433 (“Some commenters
10 noted that there may be times when a child needs to be detained, such as when no
11 alternative exists that meets the needs of the child and ICE’s security concerns. But
12 most commenters on this topic expressed general opposition to the detention of
13 family units.”). Yet DHS “decline[d] to change the proposed regulatory text in
14 response to public comments.” *Id.* at 44434.

15 ²⁵ The resulting rule included many additional provisions. *See, e.g.*, Preamble, 89
16 Fed. Reg. at 34,434-35 (noting changes to runaway risk considerations in response
17 to comments and departure from specific wording of FSA ¶ 22).

18 ²⁶ *Conservation Northwest v. Sherman*, 715 F.3d 1181 (9th Cir. 2013), is not to the
19 contrary. In that case, a consent decree amended a land management standard in
20 derogation of rulemaking procedures that applicable environmental laws declared
21 mandatory. *Id.* at 1187-88.

22 First, the FSA’s modified sunset clause *permits* Defendants to exit the Settlement
23 by promulgating implementing regulations, but it does not require them to modify
24 any existing agency rule.

25 Second, unlike the controlling law in *Conservation Northwest*, the substantive
26 statutes at issue nowhere force Defendants to enshrine policies toward children in
27 formal regulations. Indeed, for decades the bulk of such policies have been found
28 not the Code of Federal Regulations, but in informal manuals and policy guides, a
practice that continues to this day. *E.g.*, Office of Refugee Resettlement, *ORR*

1 The Court thereafter partially terminated the Settlement as to HHS. HHS
2 Terminate Order, *supra*. Defendants explain neither why DHS refuses to do the
3 same, nor why HHS refuses to cure the inconsistencies in the Foundational Rule
4 that this Court held preclude termination. Defendants’ appeal to equity is
5 disingenuous. *Flores v. Sessions*, 394 F. Supp. 3d at 1065 n.15 (noting that parties
6 stated they knew of nothing in the Agreement that violated any law); *Perez*, 116
7 F.3d at 845 (invited errors are waived).

8 In sum, the Parties agreed that the FSA would terminate upon Defendants’
9 adopting regulations implementing the agreement. The modified sunset clause
10 balances the Parties’ interests by providing Defendants with a clear path for
11 termination while affording Plaintiffs modest assurance that children will continue
12 to enjoy humane treatment.²⁷

13
14 _____
15 *Unaccompanied Alien Children Bureau Policy Guide*, available at
16 <https://acf.gov/orr/policy-guidance/unaccompanied-children-bureau-policy-guide>
(last visited June 10, 2025).

17 Third, the appellant in *Conservation Northwest* was an intervenor who had
18 opposed the settlement, not a settling party.

19 Finally, neither the APA itself nor a case decided in 2013 constitute a change in
20 law since 2019, when the Court last considered Defendants’ argument.

21 ²⁷ Defendants cavil that the Court’s retaining jurisdiction to modify its partial
22 termination order as to HHS means the FSA will continue to bind them forever.

23 In partially terminating the Settlement as to HHS, the Court, not surprisingly,
24 retained jurisdiction over this matter as a whole. HHS Termination Order, *supra*.
25 Such retained jurisdiction inherently includes authority to modify prior orders. *See*
26 *City of Los Angeles, Harbor Div. v. Santa Monica Baykeeper*, 254 F.3d 882, 887

1 Defendants are free to decide when and if they wish to promulgate
2 regulations implementing the Settlement. But they should not be permitted to shirk
3 their obligation to do so and thereby deny Plaintiffs the benefit of their bargain.

4 **E. Even if changed circumstances existed, termination would not be**
5 **a suitably tailored remedy**

6 Even if Defendants could demonstrate changed circumstances warranting
7 modification and these issues were properly before the Court, wholesale
8 termination would not be a “suitably tailored” remedy. *Rufo*, 502 U.S. at 383.

9 “A proposed modification should not strive to rewrite a consent decree so
10 that it conforms to the constitutional floor.” *Id.* at 391.²⁸ Rather, “the focus should
11 be on whether the proposed modification is tailored to resolve the problems created
12 by the change in circumstances.” *Id.* A suitably tailored modification must “‘return
13 both parties as nearly as possible to where they would have been absent’ the
14 changed circumstances.” *Kelly v. Wengler*, 822 F.3d 1085, 1098 (9th Cir. 2016)
15 (quoting *Pigford v. Veneman*, 292 F.3d 918, 927 (D.C. Cir. 2002)).

16 Defendants have made no showing that termination is suitably tailored to the
17 purported changed circumstances they identify. *Flores I*, 828 F.3d at 910 (“[E]ven
18 if the parties did not anticipate an influx of this size, we cannot fathom how a
19

20 (9th Cir. 2001); *Cranshire Cap., L.P. v. CBTV-Star, LW, Inc.*, 70 F. App’x 434,
21 436 (9th Cir. 2003). Defendants failed to appeal from that order.

22 Defendants will also be free to challenge any order reinstating HHS’s Settlement
23 obligations when and if the Court issues one. (And, of course, Defendants could
24 always promulgate regulations that fully implement the Settlement.) Terminating
25 the Settlement now on the weight of speculation over what the Court may do in the
indeterminate future would be precipitous.

26 ²⁸ Although *Horne* refers to “an ongoing violation of federal law,” 557 U.S. at 454,
27 that case involved a litigated injunction, not a consent decree. No agreement of the
28 parties was at issue in *Horne*, nor, *a fortiori*, the concern for discouraging
settlement that animated the Court’s holding in *Rufo*.

1 ‘suitably tailored’ response to the change in circumstances would be to exempt an
2 entire category of migrants from the Settlement.”).²⁹

3 **VII. CONCLUSION.**

4 Nearly a decade ago, this Court began the first in a long series of orders
5 issued in this case by quoting Mahatma Gandhi: “‘An error does not become truth
6 by reason of multiplied propagation, nor does truth become error because nobody
7 sees it.’” *Flores v. Lynch, supra*, 212 F. Supp. 3d at 908.

8 Defendants’ instant motion merely continues the propagation of entrenched
9 error.³⁰ For the foregoing reasons, their motion should be denied.

10
11
12 Dated: January 20, 2025

CENTER FOR HUMAN RIGHTS AND
CONSTITUTIONAL LAW
Carlos R. Holguín
Bardis Vakili
Sarah Kahn

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19 _____
20 ²⁹ This is also consistent with contract law. In California, “courts will generally
21 sever illegal provisions and enforce a contract when nonenforcement will lead to
22 an undeserved benefit or detriment to one of the parties that would not further the
23 interests of justice.” *Armendariz v. Foundation Health Psychcare Servs., Inc.*, 24
24 Cal.4th 83, 127 (Cal. 2000); *see also Poublon v. C.H. Robinson Co.*, 846 F.3d
25 1251, 1273 (9th Cir. 2017) (“[T]he dispositive question is whether ‘the central
26 purpose of the contract’ is so tainted with illegality that there is no lawful object of
27 the contract to enforce.”) (citing *Marathon Entm’t v. Blasi*, 42 Cal.4th 974, 996
28 (Cal. 2008)). Full termination would plainly afford Defendants an undeserved
benefit.

³⁰ Defendants’ instant motion appears palpably lacking in substantial justification,
and Plaintiffs accordingly reserve the right to seek attorney’s fees and costs
pursuant to the Equal Access to Justice Act for opposing it.

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NATIONAL CENTER FOR YOUTH LAW
Mishan Wroe
Rebecca Wolozin
Diane de Gramont

CHILDREN’S RIGHTS
Leecia Welch
Eleanor Roberts

/s/ Carlos Holguín
Carlos Holguín
One of the Attorneys for Plaintiffs

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CERTIFICATE OF COMPLIANCE

I, the undersigned counsel of record for Plaintiffs, certify that this brief contains 11,768 words, which complies with the limit of 15,000 words allowed by this Court’s order [Doc. # 1568].

Dated: June 20, 2025.

/s/ Carlos Holguín

Carlos Holguín

Jenny L. Flores, et al. v. Pamela Bondi, et al.
Case No. CV 85-4544-DMG (AGRx)

Exhibit Index to Plaintiffs' Opposition to Motion to Terminate

Exhibit	Exhibit Description
1	Declaration of Leecia Welch, June 20, 2025
2	Declaration of Javier Hidalgo, June 20, 2025
3	Declaration of Mary Giovagnoli, June 13, 2025
4	Declaration of Tom Wong, June 18, 2025
5	Declaration of L.J.H.G. (Dilley), June 5, 2025 ("L.J.H.G.")
6	Declaration of E.M.L. (Karnes), March 27, 2025 ("E.M.L. Dec.")
7	Declaration of Y.F.A. (Dilley), May 1, 2025 ("Y.F.A. Dec.")
8	Declaration of C.M.Z. (Dilley), June 5, 2025 ("C.M.Z. Dec.")
9	Declaration of C.C.B.C. (Karnes), March 27, 2025 ("C.C.B.C. Dec.")
10	Declaration of N.K.N.N. (Dilley), June 5, 2025 ("N.K.N.N. Dec.")
11	Declaration of S.L. (Dilley), May 2, 2025 ("S.L. Dec.")
12	Declaration of I.K. (Karnes), March 27, 2025 ("I.K. Dec.")
13	Declaration of R.B.C. (Karnes), March 27, 2025 ("R.B.C. Dec.")
14	Declaration of E.D.C. (Karnes), March 27, 2025 ("E.D.C. Dec.")
15	Declaration of R.H.L. (Murphy Harpst), February 18, 2025 ("R.H.L. Dec.")
16	Declaration of J.J.Z.Y. (Murphy Harpst), February 18, 2025 ("J.J.Z.Y. Dec.")
17	Declaration of J.B.Z.V. (Murphy Harpst), September 12, 2024 ("J.B.Z.V. Dec.")

Previously Filed Declarations

Docket No.	Description
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1575-2	Ex. 2 to CBP MTE, Declaration of Diane de Gramont, June 12, 2025 [Doc. # 1575-2] ("de Gramont Dec.")
1575-5	Ex. 3 to CBP MTE, Declaration of T.M. (New York)
1575-11	Ex. 9 to CBP MTE, Declaration of M.I.J (San Diego), March 26, 2025, [Doc. # 1575-11] ("M.I.J. Dec.")
1575-16	Ex. 14 to CBP MTE, Declaration of A.T. (O'Hare Airport), May 1, 2025, Exh. 14 to CBP MTE [Doc. # 1575-16] ("A.T. Dec")
1575-23	Ex. 21 to CBP MTE, Declaration of S.G (Chula Vista), April 10, 2025 [Doc. # 1575-23] ("S.G. Dec.")
1575-24	Ex. 22 to CBP MTE, Declaration of A.K (Otay Mesa), March 26, 2025, ¶ 19 [Doc. # 1575-24] ("A.K. Dec.")
1575-25	Ex. 23 to CBP MTE, Declaration of S.K. (Otay Mesa), May 25, 2025 [Doc. # 1575-25] ("S.K. Dec.")

EXHIBIT 1

1 **Declaration of Leecia Welch**
2 **In Support of Plaintiffs’ Opposition to Defendants’ Motion to Terminate**

3 I, Leecia Welch, declare as follows:

4 1. I am the Deputy Litigation Director at Children's Rights. I am counsel
5 of record for the Plaintiffs in the above-captioned case. I execute this declaration in
6 support of Plaintiffs’ Opposition to Defendants’ Motion to Terminate the Flores
7 Settlement Agreement.

8 2. This declaration is based on my personal knowledge and if called to
9 testify in this case, I would testify competently about these facts.

10 3. Attached hereto as Exhibit A is a true and correct copy of an
11 attachment to an email communication that I sent to Defendants’ counsel on June
12 4, 2025 (“Plaintiffs' Counsel Letter to Defendants' Counsel re: Dilley Modified
13 Standards”). I was present at the May 30, 2025 conference of counsel referenced in
14 the letter (attached hereto as Exhibit A). The letter memorializes a conversation
15 with Defendants’ counsel during the May 30, 2025 conference.

16 4. Attached hereto as Exhibit B is an email communication sent from
17 Defendants’ counsel to Plaintiffs’ counsel (“Email from K. Masetta-Alvarez to C.
18 Holguín, et al., May 9, 2025”), which served as notice of the grounds on which
19 Defendants intended to move for termination of the Flores Settlement Agreement. I
20 was copied on this communication and reviewed this email.

21
22
23 I declare under penalty of perjury that the foregoing is true and correct. Executed
24 June 19, 2025, San Francisco, California.

25
26 /s/ Leecia Welch
27 Leecia Welch

EXHIBIT A



June 4, 2025

Joshua McCroskey
Trial Attorney
Office of Immigration Litigation
P.O. Box 868, Ben Franklin Station
Washington, DC 20044
to Joshua.C.McCroskey@usdoj.gov

Re: ICE violations of the Settlement Agreement

Dear Joshua:

We write to memorialize the parties' May 30, 2025 meet and confer regarding conditions at the Dilley Family Detention Center ("Dilley"). We appreciate your time and responses to our questions and ask that you respond in writing with any concerns or corrections to our understanding as set forth below no later than June 13, 2025.

Modification to 2020 Family Residential Standards

Defendants stated that the current modifications to the Family Residential Standards are not publicly available, but that you were willing to share them during our call. Plaintiffs' understanding of the modifications based on our conversation is as follows:

- **Section 2.8 Staff-Resident Communication:** This section has been modified to reflect faster staff-resident communication, , within 24-48 hours.
- **Section 3.1 Behavior Management:** This section has been modified to shorten the behavior management process such that administrative reviews are occurring more quickly.
- **Section 4.3 Health Care:** Defendants noted that the health care standards have not been modified.
- **Section 5.1 Correspondence and Other Mail:** Because of the length of stay at Dilley, mail and packages cannot be accommodated, but legal correspondence is being accommodated, and other correspondence can be requested and approved by the facility.
- **Section 5.2 Educational Policy:** As previously discussed, the educational policy standards have been modified such that children are grouped by age (, 9th to 12th graders grouped together) to receive one hour a day of education.
- **Sections 5.3 -5.5:** Standards for escorted trips for non-medical issues, marriage requests, and the voluntary work program are not in effect.
- **Section 5.6 Recreation:** Defendants noted that while there are many recreational activities, not all the activities laid out in the standard may be available at Dilley. Defendants stated recreational activities include:

Structured age-appropriate indoor and outdoor activities, educational packets, toys, games, puzzles, books, TV, PlayStation, large muscle activities, and time in the education room, gym, and child care facility;
Playground playscape in the outdoor recreation areas, plus additional playscapes have been ordered;
Handball, volleyball courts, shaded pavilion, soccer, games;
Structured gym activities on a daily or hourly basis (some pick-up, some more structured), storytelling with puppets, karaoke, etc.

- **Section 5.9 Visitation:** Defendants stated that they did not believe in-person visitation was available, but FaceTime calls are available upon request.
- **Section 6.1 Resident Handbook:** This section has been modified to reflect the other modifications.
- **Section 6.4 Legal Rights Group Presentations:** We did not discuss whether these standards have been modified, but Defendants said during our conversation that Know Your Rights (“KYR”) presentations have not been happening at Dilley.

As previously noted, the declaration of Dawnisha Helland submitted with Defendants’ Motion to Terminate indicates that: “ICE may make minor modifications to [the 2020 Family Residential Standards] depending on circumstances, such as when detention times are anticipated to be very short, but the facilities will generally meet all substantive requirements.” Declaration of Dawnisha Helland at ¶ 29. Plaintiffs disagree with Defendants that the modifications shared above are “minor.”

During our call, Defendants were not aware of any plans to memorialize the modifications to the 2020 Family Residential Standards. Plaintiffs stressed the importance of publishing these modified standards so that class members, their families and their advocates are aware of the operable standards and the expectations of CoreCivic and its staff.

Defendants’ Responses to Tour Questions

Defendants also shared the following information in response to Plaintiffs’ tour questions:

- **Time in custody:** ICE calculates a class member’s time in custody based on when they enter ICE custody; it is not cumulative with a class member’s time in CBP custody.
- **Length of stay:** Defendants’ understanding of Judge Gee’s ruling is that 20 days is not a hard and fast rule, but rather a benchmark for the amount of time class members can be in family detention before ICE either removes or releases them.
- **Courtrooms:** The courtrooms at Dilley are functional and being used for virtual hearings. Judges are virtual, but attorneys can appear either on site or virtually.

- **Childcare room:** The childcare services room is now available for class members when parents have court hearings, medical appointments, or need childcare.
- **Water:** Defendants confirmed that CoreCivic keeps copies of lab results of water testing and, in response to concerns Plaintiffs raised, the facility has tasted and smell-tested the resident water throughout the living spaces and did not note any concerns. Staff also has not reported receiving a pattern of water-quality complaints. Bottled water remains available for 1.21 per bottle.
- **Food:** Defendants reported that the child-friendly food options at Dilly now include: hot/cold cereal, eggs, potatoes, steamed rice, chicken, pasta, veggies, hamburgers, hot dogs, taquitos, and soft-tacos. There is also fresh fruits and vegetables, including a salad bar and self-serve items (salad bar, beans, rice, PB & J, etc.).
- **Legal services access:** Defendants stated that there is now a list of legal services providers available in English, Spanish, Chinese, and Arabic posted in the living suites, television rooms, and libraries; translation services are available for any residents who do not speak those languages; and all legal calls are free.
- **KYR access:** Defendants shared that there is no KYR provider in place at Dilley. ICE is still working on a provider or to get its own program to cover substantially the same material and they welcome proposals. Defendants were not aware of the status of the RAICES KYR that was used at Karnes and when Dilley first opened. ICE is assessing for a number of things regarding the content of the proposal.
- **Language Access:** Defendants stated that primary or preferred language is identified during the intake process. Dilley staff use their translation services for initial interviews and orientation about services and rights and responsibilities in the facility. Anything that requires a resident's signature is provided in the resident's preferred language or translated. Videos are played in a loop in English, Spanish, and French; the Language Line and mobile devices are used for translation. There is an ICE poster in 15 languages about how to ask for assistance if a resident does not speak English.
- **Library:** Class members can use the Internet and play games on the library computers; use personal email; and check out books from the library. Computers have safety and security settings to prevent access to adult content.
- **Grievance Procedure:** Defendants noted that grievances and medical requests are primarily submitted electronically on tablets, but they can also be submitted on paper in the grievance boxes. Designated staff check the boxes and retrieve any requests daily.

- **Phone Calls:** Defendants confirmed that domestic phone calls are .07 per minute; international land line calls are .15 per minute; and international mobile calls are .35 per minute. Individuals can request free calls to family or people helping with immigration proceedings.
- **Family Integrity:** Defendants clarified that fathers in dual parent families are permitted to be with their children from 6 am to 8 pm and can be alone with their children in the common areas. Fathers are not permitted in the living areas where the mothers are assigned and mothers may not go to living areas where fathers are assigned. Single-parent fathers with children are housed in a separate housing area with fathers and kids. Defendants were not sure if male children in dual-parent families are permitted to be housed with their fathers rather than their mothers.
- **Education:** Defendants confirmed that there is still just an hour of education per day based on age clusters.
- **Medical Services:** Defendants shared:

There are initial medical, dental, vulnerability, and mental health screenings upon arrival, and re-evaluation if there is a known acute or emergent condition.

There are sick-calls every day where medical professionals go to housing units and residents can identify in advance if they have something specific they want to talk about or have assessed during the sick call (general medical, dental, or mental health needs).

The facility has the capacity to provide different medications – some through pill lines, but more common ones like inhalers and topical creams are provided to residents directly.

There are 14 evaluation rooms including negative pressure rooms, AEDs and EKG machines, oral suction machines, blood pressure monitors, nebulizers, mobile radiology, and an x-ray machine

Urgent care is available right away and there is capacity to access off-site emergency care 24 hours per day.

They have capacity to provide routine and emergency dental care.

They have independently licensed mental health counselors that can be requested through the sick call process, but can also be requested on an urgent or emergency basis. If someone is identified as having an existing mental health condition, they will be regularly evaluated by mental health staff. Residents are advised that suicidal thoughts and expressing thoughts of self-harm is going to be a medical emergency and they should request help right away. Group counseling is not yet available.

As of Friday, May 30, there had been no suicide attempts at the facility since it opened in April.

The “fasting pill call” is between 5 and 6 am.

Thank you again for providing substantive responses to our tour questions. As we discussed, we will follow up with Defendants about any violations of the modified standards and the FSA that Plaintiffs identify during our Dilley site visit today and tomorrow.

Best wishes,

A handwritten signature in black ink, appearing to read 'Leecia Welch', with a red circular stamp or mark over the 'e' in 'Welch'.

Leecia Welch

EXHIBIT B



Sarah Kahn <sarah@centerforhumanrights.org>

Flores v. Bondi, No. 85-cv-4544-DMG - Notice pursuant to Local Rule 7-3

Masetta Alvarez, Katelyn (CIV) <Katelyn.Masetta.Alvarez@usdoj.gov>

Fri, May 9, 2025 at 1:19 PM

To: Carlos Holguin <crholguin@centerforhumanrights.org>

Cc: Mishan Wroe <mwroe@youthlaw.org>, Diane de Gramont <ddegramont@youthlaw.org>, Sarah Kahn <sarah@centerforhumanrights.org>, Leecia Welch <lwelch@childrensrights.org>, Eleanor Roberts <ERoberts@childrensrights.org>, Becky Wolozin <bwolozin@youthlaw.org>, "Parascandola, Christina (CIV)" <Christina.Parascandola@usdoj.gov>, "Celone, Michael A. (CIV)" <Michael.A.Celone@usdoj.gov>, "Silvis, William (CIV)" <William.Silvis@usdoj.gov>, "McCroskey, Joshua C. (CIV)" <Joshua.C.McCroskey@usdoj.gov>, "Vick, Lindsay (CIV)" <Lindsay.Vick@usdoj.gov>

Dear Carlos,

It is important that we meet soon. Is class counsel not available today? If not, please provide the earliest time when you can meet on Monday, May 12, 2025.

Defendants seek to terminate the Flores Settlement Agreement ("FSA") on multiple grounds, including that: (1) under 8 U.S.C. § 1252(f)(1) the Court lacked jurisdiction to enter the classwide injunction; (2) events subsequent to the entry of the FSA in 1997, in agency policies, practices, and procedures, obviate the need for the FSA; (3) continued enforcement of the FSA violates the Constitution's separation of powers principles; (4) the FSA's terms violate the APA; and (5) the FSA is no longer equitable in light of changes that have taken place since 1997.

Thank you,

Kate

Katelyn Masetta-Alvarez

Senior Litigation Counsel

United States Department of Justice

Civil Division

Office of Immigration Litigation

P.O. Box 878, Ben Franklin Station

Washington, D.C. 20044

Tel. (202) 514-0120

From: Carlos Holguín <crholguin@centerforhumanrights.org>

Sent: Friday, May 9, 2025 2:08 PM

To: Masetta Alvarez, Katelyn (CIV) <Katelyn.Masetta.Alvarez@usdoj.gov>

Cc: Mishan Wroe <mwroe@youthlaw.org>; Diane de Gramont <ddegramont@youthlaw.org>; Sarah Kahn

<sarah@centerforhumanrights.org>; Leecia Welch <lwelch@childrensrights.org>; Eleanor Roberts <ERoberts@childrensrights.org>; Becky Wolozin <bwolozin@youthlaw.org>; Parascandola, Christina (CIV) <Christina.Parascandola@usdoj.gov>; Celone, Michael A. (CIV) <Michael.A.Celone@usdoj.gov>; Silvis, William (CIV) <William.Silvis@usdoj.gov>; McCroskey, Joshua C. (CIV) <Joshua.C.McCroskey@usdoj.gov>; Vick, Lindsay (CIV) <Lindsay.Vick@usdoj.gov>

Subject: [EXTERNAL] Re: Flores v. Bondi, No. 85-cv-4544-DMG - Notice pursuant to Local Rule 7-3

Dear Counsel,

Plaintiffs are available to confer on Wednesday, May 14, at 8:30 am pacific.

Please forward a meeting link or conference call number at your earliest convenience.

Thank you,

Carlos Holguín
General Counsel
Center for Human Rights & Constitutional Law
(213) 290-1642 (direct)
213.386.9484 (fax)
<http://www.centerforhumanrights.org>

On May 9, 2025, at 7:24 AM, Masetta Alvarez, Katelyn (CIV) <Katelyn.Masetta.Alvarez@usdoj.gov> wrote:

Dear Counsel,

We provide this notice pursuant to Local Rule 7-3. The government plans to move to terminate, as to all defendants, the *Flores* Settlement Agreement entered in 1997 and amended in 2001. Please let us know a time today when we may discuss the substance of the motion and determine whether the parties may be able to resolve the matter.

Thank you,

Kate

Katelyn Masetta-Alvarez

Senior Litigation Counsel

United States Department of Justice, Civil Division

Office of Immigration Litigation

P.O. Box 878, Ben Franklin Station

Washington, D.C. 20044

Page ID #:54368

Tel. (202) 514-0120

Katelyn.masetta.alvarez@usdoj.gov

EXHIBIT 2

DECLARATION OF JAVIER HIDALGO

I, Javier Hidalgo, declare as follows:

1. I am a Legal Director at Refugee and Immigration Center for Education and Legal Services (RAICES), a legal service provider that defends the rights of immigrants and refugees, empowers individuals, and advocates for liberty and justice. I am an attorney licensed to practice law in Texas and New York.

2. This declaration is based on my own personal knowledge, observations, and legal work with children and families who are or were previously detained at Karnes Immigration Processing Center (Karnes) and Dilley Immigration Processing Center (Dilley), except as to those matters based on information and belief, which I believe to be true. If called to testify in this case, I would testify competently about these facts.

Experience Providing Legal Services to Youth in ORR and ICE Detention

3. I am a Legal Director at RAICES. I joined RAICES in 2018 and have served in my current role since 2023. Before I assumed my current position, I worked as a unit director, and before that as a supervisor and staff attorney. In my role as Legal Director, I work closely with and oversee the work of our Asylum Access Services program (previously known as our Family Detention Services program), which, among other things, serves families detained in Immigration and Customs Enforcement (ICE) family residential centers such as Dilley and Karnes.

1 4. RAICES provides free legal services to families in ICE detention in Karnes and
2 Dilley. Families can contact our team free of charge via the Talton pro bono platform.
3 RAICES is also listed as a pro bono legal services provider on the Executive Office for
4 Immigration Review (EOIR) list provided to families when they arrive at Dilley or
5 Karnes. RAICES has provided pro bono legal services to detained families since 2014. A
6 separate team within RAICES has historically provided legal services to minors in the
7 custody of the Office of Refugee Resettlement (ORR).

8 **Concerns with ICE Family Detention**

9 5. RAICES attorneys have assisted over 90 families since family detention re-started
10 in March 2025.

11 6. Detention in prison-like conditions causes severe harm to children. Moreover,
12 RAICES staff, including myself, have observed that the longer a child remains in ICE
13 custody in a family residential center, the more harm they suffer. Continued and
14 prolonged detention puts class members at risk of immediate and irreparable harm.

15 7. These concerns are validated by a recent study conducted by doctors at Harvard
16 University and Massachusetts General Hospital with the assistance of RAICES, which
17 found “deprivation of liberty, often times accompanied by limited access to basic
18 healthcare whilst in detention, exacerbates existing health problems and may precipitate
19 new morbidities.” Shela Sridhar et al., *Child Migrants in Family Immigration Detention*
20 *in the U.S.: An Examination of Current Pediatric Care Standards and Practices* 37

1 (2023), available at <https://globalhealth.harvard.edu/wp-content/uploads/2024/01/Child->
2 [Migrants-in-Family-Immigration-Detention-in-the-US.pdf](https://globalhealth.harvard.edu/wp-content/uploads/2024/01/Child-Migrants-in-Family-Immigration-Detention-in-the-US.pdf). The study concludes that
3 “detention is never in the best interest of children and child detention must end.
4 Immigration detention harms children’s mental and physical health at a crucial time of
5 physical, mental, and social development.” *Id.* at 2.

6 8. Of the approximately 90 families RAICES has helped since March 2025, we have
7 had nearly 40 reports of medical concerns from our clients. This is not surprising,
8 because prolonged and indefinite stays in detention severely harm children. As just one
9 example, a family we serve has neurodivergent children who have become agitated over
10 time in detention. The older of the two children, who experienced trauma directly before
11 coming to the United States, has also become unresponsive at times. We also served a
12 family with a nine-month-old baby who lost 4 kg (8.82 lb) over a month’s time in Dilley.

13 9. Many of the concerns raised by our recent clients include inadequate medical care
14 from the staff at Dilley. For example, we serve a family whose young son has cancer.
15 Because his family was detained by ICE following an immigration court hearing, he
16 missed a check-in appointment to monitor his cancer and is now experiencing symptoms
17 that are consistent with a recurrence. Yet his family has not been given the opportunity
18 even to monitor his cancer, much less to continue any needed treatments. We served
19 another small child who suffered a head injury while in the custody of U.S. Customs and
20 Border Protection and has not received a neurological evaluation. We served a family

1 whose daughter has cystic fibrosis and is not being given her medicine at Dilley despite
2 doctor’s instructions to do so. And we served a family with a three-year-old child who
3 suffers from multiple medical conditions that require ongoing, consistent care but went at
4 least five days in a row without medical care of any kind at Dilley.

5 **Dilley does not comply with either the Flores Settlement Agreement or the 2020**
6 **Family Residential Standards.**

7 10. I have reviewed the Declaration of Dawnisha Helland attached to Defendants’
8 Motion to Terminate and am familiar with the 2020 Family Residential Standards. Ms.
9 Helland states in paragraph 29 of her declaration that “ICE may make minor
10 modifications” to these standards, but in our experience, Dilley is seriously out of
11 compliance with these standards in many areas, including language access, education,
12 legal services, and visitation.

13 11. To the extent Dilley is operating under modified standards, such modifications are
14 not publicly available. This creates a significant barrier for advocates: without knowledge
15 of the standard, we cannot inform families of relevant protections or their rights.
16 Moreover, this lack of transparency, coupled with the recent reductions at DHS Office for
17 Civil Rights and Civil Liberties and the Office of the Immigration Detention
18 Ombudsman, effectively removes all internal means of securing accountability for
19 violations or protection for detained families. In addition, these standards are subject to
20 change at any time. Families report that standards/rules at Dilley change frequently.

1 Even where standards/rules are in place, families report the standards/rules are not
2 consistently practiced by officers and guards working in Dilley. For example, families
3 were told they are allowed to use the gym, but families report they have not been allowed
4 to use the facility and are sent outside by staff. Other staff will then tell the families not to
5 be outside because it is too hot and dangerous to their health. This leaves families
6 frustrated because their movement within Dilley is severely restricted. This chaos and
7 uncertainty is detrimental to the wellbeing of children and families.

8 12. Language access is a serious concern at Dilley and far out of compliance with
9 requirements of the Family Residential Standards as addressed on pages 4-5 of the
10 publicly available version of the standards. In our experience the staff at Dilley mainly
11 speak English; if they do speak a second language it is almost certainly Spanish. We are
12 seeing families detained from many different countries who speak neither English nor
13 Spanish. Many families are provided materials and asked to sign documents that are only
14 in English and not in a language they understand, potentially resulting in coerced waiver
15 of rights. Conversations with ICE agents are also not carried out in a person's native
16 language. One of our clients has spent 26 days in Dilley while having only one
17 conversation with guards or ICE agents at which an interpreter was present.

18 13. Standard 6.4 of the Family Residential Standards states that legal service providers
19 can request approval to provide legal-rights group presentations. RAICES has been
20 providing approved legal-rights group presentations at Karnes for several years. When it

1 became known that ICE would begin using Dilley to detain families, RAICES also
2 learned there was a need for a legal service provider to provide legal-rights group
3 presentations at Dilley. This need is exacerbated by recent reports that the government
4 will be ending its contracts for the provision of legal orientation programs, including at
5 family residential centers. On or about April 22, 2025, I provided ICE Assistant Field
6 Officer Director Melissa De Leon a request to provide legal rights group presentations at
7 Dilley. In compliance with Standard 6.4, I included a detailed outline for a presentation
8 substantially similar to the outline previously submitted and approved for use at Karnes.
9 While Ms. De Leon initially approved the presentation and allowed our team to provide a
10 presentation that first week, the following week she wrote that we needed to “revisit” the
11 presentation because it would need to be approved by the Field Office Director. After
12 providing the requested materials for the Field Office Director to review, on May 5,
13 2025, Ms. De Leon informed me that ICE’s Office of Principle Legal Advisor (OPLA)
14 found the presentation does not meet the requirements of Section 6.4. Since Section 6.4
15 does not enumerate specific requirements, I asked Ms. De Leon what in the proposed
16 presentation did not meet the requirements and which requirements were not met.
17 Because I have not yet received an answer to that inquiry, I have had to submit a
18 Freedom of Information Act request seeking this information.

19 14. In addition to providing families with information about their rights, the legal
20 rights group presentations serve as a way to let families detained in Dilley know about

1 our services and that we are available to provide support. Without legal rights group
2 presentations, fewer families are made aware of the legal services we make available to
3 them.

4 15. Standard 5.9 of the Family Residential Standards allows for visitation from family
5 members and community service organizations. Nevertheless, ICE has consistently
6 denied such visitations to families detained in Dilley. We understand ICE claims to be
7 operating under a modified standard, but to date no such standard has been publicly
8 disclosed.

9 16. Standard 5.2 of the Family Residential Standards addresses education for children
10 at Dilley, but families report that their children receive no formal education. I am
11 informed that only one hour of education per day in mixed-age groups is available. For
12 example, 9th-12th graders receive one hour of education in a combined group. The lack of
13 education and structure only exacerbate the harm of detention for children, some of
14 whom were attending school here in the United States prior to being detained in Dilley.

15 17. Families also often disclose to us that Dilley has a lack of appropriate dietary
16 options that negatively affects the health of their children. Families report that their
17 children often refuse to eat the available food or get sick from eating it. Families describe
18 the long lines at the cafeteria in Dilley, stating they have to wait outside in the heat for
19 approximately 20-25 minutes at meal times. Once inside, the cafeteria is infested with
20 flies, and families report finding dead flies in their food daily. Parents also report that the

1 water offered tastes bad and makes the children sick. Nonetheless, this is the only water
2 offered for free for use in mixing with formula for infants. The only alternative available
3 to parents is to pay for packaged snack food and bottled water. Many families are unable
4 to afford this, particularly when subjected to prolonged periods of detention with their
5 tender-aged children.

6 18. Defendants also state that children are being provided all the relief sought in the
7 original Flores Complaint, but that is certainly not the case at Dilley. As discussed above,
8 children have no formal education, no visitation, and limited access to attorneys.
9 Children have to pay to make phone calls to family, making their sudden separation from
10 their friends, family, schools, religious practices, and communities all the more traumatic.
11 Children report that many ICE officers are rude or harsh and fail to treat them with
12 dignity and concern for their wellbeing. Fundamentally, ICE detention is an extremely
13 restrictive and carceral setting not licensed for the care of children, and children
14 consistently describe it as scary, depressing, and punitive.

15 **Family Detention Is Inhumane and Unnecessary**

16 19. Defendants' concern about so-called "absconders" is entirely unfounded. Many of
17 the families detained at Dilley were detained while attending their scheduled immigration
18 court hearings around the nation. These are often families who have been living here for
19 some time. The minor children are often attending school in their community. These are
20 all families who are complying with their legal obligations and present no flight risk.

1 **Importance of Flores Settlement Agreement**

2 20. Since I began working with detained families in August 2018, the protections set
3 forth in the Flores Settlement Agreement have served as a check against the inhumane
4 treatment of children ICE keeps in settings indistinguishable from adult prisons. The
5 ability to identify and escalate violations of the Agreement to class counsel and this Court
6 has time and again ameliorated many of the most harmful behaviors by ICE. And yet ICE
7 continually refuses to voluntarily comply with the settlement. Vigilant monitoring and
8 constant efforts to hold ICE accountable continue to be necessary to protect children
9 detained in Dilley. This is true even in the extremely basic realm of the length of
10 detention. Although ICE generally complied with the 20-day limit on detention when it
11 first restarted family detention, it has been steadily growing less compliant with that limit
12 over time. There are now class members who have been detained for at least 50 days, and
13 more than 15 families RAICES is working with have been detained over 25 days. If the
14 Agreement is terminated, ICE would have no incentive to avoid prolonged detention of
15 children in facilities that are not licensed childcare facilities and that are in no way
16 appropriate for the detention of children.

1 I declare under penalty of perjury that the foregoing is true and correct. Executed
2 on this 20th day of June, 2025, at San Antonio, Texas.

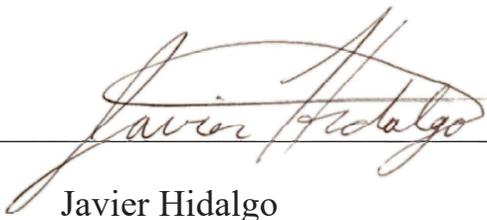
3
4  A handwritten signature in cursive script, reading "Javier Hidalgo", is written over a horizontal line. The signature is in black ink and is centered horizontally.
5 Javier Hidalgo

EXHIBIT 3

Declaration of Mary Giovagnoli

I, Mary Giovagnoli, declare as follows:

1. This declaration is based on my personal knowledge and the following facts are true to the best of my understanding and recollection.

Professional Background

2. My name is Mary Giovagnoli. I am an attorney licensed to practice law in the State of Wisconsin.

3. In September 1996, I joined the Immigration and Naturalization Service through the Department of Justice Honors Attorney Program, serving initially as a trial attorney in Chicago, Illinois. In 1997, I joined the INS Office of General Counsel's Asylum and Refugee Law Division. My portfolio included children's asylum issues, expedited removal, and detention. I was one of the drafters of the 1998 Children's Asylum Guidelines and worked extensively on legal issues arising from the care of unaccompanied children in INS custody. Following the creation of the Department of Homeland Security, I was transferred to the United States Citizenship and Immigration Services Office of the Chief Counsel, where I continued to cover children's immigration issues, including the transfer of jurisdiction over unaccompanied children from the legacy INS to the Department of Health and Human Services. I continued this work until January 2005 when I became the Senior Advisor for Congressional Relations at USCIS. I left USCIS in 2008 to pursue immigration policy work at various non-profits.

4. In February 2015, I was appointed to the position of Deputy Assistant Secretary for Immigration Policy, a political Senior Executive Service position, which I held until January 20, 2017. During that time, my portfolio covered a range of immigration issues, and once again included unaccompanied children's

1 issues, this time with a focus on interagency cooperation and coordination in light
2 of the rapid rise in the number of unaccompanied children entering the United
3 States. My duties included working closely with staff from the Office of Refugee
4 Resettlement to improve communication, track emerging issues, and attempt to
5 resolve policy disputes between DHS agencies and ORR. This work included
6 completing negotiations on a memorandum of understanding governing
7 interactions between the agencies.

8 5. After my departure from DHS, I served in various non-profit roles, including
9 Executive Director for the Refugee Council USA (2018-2019), and as a Senior
10 Legal Counsel and Senior Counsel for Policy and Advocacy at Kids in Need of
11 Defense (2019-2024), a 501(c)(3) organization serving unaccompanied children
12 through legal representation, social services support, and policy work. In both
13 positions with KIND, I addressed a broad range of legal and policy issues affecting
14 unaccompanied children and served as the policy advisor for the Keeping Kids
15 Safe campaign, an initiative advocating for a new statutory framework for
16 addressing the immigration needs of children.

17 6. In October 2024 I resigned from KIND to become the first Ombuds for
18 Unaccompanied Children at the Department of Health and Human Services.

19
20 Creation of UC Office of the Ombuds

21 7. The UC Office of the Ombuds (“UCOO”) was established by the
22 Unaccompanied Children Program Foundational Rule (“Foundational Rule”), 45
23 CFR part 410 , subpart K (effective July 1, 2024), pursuant to the authority
24 provided to the Secretary of HHS to “establish policies and programs to ensure that
25 unaccompanied alien children in the United States are protected from traffickers
26 and other persons seeking to victimize or otherwise engage such children in
27
28

1 criminal, harmful, or exploitative activity” under the William Wilberforce
2 Trafficking Victims Protection Reauthorization Act, 8 USC 1232.

3 8. On December 12, 2024, the Administration for Children and Families
4 (“ACF”) published the UCOO Statement of Organization, Functions, and
5 Delegation of Authority, which formally established the office as an independent
6 component within the Immediate Office of the Assistant Secretary. *See* 89 Fed.
7 Reg. 99,875.

8 9. As outlined in the Foundational Rule, the UCOO was created as to “be an
9 independent, impartial office,” with a mission to ensure the protection and well-
10 being of unaccompanied children during their time in government care and
11 custody, through the discharge process, and while residing in the community. 45
12 C.F.R. §§ 410.2000(b), 410.2002(a). It is a critical mechanism for expanding
13 government efforts to ensure that providers meet the highest standards of care, that
14 children are protected from trafficking and other harms, and that government
15 resources are used responsibly.

16 10. Under the regulation, the Ombuds is authorized to receive reports of
17 concerns regarding ORR’s care and custody of unaccompanied children,
18 investigate such reports, work collaboratively with ORR to resolve issues, issue
19 reports concerning the office’s own efforts, and make recommendations to ORR
20 regarding program policies and procedures specific to protecting children in the
21 care of ORR, and to provide advice and recommendations to the Assistant
22 Secretary for Children and Families and other senior HHS officials. 45 C.F.R.
23 § 410.2002(a). The UC Office of Ombuds is also responsible for investigating
24 ORR’s adherence to Federal law and ORR regulations and issuing findings and
25 recommendations for improvement, thereby enhancing oversight and
26 accountability for ORR’s care and custody of UAC. *Id.* At a minimum, the
27 regulation directs the Ombuds to issue an annual report addressing the office’s
28

1 activities, contemplates active engagement with stakeholders, and recommends a
2 staffing model sufficient to fully investigate cases and inquiries brought to the
3 Ombuds. *Id.*; 45 C.F.R. § 410.2003. In the discussion of staffing included in the
4 publication of the Final Rule, HHS indicated that the Office would initially be
5 funded for ten full-time staff. Preamble to Foundational Rule, 89 Fed. Reg. 34,581.

6 11. The Foundational Rule contemplates that the Ombuds Office would have
7 timely access to unaccompanied children, ORR care provider facilities, children’s
8 case files, care provider and federal staff, and statistical and other data. 45 C.F.R.
9 § 410.2002(a)(5), (6); 45 C.F.R. § 410.2002(b).

10 12. Although the office officially “opened for business,” on July 1, 2024, it was
11 not yet operational. The first staff member, a senior advisor, joined the office in
12 August. She began to receive and investigate inquiries soon thereafter. I was hired
13 at the end of August/beginning of September and entered on duty on October 20,
14 2024. As the Ombuds and the Director of the Office, I worked closely with my
15 senior advisor, who later became the Deputy Director, to set up an organization
16 that would fulfill the duties of the office and embody the core principles of ombuds
17 work: independence, impartiality, and confidentiality. We worked diligently to set
18 up all required government operations systems and protocols regarding the
19 protection of personally identifiable information, record keeping, information
20 systems integrity and other matters.

21 13. We acted quickly to bring on staff with expertise in child welfare and
22 custodial care, hiring three case managers and a supervisory case manager to
23 conduct initial research and investigation into cases; these four staff members
24 joined the office in December 2024. In January 2025, our administrative assistant
25 joined the office. We were unable to fill two other posted positions, a
26 communications specialist and a data analyst, prior to the hiring freeze imposed
27 around the time of President Trump’s inauguration. We attempted to fill a senior
28

1 advisor position temporarily through a detail announcement until such time as
2 normal hiring practices were resumed.

3 14. Much of my work prior to the inauguration involved establishing the office's
4 ability to fulfill its mission. This required educating stakeholders, including
5 government employees, about the nature of our work, our emphasis on confidential
6 communications, problem solving, and most importantly, our independence from
7 the Office of Refugee Resettlement. Ensuring the ability to visit shelters and other
8 custodial care sites without interference, to speak privately with unaccompanied
9 children, facility personnel, and government staff, and to access sensitive data
10 regarding unaccompanied children, as contemplated by the Foundational Rule,
11 were all critical components of our mission. We spent several months negotiating
12 a memorandum of agreement ("MOA") with staff from the Unaccompanied
13 Children's Program outlining procedures for visiting facilities, conducting
14 interviews, reviewing new policies and procedures, data sharing and protection,
15 and identifying areas for further research and cooperation.

16 15. In January of 2025, we completed negotiations on the MOA and notified
17 ORR of our plans to conduct site visits in late January, February and March. We
18 also published our office charter which laid out our methods of engagement with
19 the public and constituted an agreement between the Ombuds and the head of the
20 Administration for Children and Families recognizing the duties of each party to
21 maintain the independence of the Ombuds office, including limiting access to
22 certain types of information that could be shared with senior agency officials.

23 16. All these safeguards were necessary to ensure that the UCOO would be able
24 to closely monitor implementation of the Foundational Rule without interference
25 and with direct and protected lines of communication to children, their families,
26 the public, and government contractors and employees. Our office was not
27 designed to conduct investigations for criminal matters of fraud, abuse, or
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1 exploitation, but instead to address the types of problems and concerns that arise
2 from everyday management of a complex program involving children. I frequently
3 told people that we were there to identify issues before they became problems and
4 problems before they became crises.

5
6 Barriers to Independent Oversight by Office of Ombuds

7 17. Beginning on January 20, 2025, my office was prevented from fully
8 conducting its work. The new administration put a hold on all travel and
9 stakeholder engagement almost immediately. Although there was a process for
10 travel waivers, we were not granted waivers to travel. We were forced to cancel a
11 planned national stakeholder engagement as well. We continued to work
12 individual cases but did not have the authority to visit sites where violations or
13 problems had allegedly occurred, which made it difficult to fulfill our regulatory
14 mandate to conduct investigations and monitor ORR's compliance with federal law
15 and policy.

16 18. Within the first few weeks of the administration, I received a copy of an
17 email which instructed the Office of Communications at ACF to remove
18 information about the Ombuds office from the main page of the ORR website,
19 based on specific direction from "the White House." We were eventually able to
20 work with ORR to place information about the office elsewhere on the website, but
21 the direct order to remove information about the Ombuds office concerned me
22 because it would make it difficult for stakeholders, particularly children and
23 sponsors who might not be aware that an ombuds office existed, to find and use
24 our services, as the information about the office included a link to our complaint
25 form.

26 19. Because my office was brand new, 4 of the 7 staff members, including me,
27 were considered probationary employees. Four of our staff members were also
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1 hired as remote workers, ensuring that our office had greater national coverage and
2 that our case managers were “on the ground,” and better able to respond quickly to
3 urgent situations. Throughout January and February, I responded to numerous
4 requests for information on both my probationary workers and remote workers,
5 limiting my own ability to conduct Ombuds related work.

6 20. On February 14, 2025, I was removed from the position of UCOO Ombuds,
7 allegedly because my skills and expertise did not meet government needs and
8 because of poor performance but placed on administrative leave. The remaining
9 three probationary employees received the same notice and were placed on
10 administrative leave. Our terminations were supposed to be effective on March 14,
11 2025, but intervening court orders resulted in the cancellation of my termination. I
12 remained on administrative leave until May 8, 2025, when I was notified that my
13 earlier firing had not been performance based but was part of a mass firing of
14 probationary employees. At the same time, however, I was also informed that I
15 was now being terminated because my continued employment did not advance the
16 public interest.

17 21. As a practical matter, my termination and that of other probationary
18 employees deprived the office of its leader and cut the Ombuds office in half,
19 severely limiting the office’s ability to conduct its work. I subsequently learned
20 that a career official in the Office of Administration, with no expertise in children’s
21 issues or immigration, was serving as the Acting Ombuds. It is my understanding
22 that the current Acting Ombuds has taken on this position as an ancillary duty to
23 his role as Acting Associate Commissioner and Deputy Associate Commissioner
24 of the Children’s Bureau within the Administration for Children and Families
25 (ACF). I am concerned that, despite the day-to-day management of the office by
26 the UCOO Deputy Director, who is a highly qualified individual, the ability to
27 preserve the independence of the office and to fulfill its mission is being
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1 undermined by the fact that the Acting Ombuds is simultaneously holding a
2 separate senior position within ACF.

3 22. Based on my observations and conversations with non-profit leaders, the
4 Ombuds office is still unable to conduct stakeholder engagements. I have spoken
5 to many people who were surprised to learn that the office continues to exist,
6 because they assumed that, as a new office, all the team must have been
7 probationary. The inability of the remaining staffers to conduct outreach and meet
8 with stakeholders, particularly during site visits, impairs the office's ability to build
9 trust, to identify emerging problems, and to make people aware of the services
10 UCOO provides.

11 23. To my knowledge the UCOO has not yet conducted site visits, although I
12 understand that a new system for approving travel has been put in place at HHS. I
13 am concerned that the decision of whether and when to travel for site visits will no
14 longer be within the UCOO's discretion but will be subject to scrutiny that could
15 compromise confidential information or other elements of an investigation.

16 24. At the time of my departure, my office was not being invited to meetings
17 within ORR that led to many significant policy changes that have made it more
18 difficult for children to be released to sponsors. I attempted to warn the Acting
19 Principal Deputy Assistant Secretary, Andrew Gradison, that increasing the
20 eligibility requirements for potential sponsors would result in longer periods of
21 custody for children, and that if ORR proceeded with the plan, it would require
22 increasing services to these children based on the emotional, educational, and other
23 harms that could result from prolonged custody. I was told that the length of time
24 and the services available did not matter if children were being protected from
25 traffickers. As I feared, the number of children released to sponsors has declined
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1 exponentially over the past several months and children's length of stay in custody
2 have greatly lengthened.¹

3 25. I am deeply concerned that the current administration intends to sideline the
4 Ombuds office, as it has already done with the statutory Office of the Immigration
5 Detention Ombudsman and the USCIS Ombudsman's Office, reducing vital
6 independent oversight to nothing more than a hollow title. Without the kind of
7 internal accountability and impartial assessment of policy changes that the Ombuds
8 office could provide, there is no confidential recourse for raising concerns about
9 the treatment of unaccompanied children that do not rise to the level of criminal or
10 other illegal activity. I believe this will have a chilling effect on the ability of
11 children and the public to report violations of ORR's regulations and policies and
12 challenge other decisions regarding unaccompanied children and will allow the
13 government to implement policies that are not in the best interest of children.

14
15 I declare under penalty of perjury that the foregoing is true and correct to the best
16 of my knowledge. Executed on this 13th day of June, 2025, at Washington, D.C.

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20 Mary E Giovagnoli

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¹ See ORR Fact Sheets and Data, Average Monthly Data,
26 <https://acf.gov/orr/about/ucs/facts-and-data> (average length of care for children
27 discharged from ORR custody has increased from 37 days in January 2025 to 191
28 days in May 2025); *id.*, Released to Sponsors (number of children released to
sponsors has declined from 5,151 in January 2025 to 118 in May 2025).

EXHIBIT 4

Declaration of Tom K. Wong

I, Tom K. Wong, declare as follows:

1. I have personal knowledge of the facts set forth in this declaration. If called as a witness, I could and would testify competently to the matters set forth below.

2. I submit this declaration in support of Plaintiffs' Opposition to Defendant's Motion to Terminate the *Flores* Settlement Agreement, in *Flores v. Barr*, Case No. 85-cv-4544-DMG (AGRx), in the Central District of California. This declaration updates my September 11, 2019, declaration in support of Plaintiffs' prior opposition to termination of the *Flores* agreement. Specifically, I offer analysis illustrating that the 2015 *Flores* ruling did not cause an increase in family migration.

3. I am a tenured Associate Professor at the University of California, San Diego (UCSD). I work in the Political Science Department, which is consistently ranked as one of the top ten political science departments nationally. I first joined the Political Science Department at UCSD in 2012, and became an Associate Professor with tenure in 2016. At UCSD, I am also the Director of the U.S. Immigration Policy Center (USIPC), which I founded in 2018, and the Co-Director of the Human Rights and Migration Program Minor.

4. I hold a B.A. and a Ph.D. in Political Science from the University of California, Riverside.

5. Outside of academia, I have consulted and advised in the government and philanthropic sectors. From 2015-2016, I served as an advisor to the White House Initiative on Asian Americans and Pacific Islanders, where I worked on the immigration portfolio. I am also on the board of the California Immigrant Policy Center and served on the advisory council of Unbound Philanthropy.

6. I am an expert on U.S. immigration policy. I have written two peer-reviewed books and dozens of peer-reviewed journal articles, book chapters, and reports on this subject.

7. I also have expertise in the conceptualization, design, and implementation of survey research, including surveying hard-to-reach undocumented populations. Several of the peer-reviewed academic journal articles and reports that I have published are based on survey

1 research that I conceptualized, designed, and implemented. This includes embedding survey
2 experiments into questionnaires in order to randomize respondents to different experimental
3 conditions to identify causal treatment effects.

4 **The 2015 *Flores* Ruling Did Not Increase the Number of Apprehensions of Families at the**
5 **Southwest Border**

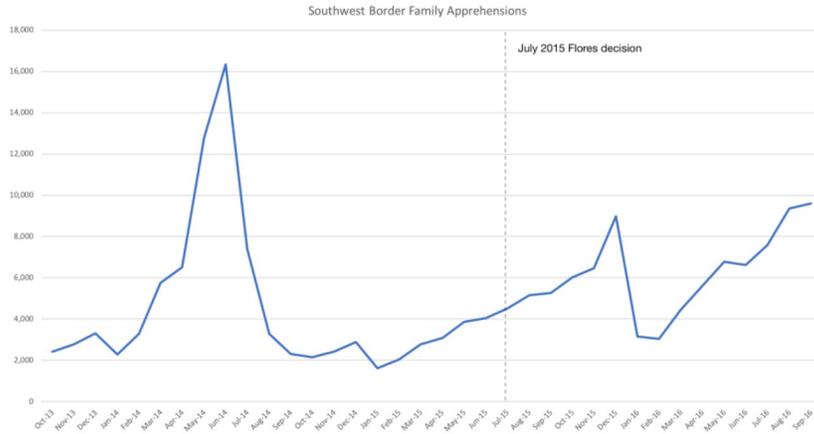
6 8. In a Notice of Proposed Rulemaking (NPRM) titled, “Apprehension, Processing,
7 Care, and Custody of Alien Minors and Unaccompanied Alien Children” published September 7,
8 2018, the Department of Homeland Security (DHS) alleged that a 2015 federal court ruling on the
9 *Flores* Settlement Agreement (henceforth referred to as the 2015 *Flores* ruling) led to an increase
10 in the number of families arriving at the southwest border. DHS alleged that the 2015 *Flores*
11 ruling “severely limited the ability to maintain detention of families together” and “those
12 limitations correlated with a sharp increase in family migration.”¹ DHS acknowledged that “it is
13 difficult to definitely prove the casual link” between the 2015 *Flores* ruling and an increase in
14 family migration. Nevertheless, in its Final Rule published August 23, 2019, DHS restated its
15 position that the 2015 *Flores* ruling “correlated with a sharp increase in family migration.”²

16 9. As a preliminary matter, the Government’s claims about correlation obfuscate the
17 fact that the 2015 *Flores* ruling came in the midst of an increasing trend of migrant family
18 apprehensions, as the graph below, produced by New York University Professors Adam Cox and
19 Ryan Goodman based on CPB apprehension data, shows:

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24 ¹ U.S. Department of Homeland Security (DHS). “Apprehension, Processing, Care, and Custody
25 of Alien Minors and Unaccompanied Alien Children,” September 7, 2018, pgs. 45493-45494. Online at
(last accessed 9/10/19): <https://www.regulations.gov/document?D=ICEB-2018-0002-0001>

26 ² U.S. Department of Homeland Security (DHS). “Apprehension, Processing, Care, and Custody
27 of Alien Minors and Unaccompanied Alien Children,” August 23, 2019, pgs. 44484. Online at (last
28 accessed 9/10/19): <https://www.federalregister.gov/documents/2019/08/23/2019-17927/apprehension-processing-care-and-custody-of-alien-minors-and-unaccompanied-alien-children>

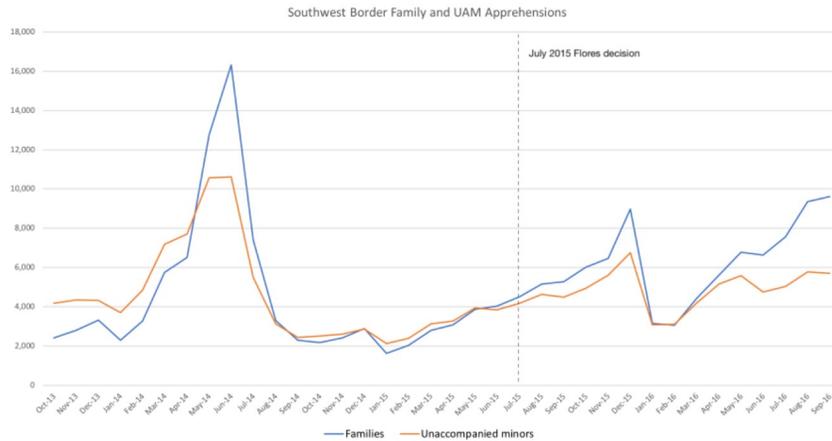
Graph 1



Source: Cox, Adam & Goodman, Ryan. 2018. Detention of Migrant Families as ‘Deterrence’: Ethical Flaws and Empirical Doubts, New York, NY: Just Security (relying on CBP apprehension data) available at <https://www.justsecurity.org/58354/detention-migrant-families-deterrence-ethical-flaws-empirical-doubts/>.

10. Furthermore, in that same period, there was no significant difference in the overall trend of arrivals of minors traveling unaccompanied and children migrating with family members, as the graph below, produced by New York University Professors Adam Cox and Ryan Goodman based on CPB apprehension data, shows:

Graph 2



Source: Cox, Adam & Goodman, Ryan. 2018. Detention of Migrant Families as ‘Deterrence’: Ethical Flaws and Empirical Doubts, New York, NY: Just Security (relying on CBP apprehension data) available at <https://www.justsecurity.org/58354/detention-migrant-families-deterrence-ethical-flaws-empirical-doubts/>.

11. However, while the trend lines of the raw apprehensions data presented above themselves undermine the Government’s argument that the 2015 Flores ruling could cause an

1 increase that was already extant, further rigorous statistical analysis much more convincingly
2 establishes this same conclusion.

3 12. In a report I published in October 2018,³ I conducted such analysis and concluded
4 that there was no statistically significant increase in U.S. Border Patrol apprehensions of families
5 at the southwest border after the 2015 *Flores* ruling. In other words, there is no evidence that the
6 2015 *Flores* ruling increased the number of families arriving at the southwest border. Below I
7 describe my statistical analysis and how my analysis leads to this conclusion.

8 13. Using interrupted time series analysis (ITSA) and publicly available data obtained
9 from U.S. Customs and Border Protection (CBP) (The monthly number of U.S. Border Patrol
10 apprehensions of families at the southwest border is a metric used by CBP as a proxy for number
11 of families coming to the border), I analyzed the relationship between the 2015 *Flores* ruling and
12 the monthly number of U.S. Border Patrol apprehensions of families at the southwest border.
13 ITSA is a quasi-experimental research design that is used to evaluate trends before, immediately
14 following, and during the period after an intervention, including a change in law such as the 2015
15 *Flores* ruling. ITSA estimates three main parameters: β_1 is the slope or trajectory of the outcome
16 variable before the start of the intervention; β_2 is the change in the level of the outcome variable
17 in the period immediately following the start of the intervention; and β_3 is the treatment effect of
18 the intervention over time.

19 14. Table 1 presents the results of the ITSA analysis. To produce these results, I
20 created a statistical model, Model 1, which estimates the relationship between the
21 2015 *Flores* ruling and the monthly number of U.S. Border Patrol apprehensions of families at the
22 southwest border. As Table 1 shows, in Model 1, the β_1 coefficient is positive and statistically
23 significant, which affirms that the monthly number of apprehensions of families was increasing
24 before July 2015. Both the β_2 and β_3 coefficients are statistically insignificant, however, which

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26 ³ Wong, Tom K. 2018. Did a 2015 *Flores* Court Ruling Increase the Number of Families Arriving
27 at the Southwest Border? Washington, DC: Center for American Progress available at
28 <https://www.americanprogress.org/issues/immigration/news/2018/10/16/459358/2015-flores-court-ruling-increase-number-families-arriving-southwest-border/>.

1 shows that the 2015 *Flores* ruling is not statistically significantly related to an immediate or long-
 2 term increase in the monthly number of apprehensions of families at the southwest border.

3 15. Put simply, this first analysis shows that the 2015 *Flores* ruling did not cause an
 4 increase in the migration of families.

5 **Table 1**

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7 **TABLE 1**
The 2015 *Flores* ruling and the U.S. Border Patrol apprehensions of family units at the southwest border

<i>Flores</i> ruling time frame	Model 1
β1 Pre-July 2015	106.2** 34.18
β2 July 2015	579.7 1,647.54
β3 Post-July 2015	-44.72 52.81
β0 Constant	315.48 345.51
Observations	83

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14 Note: Six additional models were run specifying six different pseudo-interventions. The models produce qualitatively similar results: *significant at the .05 level; **significant at the .01 level; ***significant at .001 level; standard errors in parentheses.

15 Sources: Data for fiscal year 2012 are available at U.S. Customs and Border Protection, "United States Border Patrol Southwest Family Unit Subject and Unaccompanied Alien Children Apprehensions Fiscal Year 2016: Statement by Secretary Johnson on Southwest Border Security," available at <https://www.cbp.gov/newsroom/stats/southwest-border-unaccompanied-children/fy-2016> (last accessed October 2018). Data for fiscal year 2013 to fiscal year 2017 are available at U.S. Customs and Border Protection, "United States Border Patrol: Total Family Unit* Apprehensions By Month - FY 2013, FY 2014, FY 2015, FY 2016, FY 2017," available at <https://www.cbp.gov/sites/default/files/assets/documents/2017-Dec/BP%20Total%20Monthly%20Family%20Units%20by%20Sector%2C%20FY13-FY17.pdf> (last accessed October 2018). Data for fiscal year 2018 are available at U.S. Customs and Border Protection, "Southwest Border Migration FY2018," available at <https://www.cbp.gov/newsroom/stats/sw-border-migration> (last accessed October 2018).

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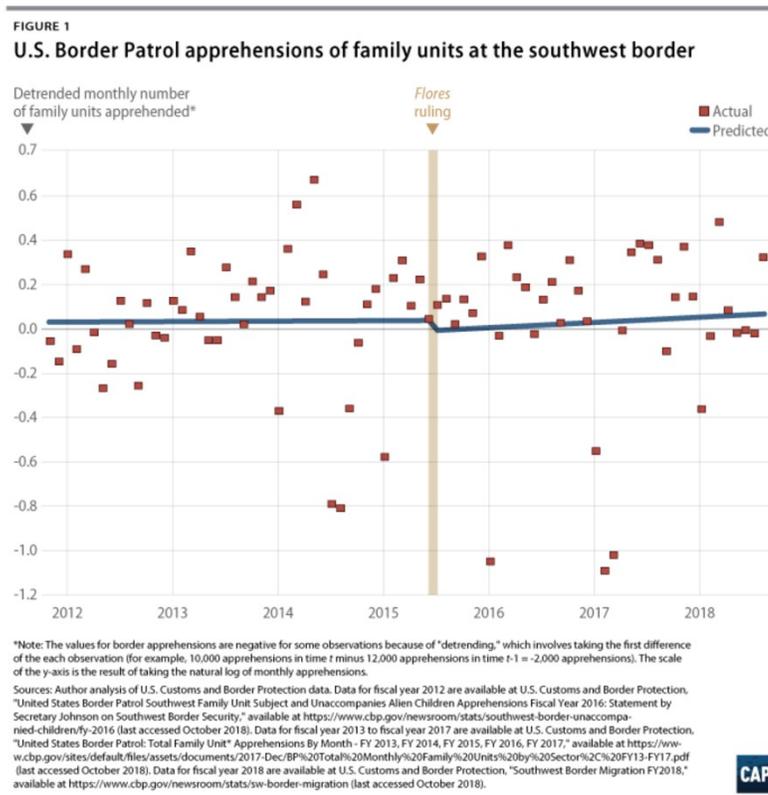
19 16. To support even more confident statistical causal inference, I ran a series of
 20 variations on Model 1, specifying pseudo-interventions—meaning evaluating different start dates
 21 for any purported effect on family migration patterns from the 2015 *Flores* ruling—to address the
 22 possibility that more time needs to elapse before such an effect is evident. The pseudo-
 23 interventions analyzed include each of the six months after the 2015 *Flores* ruling. Additional
 24 models were run specifying the intervention as: August 2015; September 2015; October 2015;
 25 November 2015; December 2015; and January 2016. These variations on Model 1 produced
 26 qualitatively similar results to those presented in Table 1 and lead to the same conclusion: the
 27 2015 *Flores* ruling is not statistically significantly related to increases in the monthly number of
 28 U.S. Border Patrol apprehensions of families at the southwest border.

1 17. Again, this second analysis also shows that the 2015 *Flores* ruling did not cause an
2 increase in the migration of families.

3 18. Because the monthly numbers of family apprehensions at the southwest border
4 exhibit seasonal trends, it is important to check the robustness of the results presented above
5 using autoregressive integrated moving average (ARIMA) ITSA. ARIMA modeling removes
6 time trends—the so-called “noise”—in order to isolate the impact of an intervention—known as
7 the “signal”. ARIMA modeling begins by identifying and removing noise, or the extent to which
8 the data in a time series can be accurately predicted by time itself. Identifying and removing noise
9 then allows one to evaluate the extent to which an intervention has an effect on an outcome of
10 interest that is completely independent from underlying time (i.e., seasonal) trends.

11 19. After seasonal trends are taken into account, the conclusion remains the same: the
12 2015 *Flores* ruling remains statistically insignificantly related to increases in the monthly number
13 of family apprehensions at the southwest border. Figure 1 illustrates the results after time trends
14 are removed.

15 **Figure 1**



20. Table 2 reports the results of the ARIMA ITSA. To produce these results, I created a statistical model, Model 2, which re-estimates the relationship between the 2015 *Flores* ruling and apprehensions; it shows that after identifying and removing time trends, there is no statistically significant relationship between the 2015 *Flores* ruling and the monthly number of U.S. Border Patrol apprehensions of families at the southwest border.

Table 2

TABLE 2 ARIMA ITSA results	
<i>Flores</i> ruling time frame	Model 2 ARIMA (1,1,0)
July 2015	0.034 0.069
Observations	83

Note: The ARIMA (1,1,0) model indicates one lag and the first order difference of the detrended dependent variable. Standard errors are in parentheses.

Sources: Data for fiscal year 2012 are available at U.S. Customs and Border Protection, "United States Border Patrol Southwest Family Unit Subject and Unaccompanied Alien Children Apprehensions Fiscal Year 2016: Statement by Secretary Johnson on Southwest Border Security," available at <https://www.cbp.gov/newsroom/stats/southwest-border-unaccompanied-children/fy-2016> (last accessed October 2018). Data for fiscal year 2013 to fiscal year 2017 are available at U.S. Customs and Border Protection, "United States Border Patrol: Total Family Unit* Apprehensions By Month - FY 2013, FY 2014, FY 2015, FY 2016, FY 2017," available at <https://www.cbp.gov/sites/default/files/assets/documents/2017-Dec/BP%20Total%20Monthly%20Family%20Units%20by%20Sector%2C%20FY13-FY17.pdf> (last accessed October 2018). Data for fiscal year 2018 are available at U.S. Customs and Border Protection, "Southwest Border Migration FY2018," available at <https://www.cbp.gov/newsroom/stats/sw-border-migration> (last accessed October 2018).



21. In the simplest terms, this final analysis also shows that the 2015 *Flores* ruling did not cause an increase in the migration of families.

22. I note that my analysis presented above precedes the 84,490 family units apprehended by the U.S. Border Patrol in May 2019.⁴ However, it would be irresponsible to suggest, as a matter of statistical causal inference, that the 2015 *Flores* ruling caused the increase in the number of families apprehended at the southwest border in May 2019. To begin, from July 2015 to May 2019, a total of 45 months elapsed. However, it is not just the length of time in between the 2015 *Flores* ruling and the 2019 increase in the number of families apprehended at the southwest border that is at issue, but also the fact that the 2015 *Flores* ruling was a constant during this entire time period. A constant simply cannot cause an outcome that varies over time.

⁴ U.S. Customs and Border Protection. "Southwest Border Migration FY19," September 9, 2019. Online at (last accessed September 10, 2019): <https://www.cbp.gov/newsroom/stats/sw-border-migration>

1 Government’s own data shows that this factual premise is wrong. As demonstrated above, the
2 2015 *Flores* ruling did not cause an increase in the migration of families to the United States.
3 Furthermore, based on this analysis, it is reasonable to extrapolate and surmise that enforcement
4 and detention policy generally and the existence and interpretation of the *Flores* settlement
5 agreement in particular does not have a causal impact on migration trends.

6 **Recent trends in Southwest Land Border Encounters further supports the conclusion that**
7 **the *Flores* agreement is not a driver of migratory trends**

8 26. The migration data available since 2019 does not change my conclusions regarding
9 the effect of the *Flores* settlement agreement on family migration. Family migration has
10 fluctuated significantly since 2019, ranging from a monthly high of 123,815 to a low of 829.
11 Given that the *Flores* settlement has remained constant during this period, there is no evidence of
12 correlation—much less causation—between recent family migration numbers and the *Flores*
13 settlement. Suggesting otherwise would be irresponsible and inaccurate.

14 27. In fiscal year 2019, CBP recorded 527,112 southwest border land encounters of
15 individuals in a family unit (FMUA). The monthly high during fiscal year 2019 was recorded in
16 May, with 88,587 FMUA southwest border encounters.⁷

17 28. In fiscal year 2020, CBP recorded 70,994 southwest border land encounters of
18 FMUA. The monthly high during fiscal year 2020 was recorded in October, with 13,719 FMUA
19 southwest border encounters.⁸

20 29. In fiscal year 2021, CBP recorded 479,728 southwest border land encounters of
21 FMUA. The monthly high during fiscal year 2021 was recorded in August, with 86,631 FMUA
22 southwest border land encounters.⁹

23 30. In fiscal year 2022, CBP recorded 560,646 southwest border land encounters of
24 individuals in a family unit (FMUA). The monthly high during fiscal year 2022 was recorded in
25 May, with 59,556 FMUA southwest border land encounters.¹⁰

26 ⁷ U.S. Customs and Border Protection. “Southwest Border Migration FY19,” February 12, 2025.
27 Online at (last accessed June 18, 2025): <https://www.cbp.gov/newsroom/stats/sw-border-migration>

28 ⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.*

EXHIBIT 5

**REDACTED VERSION OF DOCUMENT
PROPOSED TO BE FILED UNDER SEAL**

1 I, L [REDACTED] J [REDACTED] H [REDACTED] G [REDACTED], declare as follows:

2 1. This testimony is based on my personal knowledge and the following facts are true
3 to the best of my understanding and recollection.

4 2. I am 34 years old and my son, [REDACTED], is 4 years old. We are
5 from [REDACTED].

6 3. I speak Spanish.

7 4. I crossed the border near Pierdas Negras with my son. We crossed the river and
8 then we walked and walked until an immigration truck picked us up. They took us to a
9 border patrol facility. We stayed there for four days. We just tried to sleep as much as
10 we could to pass the time.

11 5. Then they drove us to Dilley in a van. It took about three hours.

12 6. We have been detained at Dilley for 28 days. I am really anxious to know what is
13 going on. We have had two interviews with ICE, and the last one was eleven days ago.
14 I have been sending ICE messages on the tablets, but they never respond to me.

15 7. They have told us that people cannot be here for longer than 30 days – which we
16 will hit on Saturday. When I first got here, I was told we would not be here more than
17 20 or 21 days. But 21 days has passed. Now I am being told that people can't stay for
18 more than 30 days. They really shouldn't be keeping people here this long because I
19 have heard of people attempting to kill themselves, even kids.

20 8. It has been very stressful to be here, and my skin has broken out from the stress. I
21 have also been having hair loss and hives. I have been experiencing constipation, as well.

22 9. One woman living in our area told my roommate that she wanted to kill herself. I
23 heard her crying and went in the room to comfort her and told her to think of her
24 children. She was eventually deported.

25 10. Another woman from Africa heard last night that she would be deported, and she
26 fainted. She was so upset. She does not want to go back to her country because they
27 killed her daughter there.

28

1 11. Other people here are stressed, too. The day before yesterday a mom from Cuba
2 and her 8-year old son were interviewed by ICE. The mom had a panic attack during the
3 interview and the boy said that if ICE was deporting his mom, he would kill himself
4 because he didn't want to be separated from her. I have heard of several people having
5 panic attacks during their ICE interviews.

6 12. Nobody will answer your questions here. I feel like we are just being sequestered
7 without any information.

8 13. The staff here call us inmates because it is like a prison.

9 14. When my son and I are by ourselves he starts questioning why we are here and
10 asking when we can get out of here. To make him feel better I tell him we will get out of
11 here soon and once we get out, we will buy him lots of toys.

12 15. My son is not really eating here. When he eats, it is mainly rice and beans. There
13 is not children's food here; it is the same for everyone. It is hard to stay patient here with
14 my son not eating well. I am a centered person, but this is really hard.

15 16. We live in a trailer with three other families. We are okay with the families in our
16 trailer, but I have heard of other families in other trailers having a lot of issues with
17 getting along.

18 17. They do not let us turn off the lights during the night. If you do turn off the lights,
19 the staff get mad and there are conflicts. When they do their checks throughout the night,
20 they often let the door slam and have their radios blaring. Some are careful, but many are
21 not and they wake us up when the door slams.

22 18. My son gets one hour of education from 9-10 am on weekdays. He had started
23 school in [REDACTED] and was going from 8-4. More school would be better for him.

24 19. My son does not have enough clothes here. We were just given three sets of
25 sweatpants and sweatshirts. He has no t-shirts and only one pair of shorts.

26 20. There are Dads here, but they are only able to see their families during the meal
27 times and some of the afternoon. This morning, I heard a Dad talking to an official
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1 because he had just arrived with his teenage daughter. She is not allowed to live in the
2 same area as her Dad, and I am worried about where this girl will be sleeping.

3 21. They do not have organized recreational activities here. There are balls in the gym
4 that my son plays with, but there aren't actual activities for kids that I have seen.

5 22. Children are not allowed to have toys or crayons in their rooms here. Even when
6 my son got crayons from another parent, the staff confiscated them from our room.

7 When a girl got a doll from another family, the staff also took it. The staff even took the
8 rocks the children in my room had collected from the grounds.

9 23. We have been told that the water in the cafeteria is filtered and is okay, but the
10 staff told us that the water in the living areas is not good. We are told we can fill up
11 pitchers with water from the cafeteria and bring them to our living area if we want water.

12 24. My son has to pay for phone calls to our family. He will talk to his grandmother
13 when I am on the phone with her, and it is very expensive. We have to use a prepaid
14 card. I don't know exactly how much it costs to call my mom in [REDACTED], but every
15 time I talk to her— I talk for a little and the balance goes down a lot.

16 25. If we are allowed to stay in the US, I hope my son can go to school and learn
17 English. I hope to work so I can send money home to my family because they often
18 don't know if they will be able to eat that day. My biggest goal is to have a home for me
19 and my son and give him everything I was not able to have.

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1 I declare under my duty to tell the truth and penalty of perjury that to the best of my
2 knowledge, all the information I have here given is correct and complete and I understand
3 the legal consequences of testifying falsely to the authorities. Executed on this 5th day
4 of June 2025, at Dilley, Texas.

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CERTIFICATE OF TRANSLATION

My name is Diana Cano and I swear that I am fluent in both the English and Spanish languages and I translated the foregoing declaration from English to Spanish to the best of my abilities.

Dated: 6/05/2025 Diana Cano

EXHIBIT 6

**REDACTED VERSION OF DOCUMENT
PROPOSED TO BE FILED UNDER SEAL**

1 I, [REDACTED], declare as follows:

2 1. This testimony is based on my personal knowledge and the following facts are true
3 to the best of my understanding and recollection.

4 2. I am 16 years old. I am from [REDACTED].

5 3. I speak English.

6
7 Entry to Customs and Border Patrol

8 4. I arrived at the border about 13 days ago.

9 5. I live in the Valley here in Texas, in Donna. I am a junior in high school. I have a
10 lot of friends in high school and I'm a cheerleader.

11 6. I was on a road trip with my mom and my two younger siblings to visit Tennessee
12 because it was Spring Break. We were driving and we needed to go through the
13 checkpoint. My mom asked the officer if we could use our asylum paperwork to pass
14 through the checkpoint. We have affirmative asylum cases, and we did fingerprints and
15 were supposed to get our work authorization cards in May.

16 7. The officer my mom talked to said he couldn't understand Spanish. They told her
17 to pull the car into a parking spot. That's when four or five immigration officers all came
18 around our car and told us to get out and go into the immigration building.

19 8. In the building, they took all our fingerprints, including my brother and sister. My
20 brother is 13 years old and my sister is 12 years old.

21 9. They also swabbed all of our cheeks. I don't know why. My mom had to sign a lot
22 of papers for all of us.

23 10. After about an hour, they took us to a detention center called Ursula. It's near
24 McAllen. When they took us in the van from the building near the checkpoint, I was so
25 afraid. None of us knew what was happening. I was crying so much.

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1 Ursula

2 11. At Ursula, they patted us all down and took everything from us. From there, we
3 had to go watch a video. They took us to do a health check where they took our blood
4 pressure and did all the medical stuff.

5 12. When we had been in the immigration building near the checkpoint, they had told
6 us we would not be separated. But when we got to Ursula and finished the medical check,
7 they told my mom that she would have to go with my little sister to one holding area, and
8 my brother and I were separated from my mom and sent to a different room. In that room
9 there were pods separated by a wall. My brother and I were in the same big room but in
10 different pods.

11 13. I was crying the whole time when they separated me and my brother from my mom
12 and sister.

13 14. We were in Ursula for a day. We were only allowed a visit for one hour and that
14 was at night. We could sit together in a room with all the families and there were like,
15 little bleachers there for families to sit at.

16 15. After being in Ursula, they brought us here to Karnes.
17

18 Karnes Residential Detention Center

19 16. When we got to Karnes, we had to sleep in the chairs in the waiting area the whole
20 night because we were waiting for someone to do an x-ray before we could enter the rest
21 of the center. But she never came.

22 17. Finally she came. They took us to the medical room and we had to wait in a little
23 cage thing. After that we got x-rays. It was an x-ray of our chests. Then we had to wait in
24 a room. After that, people who spoke Spanish came and told us how everything goes
25 here. Then we went to our room.

26 18. We were happy that at least we had our own restroom and our own room with a
27 TV, and that we could shower. At Ursula, we could have showered but only if we did it at
28 4 a.m.

1 19. A guard comes into our room every half hour or hour, 24 hours a day to do a
2 check. They don't knock. They just walk in and go look in the bathroom and pull back the
3 shower curtain. I don't like it, because if you're changing or something and they come in,
4 what do you do? If you're in the bathroom with the door closed, they will knock to check
5 on you. Sometimes its men and sometimes it's women. When they come in at night, I
6 wake up some of the times. Especially when their radios go off loudly while they're
7 doing the check. They have never explained why they come in all the time—they just do
8 it. There is a rumor that it is because somebody hanged themselves here and that is why
9 they have to do the checks all the time and check in the shower. When I heard that rumor,
10 I was like, why is this place still open if something like that happened here?

11 20. They also have some single women here who have gone to jail and they are just
12 waiting for their deportations. My sister is really afraid because of that. She heard a
13 rumor that one of the women was in jail for hitting her children, and now my sister is
14 scared of the single women. That's part of why she mostly stays in our room and won't
15 go out into the common areas where those women are allowed to go like everyone else.

16 21. The guards here don't really talk to us. There are some staff members that are
17 really rude.

18 22. Some things here are really bad—really scary. This place is full of little kids,
19 mostly my brother's and sisters' ages or younger. I don't want any more kids to come
20 here. I don't like seeing all the kids crying.

21 23. Yesterday a lot of things were different than usual. We were wondering why but I
22 think it was because you all were here and doing that tour.

23 24. They have never had activities outside before, or games or tournaments. They had
24 a kickball tournament and gave out prizes. They have never done that before.

25 25. They also brought out tricycles for kids to ride and a lot of toys. Usually, it's just
26 the sand areas for the kids. But yesterday they also had games out in the courtyard and
27 things to do. They came around yesterday and told all the kids to go outside, and that they
28

1 were going to play. Usually, they never play with the kids but yesterday they did. It was
2 really weird.

3 26. They also stocked the snack fridges a lot more than usual. Usually, they don't have
4 any water in there, and they don't have oranges. It's just apples. And sometimes even the
5 juice and milk run low. But yesterday those fridges were full and had oranges and water
6 and everything.

7 27. Even the food was better yesterday. Usually, they give you a soggy burrito or
8 quesadilla. And they give soups, but we never know what is in them. Yesterday the food
9 was a lot better. They gave us chicken. But usually the food is so bad that me and my
10 family just eat ramen from the commissary that you can add hot water to. And everyone
11 is sick of just eating the apples in the fridge. I have had diarrhea here because of the food.

12 28. Normally here, things are pretty bad.

13 29. People here have to fight for the water. We don't get enough water. They put out a
14 little case of water, and everyone has to run for it. An adult here even pushed my little
15 sister out of the way to get to the water first.

16 30. We all need lip balm—everyone has really chapped lips. But you have to go to the
17 pill window to get it, and only at certain times. Now they told us we have to go to
18 medical to ask for it. They just give you one little single use packet of lip bal.

19 31. My brother was sick with a cold for a week. They would call him to come to the
20 pill window every evening. He would go alone to get some pills. They gave them to him
21 at night because they made him drowsy. He had to go alone but he wasn't afraid because
22 he's really brave.

23 32. Whenever anyone is sick, they just check their blood pressure and their
24 temperature. That's all they do. There is one mom here with her son, and he is not
25 allowed to play with other kids or do any physical activity. He has a serious blood
26 condition and he's really sick. We're all worried because if he gets hit while playing, he
27 could die. But they wouldn't let him get the scan that he needs to make sure he's ok. His
28 feet are big and swollen. It's really dangerous. It makes me so worried to see him suffer

1 like that and not be able to get the medical help he needs. He shouldn't be in here at all.
2 None of the kids or families should.

3 33. My sister and brother and I were all in regular school before we got arrested by
4 immigration. They don't have any school here. They just have English classes, but we all
5 speak English so that doesn't help us much. My mom goes though.

6 34. You have to pay to use the tablets to play games or watch movies. It's five cents a
7 minute. You have to pay to use the phone too, or to do facetime. You have to pay for
8 food at the commissary.

9 35. The library is usually only open in the mornings, and the rooms with the puzzles
10 where you go and play are also usually only open until 12. But yesterday they had them
11 open all day. The little kids are not allowed to take toys from the game room. No one
12 plays with them. The usually only have a sand pit and they get really stressed. The little
13 kids are always crying, and it makes me really sad.

14 36. Imagining what it's like here for my sister and my brother and the little kids—oh
15 my God. I can barely cope with it. Imagine them. Sometimes I cry at night imagining
16 these kids going back and being deported, and their moms super stressed.

17 37. I feel like my sister's and brother's personalities have changed. My sister and my
18 brother used to be really outgoing. My brother used to be really fun and joke a lot. He
19 plays football and he's really good. But he had to miss his tournament that was last
20 Sunday because we were here. Now he just wants to be inside and watch TV. He cries at
21 night. He's so withdrawn now.

22 38. My sister cries at night too. Before, my sister really liked drawing and painting.
23 She was really outgoing. Now she is quiet and just want to stay in our room.

24 39. My mom cries every night. It's really hard for me. My mom is someone who wants
25 to follow the rules and do everything right. That's why she got out to ask about using our
26 asylum papers for the check point. She tries to follow all the rules. I do too. I color in the
27 lines like you can see in this coloring page. I do all my homework. I am too afraid to get
28 in trouble.

1 40. I am trying to be strong for my family. I don't want them to see me cry. I don't
2 know how the little kids are coping—I am barely coping and I'm 16. I don't know about
3 my mom—I really hope she gets through this and I'm worried about her. I have to be
4 strong for her. I feel like Luisa from Encanto, and I have to hold everything and take care
5 of my family.

6 41. I have nightmares sometimes about being separated from my family again like we
7 were separated at Ursula.

8 42. I only really talked to one girl here who was 14. But yesterday, she and her mom
9 found out they are getting deported. And her mom passed out in the courtyard because of
10 the stress and terror she felt about being deported and her life being in danger where she
11 came from. Today they are gone.

12 43. I'm worried about all the school I'm missing. I missed my STAR test. That's a
13 standardized test you take at the end of quarter or the year. If they let me out of here I
14 will have to do summer school to make up all the school I have missed. I'm a junior, and
15 I had planned to take the SAT and go to college. I have been in school here in the United
16 States since I was in second grade. We came here when my dad died.

17 44. My best coping skill is that I usually pray at night, and I talk to God. I ask to just
18 let me out of here. Sometimes I go to church here. The people who run the church are
19 super nice and they are always praying for us.

20 45. I really want to get out of here. I want to get back to my life. I want to go back
21 home and see my aunts and cousins and all the rest of my family and friends. I am doing
22 my best to be strong and take care of my family. It's hard to take care of them and take
23 care of myself too.

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1 I declare under my duty to tell the truth and penalty of perjury that to the best of my
2 knowledge, all the information I have here given is correct and complete and I understand
3 the legal consequences of testifying falsely to the authorities. Executed on this 27th day
4 of March 2025, at Karnes City, TX.

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EXHIBIT 7

**REDACTED VERSION OF DOCUMENT
PROPOSED TO BE FILED UNDER SEAL**

1 I, [REDACTED], declare as follows:

2 1. This testimony is based on my personal knowledge and the following facts are true
3 to the best of my understanding and recollection.

4 2. I am 29 years old and my son, [REDACTED], is 3 years old. We are from
5 [REDACTED].

6 3. I speak Spanish.

7 4. I have been detained at this facility for 19 days as of today. I have asked everyone
8 here how long I have to be here and they have said only up to 21 days. But they tell me
9 they don't know anything about my case and they don't tell me who I could talk to about
10 my case.

11 5. I have been living in the United States for about nine months. Before I was
12 brought to Dilley, I was living in Ohio. I was driving to work one day and the police
13 stopped me. I did not have a license, so they called immigration. They handcuffed me
14 and then kept me in an immigration facility in Ohio. They kept me in a small cell with a
15 walled off toilet.

16 6. When they found out I had a child, immigration drove me to get my son who was
17 with a babysitter. My son was scared because when immigration went into the
18 babysitter's house, they were pointing guns at them. After they picked him up, we went
19 back to the cell with my son.

20 7. The next day, three ladies flew my son and I from Ohio to Texas. They went with
21 us on two flights and then we drove from San Antonio.

22 8. When we arrived at Dilley, they gave us clothes and took us to our room. They let
23 us shower because we had not been able to shower in the cell.

24 9. Until this morning, we were staying in a room with 12 people. There have been
25 several families that have come and gone since we arrived. There are 6 bunk beds and
26 they have mainly been full.

1 10. It is hard to sleep at night because they don't turn off the lights. If I turn off the
2 light, the guards here just turn them back on. They are constantly coming in the room at
3 all hours of the night. My son and I are not able to sleep.

4 11. They give the same food here to adults and kids. My son has only eaten 2 days out
5 of the 19 days because he doesn't like the food. He will just have apples, juice or
6 cookies. At first, they gave me formula. But after it was finished, they wouldn't give it
7 to me anymore. With the lack of sleep and anxiety, my son is throwing himself against
8 the floor and getting bruises. He wants to leave so badly that he is having these reactions.

9 12. After 8 pm, we have to be in the room. We can only leave to use the restroom,
10 which is in a different trailer.

11 13. My son and I try to be outside as much as we can, but when the sun gets to us we
12 go back to the room. I don't like staying in the room. There is not much to do here. In
13 19 days, I have not seen anyone doing fun activities here, like karaoke or movies. If they
14 say activities like that are happening here, those are lies.

15 14. I have asked about the school room they have here, but they told me it is only for
16 five years old and up.

17 15. I have to be with my son at all times. Even when I use the restroom, he needs to be
18 with me. We also must shower together.

19 16. They give us 3 sets of clothing, which means I have to wash our clothes every
20 other day. They give my son diapers, but they only give three or four at a time so I am
21 constantly asking for more.

22 17. For my son to talk to his Dad, we have to pay for it. I have heard they have
23 FaceTime video and I think it costs about \$3 for ten to fifteen minutes, but we have not
24 used it.

25 18. My son has never been given a list of free legal counsel. I have not seen a list of
26 legal counsel on the wall, but I got a number for lawyers from another resident.

27 19. I am worried because my son won't eat and keeps throwing himself against the
28 ground. I feel bad, too. The most difficult thing is the feeling of being imprisoned. It is

1 also hard because they don't tell you anything. For me, this place feels like a family
2 prison. There are guards here who treat you okay but many others don't.

3 20. There is so much persecution here in the United States right now. I wish for my
4 son not to have to grow up feeling like we are always hiding and under threat. I look
5 forward to studying nursing and being able to work and live without fear someday.

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1 I declare under my duty to tell the truth and penalty of perjury that to the best of my
2 knowledge, all the information I have here given is correct and complete and I understand
3 the legal consequences of testifying falsely to the authorities. Executed on this 15th day
4 of May 2025, at Dilley, Texas.

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CERTIFICATE OF TRANSLATION

My name is Diana Cano and I swear that I am fluent in both the English and Spanish languages and I translated the foregoing declaration from English to Spanish to the best of my abilities.

Dated: 5/01/2025 *Diana Cano*

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EXHIBIT 8

**REDACTED VERSION OF DOCUMENT
PROPOSED TO BE FILED UNDER SEAL**

I, [REDACTED], declare as follows:

1. This testimony is based on my personal knowledge and the following facts are true to the best of my understanding and recollection.
2. I am 27 years old. My daughter, [REDACTED] is 9 years old and my son, [REDACTED], is 6 years old. We are from [REDACTED].
3. I speak Spanish.
4. Prior to being detained at Dilley, we had been living in Los Angeles. When we arrived in the United States about six months ago, we were processed and released quickly. My family purchased us airline tickets so we could fly to Los Angeles to be with them.
5. A little over a week ago, I went to immigration court for our preliminary immigration hearing. My children were with me. At the hearing, the judge told us that she was terminating our case. Immediately afterwards, ICE was there to arrest us and we were not allowed to go home.
6. We were arrested by ICE around 11 am, and then we were taken to an office for about four hours. Next they took us to an immigration center in Los Angeles where we sat from 6 pm to 4 am. Then they put us on a flight to San Antonio with three other families. Each family was escorted on the plane by two staff people. Then they drove us here in a van.
7. We have been detained at Dilley for 8 days.
8. When we arrived here, they did a basic physical of my children but nothing more. I shared that my son has leukemia, but no one did anything. About four days ago, I noticed they put something about the cancer by his profile, but no one has reached out to me about anything related to his care.
9. I am extremely upset because my son was supposed to have an appointment with the doctor today to see when he needs his next cancer treatment. He started his treatment two years ago and is supposed to get about three more treatments. When we were in [REDACTED], he was getting a treatment about every 21 days. But when

we got to California it took awhile to set an appointment for him. I am worried that my son needs his next cancer treatment urgently.

10. My daughter is not eating the food here. My son just eats a little bit.
11. I have been told to use the tablets to ask questions, but no one gives you instructions how to use them. I haven't used the tablet yet because I don't know how.
12. When we got here, we were given a coupon for 3 minutes each to use the phone. After that, my children and I have to pay to use the phone to call family.
13. We all just want to go back to Los Angeles. Our family is there, and my kids were happy and doing well. They were going to school and really liking it.

1 I declare under my duty to tell the truth and penalty of perjury that to the best of my
2 knowledge, all the information I have here given is correct and complete and I understand
3 the legal consequences of testifying falsely to the authorities. Executed on this 5th day
4 of June 2025, at Dilley, Texas.

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CERTIFICATE OF TRANSLATION

My name is Diana Cano and I swear that I am fluent in both the English and Spanish languages and I translated the foregoing declaration from English to Spanish to the best of my abilities.

Dated: 6/05/2025 Diana Cano

EXHIBIT 9

**REDACTED VERSION OF DOCUMENT
PROPOSED TO BE FILED UNDER SEAL**

1 I, [REDACTED], declare as follows:

2 1. This testimony is based on my personal knowledge and the following facts are true
3 to the best of my understanding and recollection.

4 2. I am 12 years old. I am from [REDACTED].

5 3. I speak Spanish.

6 4. I have a serious health condition. It is a blood condition. It's a dangerous condition.
7 When I was living in [REDACTED], I had to spend 28 days in the hospital when I was two
8 because of this condition.

9 5. Now I can't play sports that are contact sports, and I have to be really careful when
10 I play. If I am not careful, I could get a bloody nose or a cut, and that would be really
11 dangerous. It's possible that if I bleed it wouldn't stop. If I was hurt badly enough or I
12 was hit really hard, I could die. I could get a brain hemorrhage.

13 6. The first time I came here was in 2024. I came alone and went to an ORR shelter. I
14 told them about my health condition then, because I was alone, and they needed to know.
15 I don't have documents that show my health condition because I had to leave them in
16 [REDACTED] when I left.

17 7. From the ORR shelter, I was sent to my mom and stepdad who were already here
18 in the United States. My stepdad is a legal permanent resident. He is still in Dallas, where
we all lived together. I went to school. I'm in seventh grade.

19 2025 Detention

20 8. The second time I entered the United States was about 26 days ago, from the
21 Canadian border. I was with my mom. I have been detained since we entered.

22 9. I have been in Karnes Family Detention Center for about 19 days. Before that I
23 was held in a building on the American side of the border for about four days.

24 10. When I got to Karnes detention facility, I had an appointment with a doctor. I did
25 not have an appointment when I was at the Canadian border.

26

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1 11. Here, they just checked me quickly. They did a blood test. They said I was fine.
2 My mom told them about my health condition.

3 12. I am afraid now because of my health condition. I'm also really afraid they will
4 deport my mom to [REDACTED], where she will be killed.

5 13. I am really afraid I will be separated from my mom, and they will deport her and I
6 will be here without her.

7 14. I am really worried about my health condition because my feet have started to get
8 really swollen. They are getting really inflamed. There have only been two times in my
9 life they have been swollen like this. Once when I was two, and then had to go to the
10 hospital for 28 days. And now.

11 15. I need an exam for my spleen to check that I am ok. But they refused us that exam.
12 ICE said I didn't need it. I think because they just didn't want to give it to me. The doctor
13 said I didn't need one but didn't really do a full exam.

14 16. But they need to see if my spleen is big or normal sized. If it's big, they have to
15 squeeze it for it to get back to normal.

16 17. With my feet swollen like this, it's hard to walk. It hurts when I walk.

17 18. Now, I can't play or do anything physical. I just have to stay in my room, or I can
18 color in the library. They have games, but you can't take them out of the room they are
in. They don't loan them out.

19 19. Here, I just feel really sad. In my house, I normally do games on my phone or
20 something because I can't risk doing any activities where I could get hit. But here I can't
even do that, so I just feel sad.

21 20. They don't have any school here. Just English classes. I go to those, but I miss
22 school. I miss learning about other things. I get so bored here. It makes me sadder and
23 more lonely.

24 21. We also spent three days in a row without water here. A Friday, Saturday, and
25 Sunday. I had to drink water from the tap, and I had a really bad stomach ache. I spent
26 two days in the bathroom from drinking that water.

1 22. If I could be anyone, I would be ironman. He was a person who could change his
2 body into a robot. Especially if I could also shoot webs like Spiderman. Then I would be
3 able to fly, and also, I would be able to help people here. Like the lady yesterday who
4 fainted. I would be able to help her. But I couldn't help her because I was stuck in my
5 room.

6 23. I miss my dad. I can talk to him on the phone. But it's not the same.

7 24. I also really miss my dog, Toby. He's my service dog. I have a certificate showing
8 that he's a service dog. He helps me when I cry, and he comes to me and gives me a dog
9 hug.

10 25. I do not like being here. I want to go home. They say I have been here for 18 days,
11 but I don't think they counted the first day. I think I have actually been here for 19 days.

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1 I declare under my duty to tell the truth and penalty of perjury that to the best of my
2 knowledge, all the information I have here given is correct and complete and I understand
3 the legal consequences of testifying falsely to the authorities. Executed on this 27th day
4 of March 2025, at Karnes City, Tx.

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CERTIFICATE OF INTERPRETATION

My name is Rebecca Wolozin and I swear that I am fluent in both the English and Spanish languages and I interpreted the foregoing declaration from English to Spanish to the declarant to the best of my abilities.

Dated: 03/27/25

Rebecca Wolozin

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EXHIBIT 10

**REDACTED VERSION OF DOCUMENT
PROPOSED TO BE FILED UNDER SEAL**

1 I, [REDACTED], declare as follows:

2 1. This testimony is based on my personal knowledge and the following facts are true
3 to the best of my understanding and recollection.

4 2. I am 13 years old. I am from [REDACTED].

5 3. I speak English and [REDACTED]

6 4. I arrived in the United States with my mom and my two younger sisters. My sister
7 [REDACTED] is 11-years-old. My sister [REDACTED] is four-years-old. My mom is also pregnant.

8 5. When we first arrived, we arrived in Texas. Immigration officers took me and my
9 mom and sisters to a building that was like a prison.

10

11 Border Patrol Custody

12 6. We were in a room with some other people. We were not allowed to leave. We
13 slept on mats on the floor. They gave us foil sheets for blankets.

14 7. The food was really bad. I just tried to pretend I was not there. I was hoping it
15 would end quickly and we could leave. It was so uncomfortable in there. The toilet was
16 just out in the room, with no privacy. There were male guards, and everyone could see
17 everything. I really didn't want to use the bathroom because everyone could see me. But
18 my mom said we just needed to do it because there was no other option.

19

20 Arrival at Dilley

21 8. After about four days, immigration officers brought us here to the Dilley family
22 detention center. We have been here for so long. It has been almost two months. I hate it
23 here.

24 9. One morning a few weeks after we arrived here, the guards came to get us and said
25 we had an interview. We cannot go back to [REDACTED] because my mom says it is really
26 dangerous. She had been telling that to all the officers and I think that is why they gave
27 us an interview.

28

1 10. The interview was so long. It lasted for like seven hours. It was all day. They asked
2 my mom and me and my sisters so many questions. It was exhausting. It was hard to
3 think and hard to focus in that room for so long, talking on the phone.

4 11. After the interview, we just waited. There is not much to do here. They have class
5 an hour a day, and me and my sister who is 11 years old are in the same group. My mom
6 wants us to go but it is so boring and easy. It's not really school. It's for much younger
7 kids. Mostly I take books out of the library and read. I just keep to myself and read and
8 wait.

9 12. About a week later, we found out we got a negative on our interview. That's when
10 I started having nightmares. I was feeling like something was not right, and I had done
11 something wrong. I thought I had really messed up.

12 13. After many hours, while I was sleeping, the interview came back to me. I
13 remembered a question they had asked, and I said the wrong answer. It was something
14 about picking us up from school. It was just so hard to think in that room, and the
15 interviewer would ask questions where she would say what had happened to us and say,
16 is that what happened? And for one question, I just said "yes" but I think what she said
17 was not fully correct. I'm sure I messed things up. I feel like I caused the negative result.

18 14. After I started having these terrible nightmares we went to mental health here to
19 talk to a counselor. The counselor didn't really help. She just said nightmares are normal.
20 She told us just to pray together as a family and taught us a breathing exercise. Breathe in
21 for three, breathe out for three. She also suggested I drink warm milk, but I like to drink
22 milk cold. She never asked me if I had any thoughts about hurting myself. She didn't ask
23 if I had ever thought of ending my life. She did not ask much about why I was feeling so
24 bad or having nightmares. She just said things that are like the things people embroider
25 on pillows – breathe, pray. It didn't help. I still have nightmares and it is hard to sleep.

26 15. Last week, they took us to the airport to deport us. It was so scary. Me and my
27 sisters and my mom were terrified.
28

1 16. Everything was terrible at the airport. My mom would not get on the plane. She sat
2 down on the floor even, so they could not put her on the plane. My sisters and I were all
3 crying. We did not understand what was happening or why it was happening. They were
4 trying to get us on a regular plane with regular people in the airport. It was becoming a
5 scene. The officers were yelling at my mom.

6 17. One officer told me I should try to get my mom to just stand up and get on the
7 plane. She said something like, "Do you want to see your mom like this?" Of course I
8 don't want to see my mom like this. My sisters and I were all crying and it was so scary.
9 The officer threatened to separate us from her and send us to live with a foster family if
10 she didn't cooperate. The officer said she would go to prison, that she would be charged
11 with a felony. My sisters and I heard all of it. I tried to tell my mom we should just get on
12 the plane. I don't want to be separated from her. We came here to be safe together as a
13 family.

14 18. Finally they canceled our flight and brought us back here. I am so afraid now that
15 my mom is going to be arrested and sent to prison, and me and my little sisters will have
16 to go live with strangers. Plus my mom is pregnant. Is she going to have my baby brother
17 or sister in jail? Will I never get to meet my baby brother or sister? (Personally, I think it
18 will be a boy.)

19 19. I'm not really hungry that much any more. I eat less than before. I feel really sad
20 and angry all the time. I don't want to die here. And I don't want to live here either.

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1 I declare under my duty to tell the truth and penalty of perjury that to the best of my
2 knowledge, all the information I have here given is correct and complete and I understand
3 the legal consequences of testifying falsely to the authorities. Executed on this 5th day
4 of June 2025, at Dilley Texas.

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EXHIBIT 11

**REDACTED VERSION OF DOCUMENT
PROPOSED TO BE FILED UNDER SEAL**

1 I, [REDACTED] declare as follows:

2 1. This testimony is based on my personal knowledge and the following facts are true
3 to the best of my understanding and recollection.

4 2. I am 30 years old. I am from [REDACTED]. My sisters are both
5 American citizens. I am here at Dilley with my husband and our four children: [REDACTED]
6 [REDACTED] (9 years old), [REDACTED] (8 years old), [REDACTED] (4 years old)
7 and [REDACTED] (9 months old). We have been detained at Dilley for thirteen days,
8 and prior to that we were at CBP for three days.

9 3. I speak English.

10 CBP Apprehension

11 4. We crossed into the U.S. from Mexico and presented ourselves to border patrol
12 officials to seek amnesty because my husband was nearly killed and feared for his life if
13 he stayed in [REDACTED]. They kept us in CBP for three days. On the third day, they said we
14 had no rights and there was no longer amnesty here – and they were going to fly us all
15 back to [REDACTED]. We were eventually transported to Dilley without any explanation of
16 what was happening or where we were going.

17 5. At CBP, for the first two days, they let our two boys stay with my husband and I
18 had our two girls with me. On the third day, they put us all together because they had
19 planned to fly us all home. I don't know why they did not keep us together in the first
20 place.

21 6. The first two nights, they would not give me a cot for the baby. Finally on the
22 third night, they gave me a cot. We had to sleep on thin mattresses with tin foil blankets.

23 7. The food was horrible. The burgers were frozen and stale. The kids would not eat
24 the food. They lived off of crisps and apple juice. My oldest son will eat anything. He
25 loves food, but he literally would not eat any of the meals while we were at CBP.

26 8. It was so cold there and the kids were freezing. I asked for extra clothes for my
27 baby, but it took until the third day to get a jumper.

28

1 9. We would have to get up at 5 or 6 am with all the kids and leave the area while the
2 cleaners came in. You were allowed to take a shower, but I had the baby with me and
3 they would not let me give her to my husband or anyone while I showered. It was really
4 difficult.

5 10. There was nothing for the kids to do all day except sit in the cells or an area that is
6 in the middle of the cells.

7 11. On the day we left, they woke us up around 12 a.m. and told us they were taking us
8 on a three-hour drive. They put us on a bus with another family and ICE agents. We
9 arrived at Dilley around 5 a.m.

10
11 Dilley Family Detention

12 12. When we arrived at Dilley, we spent about two hours in intake. They did
13 screening and we got fingerprinted – and then they finally brought us to the rooms. We
14 had basically been up all night.

15 13. I live in the yellow neighborhood in container 2 – they call it Yellow 2. We live in
16 a trailer – it's like a metal container - with 6 bunkbeds. There are three families in my
17 room – and I have all four of my kids. The bathrooms and showers are down a hall in
18 other trailers – so you have to go outside to use them.

19 14. They make us keep all the lights on all night. Staff are coming in and out all the
20 time to check things. They always let the door slam throughout the night and they're
21 never quiet. They also come in at 5 a.m. to wake people up to take their medication.
22 Then they come in at 6 a.m. to wake everyone up for breakfast. Our kids were so tired all
23 the time, we started buying cereal for them from the commissary so they could skip
24 breakfast and sleep longer.

25 15. It has been very difficult because they insist that people take medication at 5 a.m. I
26 have a thyroid condition and need medication for it. Each day for a week, they were
27 waking me and my four kids up at 5 am and making all of us walk to the medical area so
28 I could take my medication. We could then go back to bed, but by that point the kids

1 were awake and they often could not fall back asleep. It was so hard, I started refusing
2 my medication. After I did that, they finally agreed that they would leave a staff member
3 there for five minutes at 5 a.m. while I walk to the medical window to get my medication
4 medication. They aren't doing that for other mothers and babies though – many mothers
5 still have to get up at 5 am with their children.

6 16. The kids are feeling exhausted and being locked away is really started to get to
7 them. They are used to having a routine - going to school, sports and movies, and maybe
8 going out for food on the weekends. They aren't used to being isolated like this. You
9 aren't even allowed to socialize with anyone who isn't in your room.

10 17. It's too hot to play outside, so the kids will go to the gym. There aren't any
11 organized activities. I have never seen anyone singing karaoke or watching a movie with
12 popcorn or having snow cones. It is laughable that you were told these things are
13 happening. I think it's a joke how they can lie like that.

14 18. The food here is the same for all of us. I have told them the food is horrible. They
15 need more kid-friendly food. The kids are hungry a lot because they don't really eat the
16 food. They will just pick at things. Most days I have to get an extra slice of bread and
17 put jam on it for my four-year-old because she will not eat the food. You can only buy
18 them so many candies and crisps from the commissary. It's not healthy for them.

19 19. For the first week, they would not give me a can of formula for the baby. I would
20 have to ask for scoops of formula in a bottle each time. I would even have to ask for
21 formula at 3 am. My baby has 5-6 bottles a day so this was really hard. Now they are
22 finally giving me the formula in a can, but I have to keep it hidden by the sink because
23 other mothers are not allowed to have cans. They told me that having a metal can is
24 dangerous.

25 20. I have asked repeatedly for boiled or bottled water for my daughter's powdered
26 baby formula, but they will not give it to me. They told me using tap water was fine, but
27 now my baby is having horrible diarrhea. It has been going on for three days and it is so
28 bad it leaks out of her clothes. I do not think I should have to buy water for my baby to

1 have with formula, and some days the commissary is not even open. When I ask for
2 bottled water for the baby, they tell me that other babies use tap water and we should be
3 fine with that. But some babies' stomachs can't handle tap water and now it's making
4 my baby girl sick.

5 21. At Dilley, my children are all separated from their Dad for a lot of the day. I asked
6 many times for my sons to go with their Dad in his trailer, but they will not allow it. My
7 husband is only allowed to see the kids from 8-11 and then from 4-8. He can only go in
8 certain areas – one of the gyms and the dining area. Otherwise, I am alone with my kids.
9 They will not let my kids stay alone with my husband for even five minutes to allow me
10 to use the bathroom or take a shower. My kids must be with me at all times unless it is
11 convenient for the staff here, which has happened a couple of times.

12 22. Some of the staff treat you like dogs. They will whistle at you when they want you
13 to do things. One time they were whistling at my four-year-old in the cafeteria to move
14 to a table instead of just walking over and asking her to move. My husband got upset and
15 asked why she was treating [REDACTED] like a dog. She didn't say anything. She put her head
16 down and put her hands in her pocket and walked away.

17 23. Six or so days ago, my eight-year-old son, [REDACTED] broke his arm while I was in the
18 bathroom with my two girls. The boys are too old to be allowed in the ladies' bathroom,
19 so I have been told to have them wait outside the bathroom when I am in there with my
20 girls. As I said, I am not allowed to leave them with their father. I heard a wailing
21 scream about five seconds after going in the restroom and ran outside. He was yelling so
22 loudly from the pain; he was screaming. My son had jumped on the railing and fell
23 forward hitting his arm. We rushed him over to the medical area. By the time we got
24 there, he was quiet and seemed to be in shock by that point. The doctor said she didn't
25 think it was broken because he was not crying. My husband and I said he absolutely
26 needed to go to the ER to get it x-rayed. The medical staff debated whether to take him
27 to the ER for two hours as my son's arm was getting more and more swollen. He was
28 sitting in the waiting area with us - in shock and shivering. Finally, after repeatedly

1 requesting to take him to the ER, they took me and [REDACTED] in one of their vans. It wasn't
2 very far away – like fifteen minutes. At the ER, his arm was horribly swollen up and was
3 awful even to look at. The doctor took one look and said he thought it was definitely
4 broken. They took an x-ray and said the bone had snapped completely and then snapped
5 back in place. Fortunately, he did not need surgery. They gave him a cast and said he
6 needs to see a bone doctor in 4-6 weeks. When we came back to Dilley, the doctor
7 sarcastically said “it wasn't broken, yes?” and we told her that it definitely was. My
8 husband said he never wanted that doctor seeing any of our kids ever again.

9 24. My oldest son, [REDACTED], has asthma. I repeatedly asked for an inhaler because he
10 needs it before he runs around in the gym or sometimes his asthma just creeps up on him
11 because of pollen or a change of weather. They initially said he needed to go to the
12 medical area every time he needed to use an inhaler, and we could not take it with us.
13 Then, after two asthma attacks that were really bad with us racing him to the medical area
14 unable to breathe, one of the staff made a request for us to be able to take an inhaler with
15 us, and they finally agreed.

16 25. They opened the education room on Wednesday for the first time. I brought my
17 kids to it because they were so excited to have school. They love learning and school
18 activities. They love going to school. The school room had one hour for [REDACTED] and then
19 another hour for my two boys. [REDACTED] mainly did coloring. The boys were given a math
20 packet. There is only one teacher for all the different age groups, and she is just learning
21 how to manage it.

22 26. I have been worried about my husband's mental health. He has been having
23 suicidal thoughts. He stopped taking his medication because they were making him wake
24 up at 5 am to take the medications. He suffers from bad panic attacks. I told the nurse
25 that he was going to get really upset from waking up at 5 every day. It is really hard for
26 him to be separated from his children for so much of the day.

27 27. All of my children are having a hard time, but my nine-year-old son, [REDACTED] is
28 taking it the worst. He is getting very quiet and isolated. He asked me: “Mommy, are we

1 going to be here forever?" My [REDACTED] is acting up a lot. She is used to going to nursery
2 school and having lots of structure. She's not used to be detained like this. She cries
3 every night for her Dad.

4 28. It is so hot here my kids cry and get dizzy. We don't have enough clothes for the
5 hot weather. We only have one pair of shorts each for the boys and it's too hot for the
6 track suits they gave us. I put in a request 4 or 5 days ago for my baby to get clothes that
7 fit, but I still haven't gotten them and so I am having to roll up the sleeves of the clothes
8 for my four year old. I also don't have clothes for my older son that fit. You have to
9 keep asking over and over for clothes.

10 29. To call family members, you have to pay. My children could only talk to family if
11 they pay for it.

12 30. It is very hard to get ahold of a lawyer here for children or anyone. There are
13 numbers for lawyers on a list on the wall here, but none of the numbers work. I have
14 tried to call all of the numbers on the list and none of them worked anymore. I told one
15 staff that the numbers don't work and she said, "I don't know if we are offering free
16 lawyers anymore."

17 31. I am trying hard to keep my kids hopeful. I keep telling my kids we are going to
18 do fun things with their cousins when we get out of here, like going to Six Flags. But my
19 oldest son knows what is happening and he just keeps asks: "Are we ever getting out of
20 here?"

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1 I declare under my duty to tell the truth and penalty of perjury that to the best of my
2 knowledge, all the information I have here given is correct and complete and I understand
3 the legal consequences of testifying falsely to the authorities. Executed on this 2nd day
4 of May 2025, at Dilley, Texas.

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EXHIBIT 12

**REDACTED VERSION OF DOCUMENT
PROPOSED TO BE FILED UNDER SEAL**

1 I [REDACTED] declare as follows:

- 2
- 3 1. This testimony is based on my personal knowledge and the following facts are true
- 4 to the best of my understanding and recollection.
- 5 2. I am [REDACTED] mother. She is 9 years old, and we are here with her father,
- 6 [REDACTED]. They are both from [REDACTED], but I am from [REDACTED].
- 7 3. I can speak English.

8

9 **Background**

- 10 4. We crossed the border from Mexico into the U.S. with our daughter on March 2 of
- 11 this year, in the evening.
- 12 5. We came here to get asylum.
- 13 6. We crossed by car, we gave our passports, and said we wanted asylum.
- 14 7. We crossed near San Diego, and they brought us to a facility in San Diego. We
- 15 were there for about 10 days.

16

17 **San Diego Facility**

- 18 8. It was a jail there. We slept on mats and foil blankets, nothing else.
- 19 9. It was very cold, and there was a light on 24 hours a day
- 20 10. My daughter couldn't sleep well; it was very loud and noisy.
- 21 11. I was with my daughter, but my husband was not with us.
- 22 12. My husband was alone for 5 days, there was no one else with him in his cell.
- 23 13. We could visit each other sometimes, but it wasn't every day.
- 24 14. We could sometimes see him while eating; it was 10 to 15 minutes. It depended on
- 25 what the officers wanted – it was whatever they wanted.
- 26 15. We asked for more clothes for my husband, but they told us no.
- 27 16. The food was all frozen. We had to ask them to heat it every time in a microwave.
- 28 There wasn't enough food either, even for children.

1 17. For the men, there was definitely not enough food, and it was the same food every
2 day.

3 18. There were no hot drinks, just water and juice.

4 19. My daughter was hungry and sometimes, as kids do, she wouldn't want to eat
5 when they served the food. If she wasn't hungry then, she would miss out on the food
6 entirely.

7 20. She was very sad to be separated from her dad. She asked why he was separated
8 from us and why we couldn't see him.

9 21. There were 8 of us total in one room. There wasn't enough room when we first got
10 there; it was very full.

11 22. We asked if we could call a lawyer, and they didn't let us.

12 23. My husband told them he has a sponsor in the U.S. and asked to speak to his
13 sponsor via phone, and they started to laugh at him. They said you dream you will be an
14 American?

15 24. After we were there for 8 days, they finally let him call his sponsor.

16 25. Sometimes I could call relatives, but it took a long time to ask and get on the
17 phone. I spoke to relatives about 2-3 times.

18 26. The people at the facility told us many times to sign the voluntary departure forms.
19 They said the U.S. President has decided you need to leave.

20 27. We said we need to speak to an attorney about the forms, but they didn't let us.

21 28. We did an asylum interview there, and we got a court date for March 17. On
22 March 11, they moved us here to Karnes, though. And they said it would delay our court
23 date. We don't have a new court date yet.

24 29. We've been at Karnes since March 11.

25 30. They didn't tell us why we were leaving or where we were going. We only saw
26 once we were at the airport that we were flying to San Antonio.

27

28

1 **Karnes Detention Facility**

2 31. One major concern we have is that we want our child to see a doctor. [REDACTED] saw
3 the doctor here, but we don't think that was enough.

4 32. She has a tooth coming in on top of another tooth. The doctor here said we can get
5 it looked at once we leave Karnes, but I want to see an orthodontist or go to a children's
6 hospital now.

7 33. It hurts [REDACTED] when she eats and sometimes when she sleeps too. Ibuprofen is the
8 only thing they've given her for this.

9 34. I am very nervous that this tooth needs to be dealt with soon and fear that waiting
10 could make it worse.

11 35. My husband told the staff one day he had a headache. Since then, every day twice
12 a day he has to go to the medic to receive ibuprofen. He doesn't need it anymore, as the
13 headache is gone, but they still make him go twice a day just to wait in line and sign a
14 form saying he doesn't want it. This is very weird to us.

15 36. My husband is still separated from me and [REDACTED]. He is with other men.

16 37. We were with 6 other people initially, but now there are just 4 of us left in the
17 room.

18 38. [REDACTED] is always asking us when she can play on her phone again or see her friends.

19 39. In San Diego, there was no education at all. Here, there are just brief English
20 classes for 1 hour a day. This is only for moms and kids, not the dads.

21 40. There is a library, but there is no internet so the computers don't work. They keep
22 saying they will provide internet, but we still don't have it.

23 41. The temperature here is cold. They don't switch off the air conditioning. If you're
24 on the top bunk bed, it's cold because it's blowing on you constantly.

25 42. One mom said she asked for another blanket, and they said you can't get more than
26 one blanket.

27 43. The staff come into the rooms all the time at night to do "checks"; no one can
28 sleep. They slam the door too. They do this every 20-30 minutes at night.

1 44. We cannot sleep well. [REDACTED] almost never sleeps.

2 45. We have to pay for the tablets when using games, and we pay for the phone calls
3 too.

4 46. It's 5 cents for games per minute, and 7 cents for calling per minute inside U.S.A.
5 It's very expensive to call abroad.

6 47. Today, when it's rainy, [REDACTED] is very bored. There is nothing to do. The gaming
7 room is very small, not a lot of people can fit in there.

8 48. None of the food is fresh, it is all boiled.

9 49. For a period of days, there was a problem with the water; they didn't give us
10 bottled water. They said to get it from the tap, but you can't do that here. The tap water
11 tasted bad; it tasted like iron and made us sick. Now, they are back to using bottled water.

12 50. The towels are dirty, like something you would use to wash the floor. They
13 basically aren't even towels, and they are so short they don't cover the whole body. They
14 are like dish towels to dry dishes. They say they are clean, but they aren't.

15 51. My daughter had a problem getting new shoes; they are all wet from the rain. They
16 don't get more than one pair unless theirs are completely torn. Hers aren't torn but they
17 are damp and wet, uncomfortable to wear.

18

19 **Looking For ard**

20 52. If I could change one thing about being here, it would be to have education for our
21 daughter. You can't just "play" every day. She is bored and she needs education. If they
22 provided some education in English, I could translate it for her.

23 53. Also, we don't have pillows to sleep on.

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1 I declare under penalty of perjury that to the best of my knowledge, all the information I
2 have here given is correct and complete. I understand that I have to tell the truth in this
3 declaration and the legal consequences of testifying falsely to the authorities. The
4 interviewer read the declaration to me and everything in it is true and accurate. Executed
5 on this 27 day of March, 2025, at Karnes, Texas.

6 [Redacted signature]

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8 ([Redacted signature])
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EXHIBIT 13

**REDACTED VERSION OF DOCUMENT
PROPOSED TO BE FILED UNDER SEAL**

1 I, [REDACTED], declare as follows:

2 1. This testimony is based on my personal knowledge and the following facts are true
3 to the best of my understanding and recollection.

4 2. I am 29 years old. I am from [REDACTED].

5 3. I speak Spanish and I understand some English.

6
7 Entry to Immigration Custody

8 4. I have lived in the United States for a few years. I live in Dallas, Texas.

9 5. My son [REDACTED] came to the United States later, around April 2024. He was released
10 to me, and I enrolled him in a middle school in Dallas. [REDACTED] is in seventh grade.

11 6. Because I believed my family would not receive asylum in the United States, we
12 decided to go to Canada to seek asylum. I thought that was the best thing to do for
13 [REDACTED] safety and mine.

14 7. [REDACTED] and I went to Canada with [REDACTED] service dog, Toby, and with my brother,
15 my mother, and my spouse, who is a U.S. legal permanent resident.

16 8. My family was all detained in Canada for 24 hours. The Canadian officers told me
17 to sign papers as part of the process. After I signed these papers, I was told it was my
18 deportation order that I signed and that we would be going back to the United States
19 because of a third-country agreement.

20 9. [REDACTED] and I have been detained in the United States for about 24 days now. After
21 we were deported from Canada, we were detained in North Dakota. The officers in that
22 station treated us very poorly at first. For example, [REDACTED] was not allowed to take a
23 shower for 4 or 5 days. Also, I asked the officers if I could have a coffee, to help with the
24 migraine I was having, and the officer looked to another officer and said: "Does she think
25 this is a Wal-Mart?"

26 10. There was a work shift change after a few days and the new officers were nicer to
27 us.

28

1 11. My mother and my brother are detained in Nebraska and Minnesota. I am really
2 worried about them, and [REDACTED] is so worried about his uncle, my brother. Because my
3 spouse is a permanent resident, he was released.
4

5 Karnes Immigration Facility

6 12. [REDACTED] and I have been at the Karnes facility for about 18 days.

7 13. I am so worried about my son's well-being here [REDACTED] has a condition called
8 thrombocytopenic purpura. It is a blood-related disorder. He was diagnosed when he was
9 one-and-a-half years old. For the past several days, his feet and ankles have been swollen
10 and inflamed. He got a platelet count shortly after we arrived at this facility, and it was on
11 the low side, but not too low. But now I am extremely worried that his platelet count has
12 gotten lower because of his feet and ankles being inflamed.

13 14. The staff here have told me that [REDACTED] swollen feet and ankles is not an
14 emergency. I don't know how it's not an emergency. For three days, he had to have his
15 feet elevated and he was complaining of pain. He had inflammation like this when he was
16 2 years old, and he was hospitalized for about 28 days.

17 15. Karnes denied his request to get an ultrasound. The doctor here recommended that
18 he see a hematologist, but no one has given an answer about if that will happen. It is so
19 hard to witness [REDACTED] in pain like this as his mother, and be unable to do anything,
20 because medical staff here will only give him Tylenol.

21 16. An organization called RAICES requested our release due to medical reasons, but
22 ICE denied the request.

23 17. Being detained here is so hard on [REDACTED] for so many reasons. My son has
24 experienced so much trauma in his life, so at home in Dallas, he has a service dog for
25 emotional support. His name is Toby. When [REDACTED] came to the United States last year,
26 he was wetting the bed because of all the trauma he's gone through. With his service dog
27 Toby sleeping in bed with him, [REDACTED] stopped wetting the bed.
28

1 18. ██████ had stopped wetting the bed completely until we were detained. Since being
2 here at Karnes, he has wet the bed twice.

3 19. The first time ██████ wet the bed here, it was nighttime, and he had said to me
4 “*Mami, tengo miedo*” (“Mommy, I’m scared”). He got into my bed. Staff came in and
5 yelled, saying he couldn’t be in my bed. ██████ got back into his own bed, and he wet the
6 bed that night.

7 20. ██████ cries at night. He says: “*Ya no puedo*” (“I can’t anymore”). Here at Karnes,
8 he made friends with a boy from Brazil. The boy was deported. When ██████ found this
9 out, he cried: “*Mami, lo van a matar*” (Mommy, they’re going to kill him.”). Many
10 families are leaving the facility and we don’t know where they’re going, if they’re being
11 deported or released. Yesterday, the family we shared a room with was released and
12 ██████ cried and cried, saying that he wanted to leave. I have to keep giving him hope
13 that we will be able to leave this place.

14 21. ██████ biggest fear is that we are going to be separated from each other. Last
15 week, staff took me out of the facility to go to the eye doctor and they said my son
16 couldn’t come. He told me he was afraid the whole time I was gone.

17 22. My son is not eating, and I know it is from the depression of being detained. For
18 example, they served pizza here, and he wouldn’t eat. At home, ██████ eats 4 slices of
19 pizza

20 23. Also, sometimes the food here is not good or is spoiled. They provide bologna
21 sandwiches the other day, and the bologna was spoiled.

22 24. For three days here, my son could not drink any water. The staff stopped giving us
23 bottled water and told us to drink the tap water. But the tap water makes people sick.

24 ██████ got diarrhea for two days after drinking the tap water. They only gave us bottled
25 water again after a group of us moms got together a made a complaint to ICE and GEO.

26 25. My son is afraid of going to the doctor here because he is scared we will go back to
27 the medical isolation room. We were in medical isolation for two days when we first got
28 here. In the medical isolation room, the bathroom has no doors and is not private. It’s part

1 of the same room. There's only a small wall covering the toilet, and you can see people
2 passing by the window when you're on the toilet. When we were in there, ██████ told me
3 he couldn't use the toilet. So my son doesn't want to go to medical because he's afraid
4 we'll be stuck in that room.

5 26. ██████ is not receiving education here. He goes to English classes for about 35
6 minutes a day. That's it. This is not good. He needs to be in school—he was finishing
7 seventh grade here in the United States.

8 27. You have to have money to make phone calls here. I had four dollars, so we can
9 make calls. But there are families here who don't have money to make phone calls, so
10 they can't talk to anyone.

11 28. The staff do not treat us well. At night, they bang on the doors and come in the
12 room loudly. They yell. For example, sometimes we get clean clothes but they're still
13 damp, so we try to dry the clothes by putting them out on the bed. But then the staff yell
14 at us. They also laugh at us. When I asked staff for a razor to shave, they laughed at me.

15 29. Unfortunately, our children are conscious of the fact that we are prisoners. But as
16 their mothers, we are trying to make this place feel less like that and make it less difficult
17 on them. So, at dinnertime once, we pushed the small tables and chairs together in the
18 cafeteria so multiple families could eat dinner together. The staff separated the tables.
19 They don't want the families to talk between each other.

20 30. They are violating our rights here. It makes me angry how my son is being treated.
21 I could tolerate being mistreated. But it's horrible to watch it happen to my son. Being
22 here is not better than being detained at the border. Sometimes it's worse.

23 31. Before coming into this interview, the Karnes staff who brought me told me not to
24 say anything and to only answer basic things. They do not want people to know how they
25 are treating us. I am afraid for when the lawyers leave, because the staff will go back to
26 treating us poorly again.

1 I declare under my duty to tell the truth and penalty of perjury that to the best of my
2 knowledge, all the information I have here given is correct and complete and I understand
3 the legal consequences of testifying falsely to the authorities. Executed on this 27 day
4 of Marzo 2025, at Karnes Texas
5 (March)

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CERTIFICATE OF INTERPRETATION

My name is Rachel Smith and I swear that I am fluent in both the English and Spanish languages and I interpreted the foregoing declaration from English to Spanish to the declarant to the best of my abilities.

Dated: March 27, 2025



Rachel Smith

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EXHIBIT 14

**REDACTED VERSION OF DOCUMENT
PROPOSED TO BE FILED UNDER SEAL**

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I [REDACTED] declare as follows

1. This testimony is based on my personal knowledge and the following facts are true to the best of my understanding and recollection.

2. I am fourteen years old and have been living in California since I was five. I am in 9th grade, and I live in San Fernando Valley with my mom and my two siblings who are 6 and 4. I was born in [REDACTED], and my younger sister and brother were born in the U.S.

3. I speak English and Spanish.

C P Custody Prior to Karnes ICE Facility

4. I have been detained at the Karnes ICE Facility in Texas since March 15th. Before that I was at a few other detention centers – so I have been detained in immigration facilities for 20 days total so far. We were picked up from a traffic stop in El Paso and then moved to an El Paso detention center, McAllen, El Paso Station, and Ursula detention center before coming here.

5. It has been a really difficult time. A few weeks ago, my mom and I flew to Texas to meet up with her boyfriend and drive back to California together in his new car. He was planning to move in with our family. As we were driving in El Paso, there was a traffic check point and my mom’s boyfriend was stopped. He did not have legal status and the officers picked him up. My mom showed the officers her ID and her papers, and they said we were fine. But they told her boyfriend that he was not allowed to be here. My mom didn’t want to leave her boyfriend alone. We stayed at the checkpoint for a couple hours. Then they told my mom and I that we were going to another place to just do a check-in. They said it would only take 2 to 3 hours and the car would still be there. They lied about that. Then immigration picked us up in a white van. The white van took

1 us to a detention center with big white tents. They took us to a room with other families.
2 They gave us some food and said an officer would talk to us later about our papers. It
3 was about 10 pm. They took our fingerprints and made my mom sign some papers, and
4 then took us to where we would sleep. I don't know where they took her boyfriend, but
5 he has now been deported.

6 6. It was really stressful to be in that big tent. There were lots of people walking back
7 and forth and they were always watching us. We were not able to leave or go outside –
8 we were just stuck in one part of the tent with four other families.

9 7. We were detained in that tent for around a week. You couldn't really sleep there.
10 There was a lot of wind and the tent would make a loud screechy noise. There were
11 lights on all the time and lots of people coming in and yelling. When we were sleeping,
12 they would always try to talk to us. You could hear babies crying at night and it was just
13 really hectic.

14 8. The food was horrible. They would give us cold burritos, or meat and bread. But
15 the meat would always have something really wrong with it. One time the meat was
16 purple. Another time the meat would stink. I got sick from the meat and had to go to
17 medical. I had sharp stomach pains. After that, I did not eat for a week and lost ten
18 pounds. I went from 170 pounds to 160 pounds in a week.

19 9. At El Paso, the immigration officials told my mom she could either leave
20 voluntarily or they would deport her anyway. She was worried that if they deported her,
21 she wouldn't be able to try to return for another 5 years. When they told my mom we
22 were being deported, I was really sad. We had left California on a Friday and I was
23 planning to be back in time for school on Monday, and now they were saying I might
24 never go home again. But after a couple days I just thought I did not want to be sad
25 about it anymore because it was God's plan. I also didn't want to be sad for my mom. I
26 did not want to make her feel bad because she is really emotional. I didn't want to see
27 her worried and crying. I always try to find the positive in things – so I tried to do that.
28

1 10. Next they took us to McAllen. At McAllen, the people working there separated
2 me from my mom. My mom was yelling and crying and really upset. It was
3 embarrassing me a little and I told her I would be okay, but it was hard. They put me in a
4 room with 5 or 6 boys of different ages.

5 11. The immigration officials told my mom that they actually could not deport her and
6 that she was able to see a judge. They told her she would be moved to another station.
7 Apparently, the [REDACTED] consulate was able to stop the deportation because they got
8 information about my mom's domestic violence case and her papers that showed we were
9 allowed to be here. They sent us to El Paso Station and then Ursula.

10 12. In Ursula, there were about 23 people in our room. It was so crowded - everyone
11 was one on top of the other all squished together. There weren't enough mats and the
12 people had to sit or stand. My mom told them she knew her rights and she tried to fight
13 for everyone to get phone calls. Some people had been there for like fourteen days
14 without being able to call their families.

15
16 **Detention at [REDACTED] ICE Facility**

17
18 13. Then they moved us here to this place. It feels really stressful to be here because
19 it is like a prison - people are getting deported and are really worried about where they
20 might be going. People sold everything they had to come here to give their children a
21 better life. If they are deported back, it's like they made all those sacrifices for nothing.

22 14. People ask me to read their deportation papers and tell them what they say. When
23 the paper says they're going to be deported it hurts me to tell them. But they have asked
24 me to do it. When they have to go to countries that are unsafe, it makes me sad for them.
25 I feel like people are getting tricked into signing papers because a lot of them don't speak
26 English well. The ICE officers come out and there aren't any translators with them.

1 15. There are three large courtyards with cement buildings on either side. They divide
2 this place into an area with a courtyard for families and an area with a courtyard for the
3 Dads. There is one area that they aren't really using right now.

4 16. My mom and I are living in the same room with another family. That family has a
5 mom and two boys. The room has four sets of bunk beds, a TV and two tables. In the
6 back of the room there is a bathroom. Even though the TV is loud sometimes, I feel like
7 we got lucky that the two kids in our room are at least quiet because there are other kids
8 here who are loud. Some families have a hard time with fighting among the kids who
9 are all living together in one room.

10 17. They make us get up at 6 a.m. The Geo workers come in and turn on the lights.
11 They check our IDs every morning. They check all of the names and then tell us to go
12 breakfast. They serve breakfast from 6-7 a.m. After that, I might go back to sleep or go
13 outside and hang out. Lunch is from 12-1- so I basically just hang out until then. After
14 lunch, there is a kid's English class and then an adult English class. I don't go to those
15 because I already speak English, but there are people from all over the world here-
16 Armenia, Russia, Honduras, China, Mexico, Philippines and Mongolia as examples. I
17 spend the day hanging out with my Mom on the benches in the courtyard. We talk and
18 joke around with the other families to try to pass the time. At 4 pm, everyone has to line
19 up in the Day Room to have their IDs checked. Then dinner comes around and we go to
20 that from 5-6. After that we can be in the courtyard until they do another ID check at 8.
21 The fathers have to do an ID check in their Day Room and the mothers and kids do their
22 ID check in their Day Room again. The line in the Day Room is very long and noisy
23 with all the children. If some kids had been sleeping, they have to get woken up. Mostly
24 every day there are kids screaming and crying in the line. From Sunday- Thursday we
25 can be in the courtyard until 9 pm and on Friday and Saturday we can be outside until 10
26 pm. We will play volleyball in the evening. It's too bright to play volleyball during the
27 day.

28

1 18. The food here often doesn't taste right. One cook is better than the other. One of
2 the cooks makes food that tastes awful. I only eat certain foods that I know will not make
3 me sick. I also try not to eat food that makes my skin break out. Yesterday the food did
4 not look good, so my mom and I didn't even get a plate. So I just didn't eat lunch. We
5 told them no and they kind of got mad about it. I now weigh only 154 pounds. They
6 weighed me when I got here. I am getting the bare minimum of food here. Sometimes I
7 miss two meals because of how bad the food is. We have to buy snacks at commissary
8 on Tuesdays and Thursdays. We also have to buy our own plates, spoons, snacks, drinks
9 or candies. Sometimes we buy ramen for the days that I don't eat breakfast or lunch. I
10 have lost at least 14 pounds in the past few weeks while in detention.

11 19. There is no actual school here. It makes kids sad that they are missing school.
12 One girl here is a junior from a high school in Texas and she's feeling sad because she
13 had her whole senior year planned out. Her thirteen-year-old brother was sad because he
14 missed out on his football tournament. I think they also got picked up with their mom
15 and sisters at a traffic check point.

16 20. They have a library, but I haven't found any books I would want to read. It's only
17 old books in English that are not about anything recent. There is not much else to do.
18 There are supposed to be movies on Fridays, but the first time I went there was a medical
19 emergency before the movie got started so they had to cancel it. I haven't heard about
20 any other movies.

21 21. Since I've been here, I have seen many medical emergencies. The first one was a
22 kid fainting. It was a little Russian kid. It was really hot and there was a water problem.
23 That day they barely put out any water and I think he was dehydrated. When we first got
24 here, they barely put out any water and people would get really worried about not having
25 enough. The second medical emergency was really scary. A kid hit herself on the table
26 and three of her front teeth went up and caused a ton of bleeding. Her mouth got filled
27 with blood. She had to go to the hospital and get a brace to try to put her teeth back
28 together. I also saw a woman faint in the courtyard. I think it was because she found out

1 she was getting deported and she couldn't accept it. There was also a medical emergency
2 yesterday in the courtyard. Another woman found out she was being deported. She had
3 some kind of panic attack and fainted. They took her to the hospital and she came back
4 later, but she left last night with her two girls. I think they were deported. There is also a
5 little boy who is around 12 who gets swollen feet or fingers because of something wrong
6 with his blood. He can't get too rowdy or he will swell up. His mom has to pay really
7 close attention to him all the time so he doesn't have a problem and get worse. We are all
8 worried about him.

9 22. I am able to move around the facility without my mom. If you are thirteen and up,
10 you can have a pass to move around without your parent. But if you are twelve and
11 under you have to stay with your parent at all times. The kids who are twelve do not like
12 that rule. I think some twelve-year-olds end up getting a pass and others don't. It is hard
13 for parents who have kids of different ages.

14 23. You have to pay to have phone calls here. Every call to a number in the U.S. is 7
15 cents per minute. So if I want to talk to my Dad or my siblings, I have to pay for it.
16 International calls are around 1.20 a minute, I think.

17 24. Since I have been in detention, I have heard staff make fun of people because I
18 understand English so well. People think we don't know what they're saying, but we do.
19 In El Paso station, one of the officers was saying my mom would look better with him
20 because her boyfriend was ugly, and that he would adopt me. Other officers made fun of
21 a woman who had pink hair and another woman who had two broken legs from climbing
22 over the wall. They were cruel.

23
24 **Life in California**

25
26 25. At home in California, I am in the 9th grade and I really like playing football. The
27 coaches told me that I'm good and I should try out for the varsity team and play wide
28 receiver. I was looking forward to tryouts. I was also looking forward to my friend's

1 uinceanera in May. I was chosen to be the main chambelan who does the first dance
2 with her. We had already paid for my suit. I missed the first practice on March 15th, and
3 I don't have much hope that I will make it back for her party.

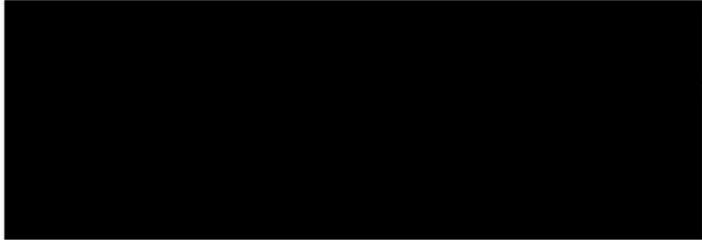
4 26. The first semester of 9th grade was a little rough because my family and I had been
5 living in a shelter, but we were in a new apartment for second semester. Everything was
6 starting off good and my grades were way better. But now I have missed most of March.
7 I feel if I go back soon, I could hopefully catch up.

8 27. I don't know what will happen next, but my mom and I are prepared to go back to
9 [REDACTED] if the judge says we have to. She will work on a plan for my younger
10 siblings to come live with us in [REDACTED]. I know my little brother and sister are in
11 good hands with my mom's friend because they have been close for eight years. We
12 haven't told my sister what is going on because we don't want to worry her. We had
13 been planning to buy them new bikes the Sunday we got home from picking up my
14 mom's boyfriend because my sister wanted a princess bike and my brother wanted a
15 Sonic the Hedgehog bike, but we didn't get to do that.

16 28. I have always been told that I would be good in business, and I'm into clothing. So
17 I have thought I would be an entrepreneur. I have wanted to make my own e-commerce
18 business since 5th grade. I have also learned a little about stocks and trading from a
19 teacher at my school this year. I have really been getting into that. Wherever I end up, I
20 want to study and learn more about that on my own.

21 29. I have only one vague, blurry memory of being in [REDACTED] when I was five. I
22 don't remember any of my early birthdays there or anything about it and we have never
23 traveled there since we left. If we are forced to leave, everything will be all new for me.
24 It's one thing to move from one house to another, but it is totally different to go from one
25 country to another country where it feels like you have never been.

1 I declare under penalty of perjury that to the best of my knowledge, all the information I
2 have here given is correct and complete. I understand that I have to tell the truth in this
3 declaration and the legal consequences of testifying falsely to the authorities. The
4 interviewer read the declaration to me and everything in it is true and accurate. Executed
5 on this 21st day of March, 2025, at Karnes, Texas.



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EXHIBIT 15

**REDACTED VERSION OF DOCUMENT
PROPOSED TO BE FILED UNDER SEAL**

1 I, [REDACTED], declare as follows:

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3 1. This testimony is based on my personal knowledge and the following facts are true
4 to the best of my understanding and recollection.

5 2. I am 13 years old and I am from Guatemala. Before this I was in a detention center
6 in Virginia and in a juvenile detention in Florida.

7
8 Current Placement

9 3. I have been at Murphy Harpst for about six months.

10 4. During the day, sometimes they take us to go out to activities but sometimes they
11 leave us locked up inside. Sometimes when you misbehave they don't take you outside
12 for a day. You cannot go out into the sun except to eat. Sometimes I spend time in my
13 room just sleeping and listening to music.

14 5. The school is nice. I do homework on the computer in English most of the time,
15 and sometimes my translator helps. I study math, English, science.

16 6. I get 20 to go shopping about once per month. I asked to buy a game console a
17 month ago, and they said they would take me to go buy it but they haven't taken me to
18 buy anything.

19 7. I don't have a campus job, but some of the others do, you have to be sixteen to
20 work.

21 8. On days with and without school we get to go outside or to the gym for one hour a
22 day. So, on weekends we spend all day in the dorm.

23 9. I feel really bored in my dorm because some others have electronics, but I don't.

24 10. I really like when I get to go on outings, but sometimes you don't get to go when
25 the nonimmigrant children do. I don't know why but they get to leave campus more.

26 11. They've told me if I behave better I can be moved to another dorm, but I don't
27 want to move to another dorm, I just want to not be here.

28 12. I want to be back in Guatemala, because my family is there.

1 13. When I feel sad I speak with my therapist.

2 14. They put me in the solitary room once after a fight for twenty minutes. They have
3 put other kids there, too.

4 15. You can have a complaint you can write it on a paper in English and then
5 sometimes they do something.

6 16. There are no interpreters at night, so I use the English I know to communicate.

7 17. I call my family and I want to make calls from my room but they make me take
8 them all in the office with other adults there, so it doesn't feel private.

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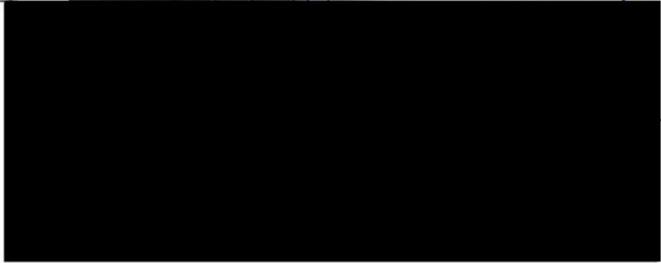
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1 I declare under penalty of perjury that to the best of my knowledge, all the information I
2 have here given is correct and complete. I understand that I have to tell the truth in this
3 declaration and the legal consequences of testifying falsely to the authorities. The
4 interviewer read the declaration to me and everything in it is true and accurate. Executed
5 on this 18 day of February, 2025, at Marietta Heights, Cedartown, Georgia.



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CERTIFICATE OF TRANSLATION

My name is Eleanor Roberts and I swear that I am fluent in both the English and Spanish languages and I translated the foregoing declaration from English to Spanish to the best of my abilities.

Dated: 2/18/2025



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EXHIBIT 16

**REDACTED VERSION OF DOCUMENT
PROPOSED TO BE FILED UNDER SEAL**

1 I [REDACTED] declare as follows

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4 1. This testimony is based on my personal knowledge and the following facts are true
5 to the best of my understanding and recollection.

6
7 Background

8 2. I am 17 years old, and I am from Mexico. I arrived in the United States around
9 April of 2024 and was with my brother. I crossed the border near San Diego. I have a
10 daughter, but she is in Mexico.

11 3. After crossing, I was detained for one night and one day in CBP custody.

12 4. After this, my brother and I both went to David & Margaret in CA. It was all good
13 there, but I was accused of drug problems. There were a few different programs they
14 offered me, but I only wanted to go where there was a drug treatment program. I don't
15 actually have behavioral issues in terms of fighting with others.

16
17 Current Placement

18 5. I've been here for two months. Everything is very slow here at Murphy Harpst.
19 Things work a lot slower for the Latinos. We can't communicate as well and don't
20 receive the same privileges. They separate us a lot, the ORR kids and the residents.

21 6. All the time here, we are enclosed with nothing to do. I don't receive better or
22 different services/treatment than at David & Margaret.

23 7. At David & Margaret, at least we could leave with a staff person. Here, we can't
24 unless they allow us to. It's rare and we can only leave in a group.

25 8. At David & Margaret, we were all the same. Here, there is a big difference
26 between the Latinos and the Americans. We cannot use phones or anything, and the
27 Americans can.

28

1 9. At David & Margaret, there was so much more to do. We weren't bored. We were
2 in recreation almost every afternoon all afternoon. We were very busy. Here, we get
3 some recreation but only with the people of our house and not a lot.

4 10. I haven't been told about any security level. I don't know what I am.

5 11. To leave here, we are working to put me in one of two ORR program called
6 Rancho San Antonio or Tarzana. Both are in LA. I've been told the drug treatment will
7 continue when I go to the CA facility.

8 12. I didn't receive drug treatment here for the first month I was here. I felt like I was
9 losing time. I also didn't know why I was here. A lot of the other kids have a criminal
10 background, but not me. So, I didn't know why I was here.

11 13. The Americans and ORR kids don't mix in my dorm, Nellie. We are very
12 separated.

13 14. I feel very closed in here all the time. There is nothing to do, without any activities.
14 There are full days that I spend enclosed in my dorm.

15 15. They separate the ORR kids and Americans for meals. We eat in the school, they
16 eat in the dining hall.

17 16. There is nothing here that I like.

18 17. There are jobs here. I don't have one now, but I want one. I don't really understand
19 the schedule of how we get money. Sometimes we get it and can buy some stuff.

20 18. I asked various times to go to a bank to send money to my daughter in Mexico. It
21 took 1 month for them to take me to a bank.

22 19. When I arrived here, I needed to see a doctor to change my psychotropic medicine.
23 I asked them to let me see someone. It took a month before I could see a doctor. I felt
24 really stressed, anxious, and paranoid without that medicine. I would have to do things
25 like shower or workout at night to keep me calm.

26 20. I have seen the horses but it's all in English, so I don't really understand what the
27 instructor says.

28

1 21. There are some interpreters, but they aren't here all the time. They are here usually
2 during business hours. Sometimes they have to leave and go to another house, so there
3 are times there aren't any interpreters in our house.

4 22. They've told me I can be stepped down, but I want to leave here. I don't want to go
5 to Oasis or the Independent Living Program.

6 23. There is no privacy here with personal phone calls. They know my daughter's
7 name and everything. I've asked for privacy, and they told me no.

8 24. But there is privacy when we do therapy, meet with our case manager, social
9 worker, or lawyer. But for the rest, there isn't.

10 25. It's like a prison here. There is a tiny window all the way up in our room that lets
11 in a tiny bit of sun but that's it. The icebox in CBP was better than this.

12 26. Before I came here, I was told I would be able to leave to go outside often, that
13 there would be a lot of activities, that my calls would be private, that I'd be able to work,
14 that I'd be in public school. None of this is true.

15 27. When you break a rule, it's 24 hours locked in your room. If you try to leave to the
16 living room area, they grab you and put you back. This happens to ORR kids.

17 28. There is a solitary confinement room that some kids from a higher security level
18 have been put in.

19 29. One time, my David & Margaret case manager did a report here because they
20 weren't letting us have phone calls.

21 30. The majority of the staff here do not speak nicely to us; they yell at us for anything
22 they are trying to communicate.

23 31. One time, I saw a staff member fight with another ORR kid. The staff member
24 used physical force. He grabbed a kid and pushed him into his room. Then he came back
25 to the Nellie common area and said, "anyone else want to fight with me?" And we were
26 all quiet.

1 32. On an outing, I wanted to buy good clothes; I didn't want to buy a ton of clothes, I
2 just wanted to buy good quality clothes. They didn't let me buy it, they said I'd be
3 wasting my money even though I had enough and it was my money.

4 33. I've only left once to do "shopping." They don't bring us more than that.

5 34. One time, the kids from Nellie all went on a hiking outing to the mountains. I
6 asked to go, and they told me I couldn't because there wasn't enough staff. Some of the
7 kids from my dorm got to go. I complained and later they told me it was because I didn't
8 want to go. That wasn't true. I asked to go and was denied.

9 35. I've been sick here one time. I went to the ER for about 4 hours. The doctor
10 prescribed me medicine, but I never received the medicine. Luckily, I felt better a few
11 days later.

12 36. The food does not taste good here.

13 37. It's emotionally difficult for many kids to be here. The staff does not help us to feel
14 better, even if we ask.

15 38. If I could change anything here, I'd change the food and the fact that they treat the
16 ORR kids differently. I'd also speed up all the processes here like the process to get
17 medicine.

18 39. After I leave here, I want to study and get a job.
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1 I declare under penalty of perjury that to the best of my knowledge, all the information I
2 have here given is correct and complete. I understand that I have to tell the truth in this
3 declaration and the legal consequences of testifying falsely to the authorities. The
4 interviewer read the declaration to me and everything in it is true and accurate. Executed
5 on this 18 day of February, 2025, at Murphy Harpst Children's Center Georgia.



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CERTIFICATE OF TRANSLATION

My name is Katherine Johnson and I swear that I am fluent in both the English and Spanish languages and I translated the foregoing declaration from English to Spanish to the best of my abilities.

Dated: 2/18/25

Katherine Johnson

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EXHIBIT 17

**REDACTED VERSION OF DOCUMENT
PROPOSED TO BE FILED UNDER SEAL**

1 I, [REDACTED], declare as follows:
2

3 1. This testimony is based on my personal knowledge and the following facts are true
4 to the best of my understanding and recollection.

5 2. I am 17 years old and I am from Mexico. I arrived in the United States a little over
6 four years ago in June. I came here alone.
7

8 Prior Placements

9 3. I've been in many placements over the years. For my last placement, I was sent to
10 Los Angeles to an ORR shelter. I was there for about eight months. It was a much better
11 placement than Murphy Harpst. The staff and the food were way better and there were
12 way more outings and freedom.

13 4. At that location I was able to use the phone wherever I wanted and take it on
14 outings. There were not locks on my door, like at Murphy Harpst, so I could go around
15 campus. Compared to here, I had much more ability to communicate with people and be
16 less restricted.

17 5. I've been to other ORR locations including Children's Village in New York and
18 one in Michigan. Michigan and Los Angeles were my favorite, but I hated Children's
19 Village. It was ever worse than Murphy Harpst.

20 6. I didn't want to go to the school in Los Angeles because it wasn't a real school. It
21 wasn't in the community.

22 7. I was moved here eight months ago. Before they moved me to Murphy Harpst,
23 they promised there would be outings, school, and horses, and they said other weird
24 things. I wanted to go, so I could go to real school and I thought it would be better. No
25 one told me the reason that they were moving me to Murphy Harpst.
26
27

28 Current Placement

1 8. I have been at Murphy Harpst for about 8 months.

2 9. The biggest difference between Murphy Harpst and my previous placement is the
3 level of restrictiveness. Before getting here, they didn't tell me what the rules would be or
4 that the staff would use force. Sometimes when kids fight, the staff tackle the kid and
5 take him to the restraining room.

6 10. I don't think there is a difference in the programs for ORR kids here.

7 11. The staff at Murphy Harpst are always taking advantage of the fact that they are
8 staff. They like to use their power over you and make you go to your room and stay there.
9 While not all staff do this, it is most staff.

10 12. Yesterday, I saw a staff member knock on a kid's door to bring his snack, and then
11 throw the snack on the ground so the kid had to pick it up.

12 13. If there is an argument between kids, the staff will grab kids and lock them in a
13 small room for a few hours until they calm down. There is nothing in that room.

14 14. One time I was in the gym and I went back to my dorm to talk on the phone. I
15 wanted to go outside the building ,but they said there were no staff to let me be outside. I
16 went outside anyway because I needed space, and I tried to tell the staff I just wanted to
17 be outside. They couldn't understand me, so they thought I was going to escape. Three
18 staff tackled me and one staff put his body on top of me. They grabbed my hands and put
19 them behind me and my mouth was in the ground. I yelled at them to get off me, and then
20 they apologized. I had scratches on my head and arms and my clothes were stained from
21 the grass. The staff members were Mr. J [REDACTED], Mr. Z, and Mr. K.

22 15. Since then, I have just been hoping to age out of here. It's really frustrating that
23 you cannot go outside unless there are staff to go outside.

24 16. My bedroom feels like a prison cell. The walls are brick and there is only one small
25 window high up that I cannot open. There is a bathroom in the bedroom and there are
26 times you cannot leave your bedroom. From 3-4 pm it is always bedroom time and
27 bedtime at night is 8 pm. If you leave your bedroom between 3-4 pm you get a report. If
28 they report you, then you can't go on outings.

1 17. I am really frustrated with the lack of outings here. There are supposed to be
2 outings every Friday, but they do not always happen. During summer break, we were
3 here for three months and they promised we'd be able to go out to many places but we
4 only left campus four times in those three months. When we left campus, we went to a
5 park and we went fishing.

6 18. I do not know of any complaint system. You can tell the head of program issues,
7 but when I did that they told me that there was a reason they were allowed to use force.

8 19. The food is bad here and the snacks are always the same. We will get an apple or
9 banana and crackers.

10 20. The school here is worse than in LA, where it wasn't even a real school. They put
11 you on a computer and you do what you want all day. There's no blackboard or teaching.
12 The teachers here sit on their phones all day while the kids hang, and every once in a
13 while, the teachers just say "Silence." Now, I am in GED classes Monday to Thursday,
14 and it is even worse there. I go to classes off campus where they teach only in English
15 and I don't understand them. I also take English classes two days a week in the
16 community, and two days on the computer here. The woman who teaches gets offended if
17 I speak Spanish.

18 21. There is only recreation time when the staff want. When I go outside, it is always
19 in a group. When we get outdoor time, it is like forty minutes or an hour about two times
20 a day. I don't like how restricted I feel.

21 22. Yesterday, we didn't get to go outside because there were sick kids. When kids get
22 sick the cottages get locked down. We didn't go to school yesterday or today because our
23 dorm is in COVID lockdown.

24 23. I can use a phone, but there are times when I have seen them not let kids speak to
25 their parents when they want.

26 24. I have a social worker who is good because it is not someone who is here. I do not
27 trust the staff here. I like my attorney and young center advocate. I hate my New York
28 team. I don't trust my counselor here, because he works for Murphy Harpst. Last time

1 you visited here, the staff encouraged me to talk to you but I didn't want to because I do
2 not trust them. My attorney told me to talk to you, so I am.

3 25. I feel isolated that there are no Spanish speaking staff. If they know Spanish
4 speakers are coming here they should get staff.

5 26. When I first got here I was in a different cottage called Nelly and in the regular
6 school. Now I am in Thalia. I changed cottages, and they told me it was because Thalia
7 is more therapeutic. But Thalia is a stricter program. There are more rules with stricter
8 staff. For example, there is a line in the main room that you cannot cross or else you get a
9 report, which wasn't the case in Nelly. Also, if I am in my room and I want to ask a
10 question, I have to put my hand out of my door, I cannot leave to walk to the office.

11 27. The staff treat American kids with more force than us. For example, sometimes the
12 staff will let me sleep longer or play outside longer because I am ORR. But, then the
13 U.S. students get to go on outings that we can't go on. The staff say it is because those
14 kids cause problems.

15 28. There is a Mexican kid who is not ORR who they treat much worse. The staff
16 discriminate against him based on race.

17 29. If I could change this program, I would make there be less rules, more Spanish
18 speaking staff, less forceful staff, and more activities.

19

20 Future Plans

21 30. I spoke with my case manager about a program in Los Angeles where I might be
22 able to go to a youth shelter the day before my eighteen birthday, on 10/07/2024. I also
23 want to apply to URM, but I think it might be too hard to get in.

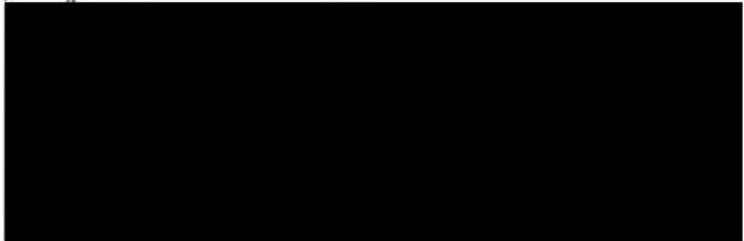
24 31. I would like to live in Los Angeles or Michigan in the future because those were
25 where my best placements were.

26 32. I would like to be a soccer player as an adult.

27

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1 I declare under my duty to tell the truth and penalty of perjury that to the best of my
2 knowledge, all the information I have here given is correct and complete and I understand
3 the legal consequences of testifying falsely to the authorities. Executed on this 12 day
4 of September 2024, at Murphy Harpst.



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CERTIFICATE OF TRANSLATION

My name is Eleanor Roberts and I swear that I am fluent in both the English and Spanish languages and I translated the foregoing declaration from English to Spanish to the best of my abilities.

Dated: 09/12/2024



Eleanor Roberts