

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

L.G.M.L., et al.,

Plaintiffs,

v.

KRISTI NOEM, et al.,

Defendants.

Case No. 25-cv-2942-TJK

**PLAINTIFFS' MOTION FOR
PRELIMINARY INJUNCTION**

Pursuant to Federal Rule of Civil Procedure 65 and Local Rule 65.1, Plaintiff Children and putative class members hereby move for a preliminary injunction to enjoin Defendants from removing Guatemalan unaccompanied minors from the United States to Guatemala. The ten putative class representatives, like the rest of the Guatemalan unaccompanied minors in the custody of Office of Refugee Resettlement (ORR) were and continue to be at risk of removal to Guatemala without final orders of removal by an Immigration Judge. Many have expressed fear of return. Many have or had pending immigration cases in immigration court. Defendants' plans to remove them put them at risk of abuse, neglect, persecution, or torture in Guatemala.

As further explained in the accompanying Memorandum, Defendants' unlawful attempts to remove Guatemalan unaccompanied minors violate Section 235 of the William Wilberforce Trafficking Victims Protection Reauthorization Act ("TVPRA"), Pub. L. No. 110-457, 122 Stat. 5044 (2008), 8 U.S.C. § 1232; the Immigration and National Act ("INA"), 8 U.S.C 1101, *et seq.*; 45 C.F.R. 410.1000, *et seq.*; and the Fifth Amendment of the United States Constitution.

In support of this Motion, Plaintiff Children and putative class members rely on the accompanying Memorandum and evidence. A proposed order is attached for the Court's

convenience.

Dated: September 3, 2025

Respectfully submitted,

/s/ Efrén C. Olivares

Efrén C. Olivares*
Hilda Bonilla (D.C. Bar No. 90023968)
Lynn Damiano Pearson**
Kevin Siegel**
NATIONAL IMMIGRATION LAW
CENTER
1101 14th Street, Suite 410
Washington, D.C. 20005
Tel: (213) 639-3900
Fax: (213) 639-3911
bonilla@nilc.org
olivares@nilc.org
damianopearson@nilc.org
siegel@nilc.org

Counsel for Plaintiffs

**Admitted pro hac vice*

***Pro hac vice application forthcoming*

CERTIFICATE OF SERVICE

I hereby certify that on September 3, 2025, I electronically filed the foregoing with the Clerk of the Court for the United States District Court for the District of Columbia by using the CM/ECF system. I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the CM/ECF system.

/s/ Efrén C. Olivares

Efrén C. Olivares
Attorney for Plaintiffs

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

L.G.M.L., *et al*,

Plaintiffs,

v.

KRISTI NOEM, in her official capacity as
Secretary of the U.S. Department of Homeland
Security, *et al*,

Defendants.

Case No. 25-cv-2942-TJK

**MEMORANDUM OF LAW IN
SUPPORT OF PLAINTIFFS'
MOTION FOR
PRELIMINARY INJUNCTION**

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INTRODUCTION

In the wee hours of the morning on the Sunday morning of Labor Day weekend, the Trump administration put 76 Guatemalan children on planes bound for Guatemala. These children were taken from shelters operated by the Office of Refugee Resettlement (“ORR”), where staff had received notice to prepare the children just hours before, and were bused to airports. But for this Court's intervention while the plane sat on the tarmac in Texas, those children would have been expelled to Guatemala, despite many of them having ongoing proceedings before the immigration court and fearing return to their home country. Multiple public reports indicate these actions were part of an orchestrated plan to remove hundreds of Guatemalan children, including Plaintiff Children and putative class members.

The administration's position that it was merely cooperating with the Guatemalan government to return children to their parents is belied by the facts. Many of the Plaintiffs in this case have expressed fear of returning and do not in fact have safe caregivers to which they can return. They wish to pursue their immigration cases in the United States. Several Guatemalan parents have also indicated that they did not request their children's return. Even if the administration's contentions regarding its coordination with the Guatemalan government are true, any such coordination does not excuse the government's illegal action and does nothing to change its obligation to provide unaccompanied minors with the process unambiguously due to them under the law.

Indeed, robust statutory protections prevent unaccompanied children from being whisked off under cover of darkness at the whim of any government. The product of decades of bipartisan advocacy on behalf of this uniquely vulnerable group, Congress enacted these protections to ensure children can seek immigration relief, have access to counsel, and are safely housed and cared for at ORR facilities until they can be reunified with family or other sponsors in the United

States. If, at any point, a child wishes to be repatriated, that child may ask an immigration judge to allow them to voluntarily depart from the United States and undergo a process to ensure safe repatriation. Contrary to the government's assertion before the Court on August 31, 2025, 6 U.S.C. § 279(b)(1)(H) does not provide standalone authority to summarily expel or repatriate an unaccompanied child. If a child is ordered removed or granted voluntary departure by an immigration judge, § 279(b)(1)(H) provides for their safe repatriation. *See infra* p.23. Had the government complied with the laws, it would not have attempted to remove dozens of children in the middle of the night on a holiday weekend, and this litigation would have been unnecessary.

Putative class members include all Guatemalan children in ORR custody without final orders of removal, as well as ten named Plaintiff Children.¹ They all are at risk of removal from the United States without due process. Defendants' plans to transfer the class from ORR custody in order to summarily remove them put each member at risk of abuse, neglect, persecution, or torture in Guatemala. Plaintiffs Children and putative class members move the Court to issue a preliminary injunction barring Defendants from transferring Guatemalan unaccompanied children from ORR custody and summarily expelling them in violation of Section 235 of the William Wilberforce Trafficking Victims Protection Reauthorization Act ("TVPRA"), Pub. L. No. 110-457, 122 Stat. 5044 (2008), 8 U.S.C. § 1232; the Immigration and Nationality Act ("INA"), 8 U.S.C. § 1101, *et seq.*; 45 C.F.R. § 410.1000, *et seq.*; and the Fifth Amendment of the United States Constitution.²

¹ Plaintiffs intend to clarify in their papers relating to class certification that the class does not and should not include children with Voluntary Departure granted by an immigration judge.

² In its 12:37 p.m. Temporary Restraining Order, the Court issued temporary relief to members of the putative class shortly after Plaintiffs filed their motion for class certification. As the Court noted, the Supreme Court recently clarified that "courts may issue temporary relief to a putative

LEGAL AND FACTUAL BACKGROUND

On August 29, 2025, reports surfaced that the administration was planning to remove hundreds of Guatemalan children in government custody who arrived in the United States unaccompanied.³ These children were living in shelters and foster care in the custody of ORR, a component of the Department of Health and Human Services (“HHS”) that is charged with caring for unaccompanied children. Many are waiting to be released to a relative or guardian in the United States who can care for them while they make their case for protection before the immigration courts.

The news reports confirmed what child advocates and immigration attorneys were seeing on the ground, which signaled the government was about to transfer the children from ORR

class” and that it is therefore not necessary to “decide whether a class action should be certified . . . in order to temporarily enjoin the Government from removing putative class members.” *A.A.R.P. v. Trump*, 145 S. Ct. 1364, 1369 (2025) (quoting W. Rubenstein, Newberg & Rubenstein on Class Actions § 4:30 (6th ed. 2022 and Supp. 2024)).

“[T]he Court’s holding [in *A.A.R.P.*] means that the filing of a class suit (‘a putative class’), coupled with a showing that the standard for interim relief has been met, is sufficient to enable such relief to the entire putative class. Nothing more, in terms of class certification, is necessary.” 2 W. Rubenstein, Newberg & Rubenstein on Class Actions § 4:30 (6th ed. 2022 and June 2025 Update).

At this juncture, the Court may *either* issue further interim relief (*i.e.*, a preliminary injunction) as to the putative class *or* provisionally certify the class concurrently with issuing a preliminary injunction. *See id.*; *see also, e.g., Am. Council of Learned Societies v. McDonald*, --- F. Supp. 3d ---, 2025 WL 2097738, at *37-38 (S.D.N.Y. July 25, 2025) (“[M]ust the Authors Guild classes [] be formally certified before we can grant preliminary relief to the putative class members pending further proceedings? The answer is no. We are so informed by [*A.A.R.P.*]”) (granting preliminary injunction), *appeal filed* (2d Cir. Aug. 6, 2025); *Barabra v. Trump*, --- F. Supp. 3d. --, 2025 WL 1904338 (D.N.H. July 10, 2025) (concluding that it is appropriate for courts “to certify classes [] for the purposes of [preliminary] injunctive relief”).

³ Priscilla Alvarez, *Exclusive: Trump administration plans to send hundreds of Guatemalan children in government custody back to home country*, CNN (Aug. 29, 2025), <https://www.cnn.com/2025/08/29/politics/migrant-kids-guatemala-immigration>; Jody Garcia *et al.*, *U.S. is Working With Guatemala to Return Hundreds of Children*, N.Y. Times (Aug. 29, 2025), <https://www.nytimes.com/2025/08/29/us/immigration-guatemala-children.html>.

custody and expel them without an opportunity to complete their removal proceedings⁴ and seek long-term immigration status. For example, in some instances Defendants had simply removed minors' pending cases from the immigration court docket in preparation for their summary removal. *See* ECF No. 2-2 at 31, Declaration of Lauren Fisher Flores, Legal Director, South Texas Asylum Representation Project ("ProBAR") ("Flores Decl.") ¶ 8. Some Plaintiff Children reported Homeland Security Investigations ("HSI"), a component of Defendant ICE, recently interviewed them and asked about their family members in Guatemala. *See, e.g.*, ECF No. 2-2 at 31, Flores Decl., ¶¶ 6, 7; ECF No. 2-2 at 26, Declaration of A.R.M.D. ("A.R.M.D. Decl."), ¶ 2; ECF No. 2-2 at 7, Declaration of H.L.E.C. ("H.L.E.C. Decl."), ¶ 5; ECF No. 2-2 at 5, Declaration of M.O.C.G. ("M.O.C.G. Decl."), ¶ 5; Ex. N, Declaration of W.M.R.P. ("W.M.R.P. Decl."), ¶ 5. Another learned from that her parents had been notified by the Guatemalan government that she would be deported. ECF No. 2-2 at 29, Declaration of M.Y.A.T.C. ("M.Y.A.T.C. Decl."), ¶ 6.

Late on the night of August 30, 2025, ORR shelters received an email from "ORR Guatemala Reunification (ACF)" stating that unaccompanied Guatemalan children needed to be

⁴ Immigration judges have administratively closed, terminated, or dismissed the immigration proceedings of some Plaintiff Children. Retired Immigration Judge Ashley Tabaddor explains the significance of these docket management tools during her 15 years on the bench:

"When an unaccompanied minor applied for asylum or petitioned for SIJS, immigration judges sometimes administratively closed, terminated, or dismissed their removal proceedings as a docket management tool where the respondents appeared likely to win immigration relief before USCIS. Doing so did not mean they could be removed from the United States. In my experience, an immigration court would never close a case for purposes of removal, and in fact when a TVPRA or SIJS case was closed it was for the sole purpose of pursuing relief before USCIS."

Ex. E, Declaration of Retired Immigration Judge Tabaddor ("Tabaddor Decl.") ¶ 13; *see also* 8 C.F.R. § 1003.18(d)(1)(ii)(A) (permitting termination when an unaccompanied minor has filed an asylum application); *id.* § 1003.18(d)(1)(ii)(B) (permitting termination when a noncitizen is prima facie eligible for relief from removal and the application for relief is pending with USCIS).

ready to be transferred to DHS custody within two hours (or four hours in they were in foster care). ECF No. 3-2, Ex. 2. After learning of this notification, Plaintiff Children filed a class action complaint immediately on August 31, 2025, at 1:02 a.m. and an emergency motion for temporary restraining order (“TRO”) at 1:30 a.m. ECF No. 1, Compl.; ECF No. 2, Mot. for TRO. The court granted the TRO at 4:22 a.m. as to the individual Plaintiffs. Min. Order entered at 4:22 a.m. Later that morning, there were reports that Guatemalan children were being loaded onto buses and transported to the airport in Harlingen, Texas – a hub for deportation flights – despite the Court’s TRO.⁵ The Court moved the emergency hearing from 3:00 p.m. to 12:30 p.m. Before the hearing, Plaintiffs filed a motion for class certification. ECF No. 6, Mot. to Certify Class. At 12:37 p.m., the Court ordered that the Defendants “cease any ongoing efforts to transfer, repatriate, remove, or otherwise facilitate the transport of any Plaintiff or member of the putative class from the United States.” Min. Order entered at 12:37 p.m. Later that evening, Defendants confirmed in a status report that 76 minors had been on planes to Guatemala and had been returned to ORR custody. ECF No. 9, Second Status Report.

Plaintiff Children are ten unaccompanied children from Guatemala between the ages of 10 and 17. *See* ECF No. 2-2, Plaintiff Children Decl. *All* Plaintiff Children wish to remain in the United States to pursue lawful pathways to permanent legal status while in ORR custody; *none* have accepted voluntary departure through the legally mandated process for unaccompanied

⁵ Valerie Gonzalez et al., *As Guatemalan kids sit in planes in Texas, judge orders they stay in the U.S., for now*, Tex. Tribune (Aug. 31, 2025), (stating that “authorities had walked dozens of passengers — perhaps 50 — toward the plane in an area restricted to government planes. Passengers wore colored clothing typically used in government-run shelters for migrant children.”), <https://www.texastribune.org/2025/08/31/texas-harlingen-guatemala-immigration-asylum/>.

children. *Id.* At least one of Plaintiff Children, A.R.M.D., was taken to the airport on August 31, 2025:

On Sunday, August 31, 2025, around two in the morning, a supervisor at the Compass Connections Harlingen Shelter woke me up from my sleep. I woke up very scared, and I felt like I lost my breath for a second because they had never woken us up in the middle of the night before. The supervisor told me we were going to leave and to get our things. I asked for an explanation, but they didn't say why we were going to leave or where we were going. I started to pray to God because I was scared and wanted to stay in the shelter. I asked God to protect me and told him I would follow his will. I stayed seated in the room for a couple of minutes, praying and thinking about what would happen to me. They had not called my family, and I didn't know what to expect if they would take me back to Guatemala. I was pensative and worried. I didn't have time to wash my face or brush my teeth before they placed me on a bus headed for the airport.

I asked the bus driver if he could tell us what was happening. He said he couldn't tell us anything and that we would see where they would take us. They took us to the airport, and we made it there around 5:30 am. They fed us breakfast while we were on the bus, but I wasn't able to eat because of my nerves. I had no appetite for food. Around 10 am, they began to take us off the bus. I got off the bus and I started to say goodbye to all the friends I had made in the shelter in case we would not see each other again. I thought they were going to make me board the plane like they did for the other kids from the shelter, but they asked me for my name and then told me I was not on the list. I saw the other kids get on the plane around 10:30 am, and I saw the plane go up in the air around 11 or 12 pm, but eventually the same plane came back to the airport. When I saw the plane land back at the airport, I thought it was another plane, and I thought the kids were already back in Guatemala, but it was the same group of kids in the plane. The kids got off the plane, and then they were all placed back on the bus. We left the airport around 6:30 pm, and they took me to a new shelter. I made it to Compass Connections Cameron around 8 pm.

Ex. O, Supplemental Declaration of A.R.M.D. (“A.R.M.D. Supp. Decl.”) ¶¶ 8-9. This harrowing experience illustrates the imminent harm that requires injunctive relief.^{6 7} Putative class members who did board the flight waited hours on the tarmac before returning to buses and later to shelters. Ex. A, Supplemental Declaration of Lauren Fisher Flores (“Suppl. Flores Decl.”) ¶¶ 14-16. *See also* Ex. P, (“A.J.D.E. Decl.”) ¶ 12 (“The impact is real. I feel totally traumatized. I don’t even know how to explain it”)

Many Plaintiff Children have currently pending asylum claims based on fear of returning to Guatemala. *See e.g.* ECF No. 2-2 at 29, M.Y.A.T.C. Decl, ¶ 4 (“I am afraid to return to Guatemala. I have a pending petition for asylum . . . I am currently awaiting an Asylum Office interview”); Ex. M, Declaration of E.Y.T.T. (“E.Y.T.T. Decl.”) ¶ 5 (“I fear returning to Guatemala because random men have threatened if I do not do what they want. . . If I am sent back, I believe I will be in danger.”). Others have experienced abuse and neglect in Guatemala and some are requesting Special Immigrant Juvenile Status (“SIJS”) on that basis. *See e.g.* ECF No. 2-2 at 1, Declaration of L.G.M.L. (“L.G.M.L. Decl.”) ¶ 6, (“I came to the United States after experiencing abuse, neglect, and family violence”); *id.* at 3, Declaration of L.M.R.S. (“L.M.R.S.

⁶ A putative class member was similarly awoken in the middle of the night to be taken to the airport: “A putative class member was similarly awoken late at night:

Late Saturday night, we went to bed as normal. But then somebody woke me up and told me to come down to the main floor with other Guatemalan children. They sat us down and the director told me that they received a letter that all Guatemalans had to be returned to our home country. I wondered why, because I knew that I had a right not to be deported and speak with a judge.

Ex. P, Declaration of A.J.D.E. (“A.J.D.E. Decl.”) ¶ 7.

⁷ Plaintiff Next Friend Young Center for Immigrant Children’s Right (“Young Center”) had four children it was appointed to represent awoken in the night to board flights as well. Ex. B, Declaration of Carrie Vander Hoek (“Vander Hoek Decl.”) ¶ 31.

Decl.”) ¶ 6 (“We came to the United States after experiencing neglect from my parents...If we are sent back, we will not be able to live safely”); *id.* at 24, Declaration of G.A.B.B. (“G.A.B.B. Decl.”), ¶ 6 (“My parents were not able to care for me in Guatemala. I am going to pursue Special Immigrant Juvenile Status in the United States”); *id.* at 19, Declaration of L.F.M.M. (“L.F.M.M. Decl.”) ¶ 8 (“I want to remain in the United States and continue to fight my case. I want the chance to present my claim for asylum and Special Immigrant Juvenile Status and to have a fair opportunity to be heard”); *see also* Tabaddor Decl. ¶ 11 (“In my experience, I do not recall any instance in which a child with an SIJ order pursued voluntary departure.”).

The majority of Plaintiff Children have pending § 1229a removal proceedings mandated by the TVPRA. Many have hearings scheduled in the next few weeks. *See, e.g.*, ECF No. 2-2 at 26, A.R.M.D. Decl., ¶ 4 (next hearing scheduled for October 1, 2025); ECF No. 2-2 at 7, H.L.E.C. Decl., ¶ 3; ECF No. 2-2 at 5, M.O.C.G. Decl., ¶ 7; ECF No. 2-2 at 10, Declaration of T.A.C.P. (“T.A.C.P. Decl.”) ¶ 4 (next hearing scheduled for November 26, 2025); ECF No. 2-2 at 24, G.A.B.B. Decl., ¶ 5. Several are also pursuing asylum through the non-adversarial procedure that the TVPRA uniquely affords them by filing affirmative asylum applications with the United States Citizenship and Immigration Service (“USCIS”). Plaintiff L.F.M.M., for example, is a sixteen-year-old who states, “I am now just waiting for an asylum interview to be scheduled. I still have the right to continue fighting for protection.” ECF No. 2-2 at 19, L.F.M.M. Decl., ¶ 3; *see also* ECF No. 2-2 at 29, M.Y.A.T.C. Decl., ¶ 4.

Plaintiff Children’s parents were similarly blindsided by the government’s actions to suddenly remove their children from the United States. As M.Y.A.T.C.’s father explained:

On or around August 15, 2025, my wife and I received a strange phone call. The person told us in Spanish that the U.S. government is going to soon deport [M.Y.A.T.C.] as part a large group of Guatemalan children from the United States. The person asked us in Spanish whether we would be able to

receive [M.Y.A.T.C.] back. We told the person that [M.Y.A.T.C.] was going to school in the United States and that she has an attorney there. We were very surprised to receive this call. I was alarmed and extremely worried about my daughter after receiving this call. My wife and I told our daughter [M.Y.A.T.C.] about this call, and she became very worried and scared. We do not know why we received this call. We never asked for [M.Y.A.T.C.] to be sent back to Guatemala.

Ex. D, Declaration of Rudy Anibal Tiul Cucul (“Tiul Cucul Decl.”) ¶¶ 5-6; *see also* Ex. C, Declaration of Magaly Yaneth Vicente Sontay (“Vicente Sontay Decl.”) (Mother of M.F.A.P.V.) ¶¶ 3-5 (“About two weeks ago, I was visited by two women at my house to talk about my daughter, [M.F.A.P.V.]. These women seemed angry and were reprimanding me. They told me that I should not have sent my daughter to the United States.”). Meanwhile other parents of putative class members were never notified of their children’s imminent removal: “I was afraid that I was going to be returned. At around 2:30 a.m., I called my mother to tell her I might be deported to Guatemala. My mom started crying. She said that we could only trust in God. She had no idea that the government had a plan to return me.” Ex. P, A.J.D.E. Decl., ¶ 9.

A. Protections for Unaccompanied Children Under Permanent Injunctions, the Homeland Security Act, and the Trafficking Victims Protection Reauthorization Act of 2008.

Under U.S. law, an unaccompanied child is defined as a child who “(A) has no lawful immigration status in the United States; (B) has not attained 18 years of age; and (C) with respect to whom— (i) there is no parent or legal guardian in the United States; or (ii) no parent or legal guardian in the United States is available to provide care and physical custody.” 6 U.S.C. § 279(g)(2). Congress has created an exclusive statutory scheme for determining how unaccompanied children in government custody must be treated and whether they may remain in the United States. These procedures also govern when and under what conditions unaccompanied children may depart the United States—either voluntarily or as the result of a

removal order. The procedures are purposefully tailored to the unique needs and vulnerabilities of unaccompanied children and reflect decades of litigation and advocacy on behalf of their rights and dignity.

1. Early judicial interventions to remedy abuses against unaccompanied children.

As the phenomenon of unaccompanied child migration increased in the 1980s and 1990s, along with general concern for child welfare,⁸ concerns grew about the conditions of confinement for unaccompanied children in United States custody. These concerns resulted in litigation seeking to protect unaccompanied children from mistreatment and abuse while they are in government custody. In 1985, the Central District of California issued a permanent injunction granting special protections to unaccompanied children before they can accept voluntary departure, a form of immigration relief that allows noncitizens in removal proceedings to leave the United States without the issuance of a removal order. *Perez-Funez v. Dist. Dir.*, 619 F. Supp. 656 (C.D. Cal. 1985). This lawsuit arose out of the Immigration and Nationality Service’s (“INS”) coercive practices, and its protections are now implemented by regulation. 8 C.F.R. § 236.3(g)-(h), 1236.3(g)-(h). INS’s requirements include: (1) a written notice of rights; (2) a list of free legal service providers; and (3) access to telephones and notice that they may call a parent, close relative, friend, or attorney. Additionally, for unaccompanied children from noncontiguous countries (*i.e.* children not from Canada or Mexico), the government must ensure that the child in fact communicates with a parent, adult relative, friend, or attorney before accepting voluntary departure. *Id.* §§ 236.3(g), 1236.3(g).

⁸ See, e.g., History of Child Rights, United Nations International Children’s Emergency Fund (“UNICEF”) (noting the adoption of the United Nations Convention of the Rights of the Child in 1989, which “guarantees and sets minimum standards for protecting the rights of children in all capacities,” and the establishment of the Child Rights International Network (“CRIN”) in 1995), <https://www.unicef.org/child-rights-convention/history-child-rights>.

In 1997, the Central District of California approved a consent decree covering “[a]ll minors who are detained in the legal custody of the INS [Immigration and Naturalization Service].” Stipulated Settlement Agreement, *Flores v. Reno*, No. CV 85-4544-RJK(Px), ¶ 10 (C.D. Cal. Jan. 17, 1997).⁹ Among other requirements, the Flores Settlement Agreement directs the INS to “treat all minors in its custody with dignity, respect and special concern for their particular vulnerability as minors” and to “place each detained minor in the least restrictive setting appropriate to the minor’s age and special needs.” *Id.*

2. *Homeland Security Act of 2002*

With the enactment of the Homeland Security Act (“HSA”), Pub. L. No. 107-296, § 462, 116 Stat. 2135 (2002) and its overhaul of immigration authority, INS’ “functions under the immigration laws of the United states with the respect to the care of unaccompanied alien children” were “transferred to the Director of the Office of Refugee Resettlement of the Department of Health and Human Services.” 6 U.S.C. § 279(a). In doing so, Congress intentionally chose to transfer responsibility for these vulnerable children away from ICE, the then-nascent arm of immigration enforcement, to ORR. The HSA provided a list of 11 functions related to the care of unaccompanied minors for which ORR “shall be responsible.” *Id.* § 279(b)(A)-(K). Congress specifically stated that “[n]othing in this section may be construed to transfer the responsibility for adjudicating benefit determinations under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) from the authority of any official of the Department of Justice, the Department of Homeland Security, or the Department of State.” *Id.* § 279(c). Section 462 of the HSA extended to all the key protections of the *Flores* Settlement Agreement,

⁹ Available at <http://www.aila.org/File/Related/14111359b.pdf> [hereinafter the “Flores Settlement Agreement”]. After *Flores*, the INS was dissolved and subsumed into DHS, whereupon DHS inherited the INS’ obligations under the *Flores* Settlement Agreement.

including its “least restrictive setting” requirement. Pub. L. No. 107-296, § 462, 116 Stat. 2143 (2002).

3. William Wilberforce Trafficking Victims Protection Reauthorization Act

Six years later, Congress passed the William Wilberforce Trafficking Victims Protection Reauthorization Act (TVPRA), Pub. L. No. 110-457, 122 Stat. 5044 (2008). The bipartisan statute, passed by unanimous consent on the same day by both the House of Representatives and the Senate,¹⁰ embodied Congress’ unequivocal intent to provide unique substantive and procedural protections to unaccompanied children in United States custody. The TVPRA responded to concerns that, despite the transfer of authority to ORR, unaccompanied children were not sufficiently protected in their legal proceedings and were routinely enduring punitive conditions in juvenile jails.¹¹ The bill incorporated provisions regarding unaccompanied children previously included in the unpassed Unaccompanied Alien Protection Act, a bill introduced in 2000 and 2007 by Senator Diane Feinstein.¹² Senator Feinstein also introduced the TVPRA and explained that the statute provided a much-needed “procedure to make sure” that the United States respects its “special obligation to ensure that [unaccompanied children] are treated humanely and fairly” and that it treats them “as children and not as criminals” in federal

¹⁰ See 154 Cong. Rec. H10905 (daily ed. Dec. 10, 2008); 154 Cong. Rec. S10887 (daily ed. Dec. 10, 2008).

¹¹ See, e.g., Jenny Rodriguez, Protections for Unaccompanied Children in the Trafficking Victims Protection Reauthorization Act of 2008 (TVPRA) in *Where We Stand: A 20-Year Retrospective of the Unaccompanied Children’s Program in the United States*, U.S. Committee for Refugees and Immigrants (Apr. 24, 2023) (quoting Sen. Feinstein), <https://refugees.org/where-we-stand-a-20-year-retrospective-of-the-unaccompanied-childrens-program-in-the-united-states/>

¹² See Rodriguez at 2.

custody.¹³ She also noted that “[the TVPRA] ensured that appropriate steps would be taken before returning children to their home countries or placing them with sponsors.”¹⁴

The core requirements of the TVPRA with respect to removal proceedings are that any unaccompanied child sought to be removed from the United States, except certain unaccompanied children from a contiguous country, shall (1) be placed in removal proceedings under 8 U.S.C. § 1229a; (2) be eligible for [voluntary departure] under 8 U.S.C. § 1229c at no cost to the child; *and* (3) be provided access to counsel in accordance with subsection (c)(5). 8 U.S.C. § 1232 (a)(5)(D). Shortly after its passage, advocates and legal scholars celebrated that “section 235 of the TVPRA [8 U.S.C. § 1232] increased many protections for unaccompanied alien children seeking relief from removal” and “provides more child-sensitive procedures for those in immigration custody and at imminent risk of removal.”¹⁵

i. Full removal proceedings

The first core requirement of the TVPRA mandates that DHS place unaccompanied children in full removal proceedings pursuant to 8 U.S.C. § 1229a. The Immigration and Nationality Act (INA) provides the exclusive procedure by which the government may determine whether to remove an individual, including children. 8 U.S.C. § 1229a(a)(3). The INA contains “two main processes for removing noncitizens deemed ineligible to enter or remain in the United States.” *Make the Road N.Y. v. Noem*, No. 25-cv-190 (JMC), 2025 WL 2494908, at *2 (D.D.C. Aug. 29, 2025). Section 240 proceedings are the “standard mechanism:” an adversarial

¹³ 154 Cong. Rec. S10886 (daily ed. Dec. 10, 2008) (statement of Sen. Feinstein).

¹⁴ See Rodriguez, *supra* n. 10 at 2 (quoting Sen. Feinstein).

¹⁵ Deborah Lee, Manoj Govindaiah, Angela Morrison, & David Thornson, *Update on Legal Relief Options for Unaccompanied Alien Children Following the Enactment of the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008* (Feb. 19, 2009), <https://scholarship.law.tamu.edu/facscholar/820/>.

proceeding before an immigration judge that “allows time for individuals to gather and present evidence in support of petitions for relief” and comes with the right to appeal to the Board of Immigration Appeals (“BIA”) and to judicial review before a federal court of appeal. *Id.* (citing 8 U.S.C. §§ 1229a(a)(1), (b)(4)(B); 1252). Once immigration proceedings have been initiated, ICE cannot unilaterally cancel them as jurisdiction has vested with the immigration judge and the decision to dismiss proceedings rests only with the immigration court. The second mechanism, expedited removals, allows DHS to remove certain noncitizens with limited ties to the United States with little process, “typically after a single conversation with an immigration officer.” *Make the Road*, 2025 WL 2494908, at *1; 8 U.S.C. §§ 1225(b), 1232(a)(2)(B), (a)(3), (a)(5)(D).

By requiring that unaccompanied children for a noncontiguous country be placed in § 1229a proceedings, the TVPRA constitutes a bar on placing them in expedited removal proceedings. Thus, Congress required that unaccompanied children from noncontiguous countries—regardless of the circumstances of their arrival to the United States—receive the benefit of full immigration proceedings, including a hearing on claims for relief before an immigration judge.

ii. Safe repatriation

In its second core requirement, the TVPRA provided special procedural protection to unaccompanied children who ask an immigration judge for voluntary departure. 8 U.S.C. § 1232(a)(5)(D)(ii). Voluntary departure is a form of immigration relief that allows eligible noncitizens in removal proceedings to request to depart the United States without the issuance of a removal order. 8 U.S.C. §§ 1229c(a)(1), (b)(1). Once a noncitizen is placed in § 1229a proceedings, only an immigration judge may grant them voluntary departure. In general, a noncitizen granted voluntary departure must pay for their own travel expenses and post a bond

“in an amount necessary to ensure that the alien will depart.” *Id.* § 1229c(b)(1), (3). The TVPRA, however, uniquely provides that unaccompanied children will not bear the cost of voluntary departure. “For legal practitioners, Voluntary Departure at no cost to the child is significant because many unaccompanied alien children are indigent and have no other means to assume the financial cost of returning to their home country.”¹⁶

To further protect children from traffickers and other persons seeking to victimize children, DHS, in conjunction with the Department of State, DOJ, and HHS, bears an affirmative responsibility to ensure the safety of any unaccompanied seeking repatriation through a voluntary departure order or ordered removed from the United States. 8 U.S.C. § 1232(a)(1). The TVPRA similarly requires DHS and HHS to work together to ensure “safe and sustainable repatriation and reintegration” of unaccompanied children into their countries of nationality or last habitual residence, “including placement with their families, legal guardians, or other sponsoring agencies.” 8 U.S.C. § 1232(a)(5).

The process for seeking voluntary departure before an immigration is “carefully and deliberately coordinated” among “[c]ounsel for the child, government counsel, and the parent.” Ex. E, Tabaddor Decl. ¶ 17. ORR typically appoints a child advocate to provide the immigration judge with a “safety assessment related to the child’s repatriation,” which includes “contracting with experts in the child’s home country to visit the child’s community, meet with family members, and determine whether the child will be safe upon return.” Ex. B, Vander Hoek Decl. ¶ 22. Child advocates are “third parties who make independent recommendations regarding the best interests of an unaccompanied child.” 45 C.F.R. § 410.1308(b). They “formally submit their recommendations to ORR and/or the immigration court, where appropriate, in the form of best

¹⁶ Lee, et. al, at 2.

interest determinations (BIDs).” *Id.* ORR appoints child advocates after referral by an “interested party” (*e.g.*, shelter staff, immigration judges, and attorneys) on behalf of minors “determined to be [victims] of trafficking or especially vulnerable.” *Id.* § 410.1308(d)(1). Retired Immigration Judge Tabaddor notes that “[c]ounsel, often working with child advocates, would investigate the circumstances of the proposed return, including whether the child would face danger, coercion, or undue pressure to abandon claims for relief in the United States.” Ex. E, Tabaddor Decl. ¶ 15.

iii. Access to counsel

In its third core requirement, the TVPRA requires HHS to ensure, to the greatest extent practicable, that all unaccompanied alien children who are or have been in DHS custody (other than those children from contiguous countries as described in (a)(2)), have counsel to represent them in legal proceedings or matters and protect them from mistreatment, exploitation, and trafficking. 8 U.S.C. § 1232(c)(5). Alongside this requirement, the TVPRA requires that HHS ensure that unaccompanied children in custody receive legal orientation presentations that, at a minimum, “address the custodian’s responsibility to attempt to ensure the child’s appearance at all immigration proceedings and to protect the child from mistreatment, exploitation, and trafficking.” *Id.* § 1232(c)(4).

Regulations further govern the content of the legal orientation presentation, including that it feature “[a] confidential legal consultation with a qualified attorney . . . to determine possible forms of relief from removal in relation to the unaccompanied child's immigration case, as well as other case disposition options such as, but not limited to, voluntary departure.” 45 C.F.R. § 410.1309(a)(2)(v). ORR is also authorized to contract with legal service providers to ensure “that all unaccompanied children who are or have been in ORR care have access to counsel to represent them in immigration legal proceedings or matters and to protect them from

mistreatment, exploitation and trafficking, to the greatest extent practicable, in accordance with the TVPRA [at 8 U.S.C. 1232(c)(5)].” *Id.* § 410.1309(d)(1). ORR facilitates the TVPRA’s guarantee of legal services, but it is not a party to the proceedings and “does not provide recommendations related to repatriation, or otherwise, to the immigration judge.” Ex. B, Vander Hoek Decl. ¶ 21.

iv. Other procedural protections

- Asylum

The TVPRA also amended the asylum statute, 8 U.S.C. § 1158, to create special procedures for adjudicating asylum applications filed by unaccompanied children in removal proceedings. First, Congress mandated that unaccompanied minor’s claims for asylum be heard in the first instance in a non-adversarial setting before an asylum officer trained by USCIS rather than in the adversarial courtroom setting in which other people in removal proceeding must request asylum. 8 U.S.C. § 1158(b)(3)(C). Congress also exempted unaccompanied children from (1) the general filing deadline for asylum, which bars applications submitted more than one year after an applicant entered the United States, *id.* §§ 1158(a)(B), (E), and (2) from the standard safe third country limitation, which bars applications where an applicant may be removed pursuant to a bilateral or multilateral agreement to a third country where their life or freedom would not be threatened based on a protected ground and where they would have access to a full and fair procedure for determining eligibility for asylum. *Id.* §§ 1158(a)(2)(A), (E). Congress enacted these “additional protections” for unaccompanied children “[r]ecognizing [their] unique and vulnerable situation.”¹⁷

¹⁷ *Id.* at 7.

The specific protections for unaccompanied children in asylum complement the general procedural protections afforded to all people seeking refuge in the United States. *First*, the INA provides that “[a]ny alien who is physically present in the United States or who arrives in the United States (whether or not at a designated port of arrival . . .), irrespective of such alien’s status,” may apply for asylum. 8 U.S.C. § 1158(a)(1). *Second*, Congress has barred the removal of an individual to a country where it is more likely than not that he would face persecution on one of these protected grounds. 8 U.S.C. § 1231(b)(3). This form of relief is mandatory upon certain findings and implements the United States’ obligations under the 1951 Refugee Convention and the 1967 Protocol relating to the Status of Refugees. *Third*, the Convention Against Torture (“CAT”) prohibits the government from returning a noncitizen to a country where it is more likely than not that he would face torture. *See* 8 U.S.C. § 1231 note. That protection implements the Foreign Affairs Reform and Restructuring Act of 1998 (“FARRA”), Pub. L. No. 105-277, div. G, Title XXII, § 2242. As with withholding of removal, CAT relief is mandatory if that standard is met. There is no exception to CAT relief.

- ***Special Immigrant Juvenile Status***

The TVPRA also expanded eligibility for Special Immigration Juvenile Status (“SIJS”), an immigration classification that provides a pathway to permanent residency for certain young people who were abused, neglected, or abandoned by one or both parents. *See* 8 U.S.C. § 1101(a)(27)(J). To receive SIJS, a noncitizen must obtain a state court order containing several findings, including “that it would not be in the alien’s best interest to be returned to the alien’s or parent’s previous country of nationality or country of last habitual residence.” *Id.* § 1101(a)(27)(J)(ii). The TVPRA removed the requirement that the state court deem a noncitizen seeking SIJS eligible for long-term foster care and replaced it with a requirement that the court

determine that “reunification with 1 or both of the immigrant’s parents is not viable due to abuse, neglect, abandonment, or a similar basis found under State law” and “that it would not be in the alien’s best interest.” TVPRA § 235(d)(1)(A). This section also allowed the state court to consider family reunion with one *or* both parents. *See id.* “[T]he expansion in the definition of Special Immigrant Juvenile allows for more vulnerable and mistreated children to qualify for this form of relief.”¹⁸

v. Care in custody

Finally, the TVPRA greatly expanded on the HSA’s delegation of authority to ORR by creating robust requirements for housing and caring for unaccompanied children in government custody and for ensuring their safety upon release. The statute reinforced the separation between the immigration enforcement system and ORR’s child welfare mandate, requiring any federal agency with custody of an unaccompanied child to transfer the child to HHS within 72 hours and mandating that ORR promptly place unaccompanied children “in the least restrictive setting that is in the best interest of the child.” 8 U.S.C. §§ 1232(b)(3), (c)(2)(A). It contemplates that children will usually be placed with “a suitable family member” and provides for ORR to conduct suitability assessments of potential sponsors focused on the safety and well-being of the child. 8 U.S.C. §§ 1232(c)(2)(A), (c)(3).

ORR has promulgated detailed regulations for making placement determinations as to unaccompanied children (*i.e.*, determining where to house them while in custody), 45 C.F.R. §§ 410.1100-1109, and for determining when and to whom to release an unaccompanied child in ORR custody. *Id.* §§ 410.1200-1210. Following notice comment, the Foundational Rule was published as a final rule with an effective date of July 1, 2024. Unaccompanied Children

¹⁸ *Id.* at 4.

Program Foundational Rule, 89 Fed. Reg. 34,384 (Apr. 30, 2024). The Foundational Rule requires, for example, that “unaccompanied children shall be treated with dignity, respect, and special concern for their particular vulnerability,” *id.* § 419.1003(a), and that “ORR shall place each unaccompanied child in the least restrictive setting that is in the best interests of the child, giving consideration to the child's danger to self, danger to others, and runaway risk.” *Id.* § 419.1003(f).¹⁹

The TVPRA, along with prior injunctions and the HSA, amount to an exclusive system regulating the treatment of unaccompanied children in United States custody and structuring the disposition of their removal proceedings. The TVPRA contains no exceptions to its protections, confirming Congress’s clear directive regarding the removal protections afforded to unaccompanied children. It does not distinguish between unaccompanied children who have or do not have prior immigration histories, and it does not exclude those who have prior removal orders. The TVPRA does not allow DHS to bypass § 1229a proceedings and remove children without observance of the procedures it prescribes and without their day in court.

¹⁹ ORR is mandated to follow certain procedures for the care and custody of unaccompanied children and is tasked with their safe reunification with family members OR ensure their safe repatriation should the immigration court determine that that is the best interest of the child while in their care. The ORR Policy Guide provides guidance to care providers and other service providers regarding the placement, care, and services provided to unaccompanied alien children in ORR custody consistent with ORR’s legal authorities (e.g., section 462 of the Homeland Security Act of 2002, Pub. L. No. 107-296, 6 U.S.C. § 279; section 235 of the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (TVPRA), Pub. L. No. 110-457, 8 U.S.C. § 1232; the Unaccompanied Alien Children Program Foundational Rule, codified at 45 C.F.R. § 410; the Standards to Prevent, Detect, and Respond to Sexual Abuse and Sexual Harassment Involving Unaccompanied Alien Children Interim Final Rule, codified at 45 C.F.R. § 411; and the Investigations of Child Abuse and Neglect Interim Final Rule, codified at 45 C.F.R. § 412).

LEGAL STANDARD

To obtain a preliminary injunction, the party must show that “(1) it ‘is likely to succeed on the merits’; (2) it ‘is likely to suffer [] harm in the absence of preliminary relief’; (3) ‘the balance of equities tips in its favor’; and (4) the issuance of a preliminary injunction is ‘in the public interest.’” *Alpine Secs. Corp. v. Fin. Indus. Regul. Auth.*, 121 F.4th 1314, 1324 (D.C. Cir. 2024) (citation omitted); *Pursuing Am.’s Greatness v. Fed. Election Comm’n*, 831 F.3d 500, 505 (D.C. Cir. 2016) (quoting *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 22 (2008)).

ARGUMENT

Plaintiff Children and putative class members are entitled to preliminary injunctive relief to prevent grave and irreparable harms resulting from Defendants’ plans to unlawfully transfer them from ORR custody and summarily expel them to Guatemala. Plaintiffs satisfy the factors for a preliminary injunction. First, Plaintiff Children and putative class members are likely to show that Defendants’ actions violate the TVPRA, INA, and due process. Second, Plaintiff Children and putative class members will suffer irreparable harm related to their safety, care, and ability to pursue their immigration cases if they are unlawfully transferred from ORR custody and expelled to Guatemala. Finally, the balance of equities and the public interest strongly favor an injunction to protect children in government custody. Accordingly, Plaintiff Children and putative class members request that the Court enjoin Defendants’ actions.

A. Plaintiffs Are Likely to Succeed on the Merits.

1. Defendants’ actions violates the statutory protections afforded to unaccompanied children in the TVPRA and the INA.

Plaintiffs are likely to succeed on the merits of their claim that Defendants’ actions violate the TVPRA and the INA. These statutes unambiguously mandate a specific procedure for determining whether unaccompanied children may be removed from the United States and

specific protections that the government has no discretion to ignore. Defendants’ actions violate these statutory mandates.

The TVPRA “guarantees certain protections for unaccompanied children—irrespective of the specific circumstances that led an unaccompanied child to arrive at the border.” *Immigrant Defs L. Ctr. v. DHS*, No. 21-cv-395 (FMO), 2025 WL 1191572, at *12 (C.D. Cal. Mar. 14, 2025). The TVPRA requires that any unaccompanied child sought to be removed by DHS—except for certain unaccompanied children from a contiguous country—shall (i) be placed in removal proceedings under section 8 U.S.C. § 1229a; (ii) be eligible for relief under 8 U.S.C. § 1229c [voluntary departure] at no cost to the child; **and** (iii) be provided access to counsel in accordance with subsection (c)(5). 8 U.S.C. § 1232 (a)(5)(D) (emphasis added); *see also Immigrant Defs L. Ctr.*, 2025 WL 1191572, at *12 (“§ 1232(a)(5)(D)(i) entitles ‘[a]ny unaccompanied alien child’ to placement in § [1229a] proceedings as an unaccompanied child with the full range of protections to which unaccompanied children are entitled.”).

Guatemala is not a country that is contiguous to the United States, as they share no border. As such, the mandate provided in 8 U.S.C. § 1232(a)(5)(D) and any other statutory language regarding unaccompanied children unambiguously apply to Guatemalan unaccompanied children like Plaintiffs and the putative class. Section 1232(a)(5)(D) contains no exceptions other than those for minors from contiguous countries. By summarily removing Plaintiffs, Defendants seek to violate the statutory mandate of § 1232(a)(5)(D).

First, Defendants’ actions violate the TVPRA’s mandate that unaccompanied children be placed in § 1229a and, with it, the statutory requirements that the INA provides in those proceedings. Defendants violate the INA by simply pretermittting ongoing removal proceedings. Once an unaccompanied child is placed in § 1229a proceedings, the government cannot simply

choose to cancel those proceedings by some extralegal mechanism that thwarts the disposition of the cases. The INA provides that, “[u]nless otherwise specified in this chapter, a proceeding under [§ 1229a] shall be the sole and exclusive procedure for determining whether an alien may be admitted to the United States or, if the alien has been so admitted, removed from the United States.” 8 U.S.C. § 1229a(a)(3). The INA also provides all noncitizens in § 1229a proceedings the right to appeal an unfavorable decision to the BIA and to petition a Court of Appeals for judicial review. *See* 8 U.S.C. §§ 1229a(c)(5); 1252(b). A removal order can only be effectuated upon the commencement of a 90-day removal period, which “begins on the latest of three dates: (1) the date the order of removal becomes ‘administratively final,’ (2) the date of the final order of any court that entered a stay of removal, or (3) the date on which the alien is released from non-immigration detention or confinement.” *Johnson v. Guzman-Chavez*, 594 U.S. 523, 528 (2021) (citing 8 U.S.C. § 1231(a)(1)(B)). Regulations provide specific mechanisms and conditions under which DHS may seek to cancel a Notice to Appear after jurisdiction has vested with the immigration court and before the issuance of a removal order. *See* 8 C.F.R. § 239.2. Defendants’ actions in summarily expelling Plaintiffs violate the INA’s requirements as to § 1229a removal proceedings.

Second, Defendants’ actions also violate TVPRA’s statutory mandate that the government provide unaccompanied children with the opportunity to seek voluntary departure under 8 U.S.C. § 1229c. *See, e.g., Immigrant Defs. L. Ctr.*, 2025 WL 1191572, at *14 (“The language of § 1232(a)(5)(D)(ii) is clear that ‘[a]ny unaccompanied alien child’ – meaning all unaccompanied children – must be eligible for voluntary departure.”) (citing A. Scalia & B. Garner, *READING LAW: THE INTERPRETATION OF LEGAL TEXTS* 140 (2012)). 8 U.S.C. § 1229c in turn authorizes the Attorney General “[to] permit an alien voluntarily to depart the United States”

subject to certain restrictions. Voluntary departure is a form of immigration that only an immigration judge can grant. The TVPRA contains numerous provisions that ensure that unaccompanied children do not bear the cost of their voluntary repatriation, 8 U.S.C. § 1232 (a)(5)(D)(ii), and that the government ensure their safety and sustainable repatriation. *Id.* §§ 1232(a)(1), (5); *see also Perez-Funez*, 619 F. Supp. at 670 (granting unaccompanied children special protection before they can accept voluntary departure); 8 C.F.R. § 236.3(g)-(h), 1236.3(g)-(h) (providing procedural rights for voluntary departure). Although Plaintiffs seek to remain in the United States, Defendants’ summary removals nonetheless deprive them of their statutory right to request voluntary departure under special conditions.

Third, Defendants are also violating the asylum provision of the TVPRA, which provides a unique mandatory procedure for evaluating asylum claims when unaccompanied children are in removal proceedings. *See* 8 U.S.C. § 1158(b)(3)(C); *see also O.A. v. Trump*, 404 F. Supp. 3d 109, 121-22 (D.D.C. 2019) (noting that the TVPRA entitles unaccompanied minors to present their asylum claims “in the first instance in a non-adversarial setting.”). Many Plaintiff Children and putative class members have pending asylum applications. *See, e.g.*, ECF No. 2-2 at 19, L.F.M.M. Decl. ¶ 3; ECF No. 2-2 at 26, A.R.M.D. Decl., ¶ 4. It is impossible for Plaintiffs summarily removed to file or to proceed with their asylum applications. Thus, Defendants violate the asylum provision of the TVPRA by seeking to summarily remove unaccompanied children awaiting a decision on their asylum applications. *See, e.g., J.O.P. v. DHS*, 338 F.R.D. 33, 65 (D. Md. 2020) (enjoining DHS from applying eligibility criteria that would deprive certain unaccompanied minors of initial non-adversarial review).

Fourth, Defendants’ actions are also unlawful because they also unlawful because they run afoul of the INA’s statutory protections for noncitizens fleeing persecution and torture by

subjecting them to removal without meaningful consideration of their claims. As noted above, none of the 76 children on board the August 31 flight, as well as potentially hundreds more putative class members have been granted voluntary departure. *See* Ex. E, Tabaddor Decl. ¶ 12 (“Voluntary departure, while available under statute, is rare for unaccompanied minors and requires careful scrutiny. Immigration Judges generally ensured that any such request was made with the advice of independent counsel and, where possible, with input from a child advocate.”). In fact, many have expressed fear of return to Guatemala. *See. e.g.*, ECF No. 2-2 at 5, M.O.C.G. Decl., ¶ 7; *id.* at 19, L.F.M.M. Decl., ¶ 3; *id.* at 29, M.Y.A.T.C. Decl., ¶ 4; Ex. R, Declaration of R.M.S.C.C. (“R.M.S.C.C. Decl.”), ¶ 5; Ex. F., Declaration of D.I.R. (“D.I.R. Decl.”), ¶¶ 6,7,8; Ex. Q, Declaration of G.Y.V.S. (“G.Y.V.S. Decl.”) ¶ 5. These children have a right to request asylum and protection under the CAT.²⁰

Beyond Defendants’ clear statutory violations, it is important to stress that no statute authorizes Defendants’ actions. 6 U.S.C. § 279(b)(1)(H), codified in 2002 as part of the HSA, states that ORR “shall be responsible for . . . reuniting unaccompanied alien children with a parent abroad in appropriate cases.” This statute can and therefore should be read harmoniously with the specific procedures mandated in the TVPRA, which were enacted six

²⁰ Congress enacted the Foreign Affairs Reform and Restructuring Act (FARRA) to codify the United Nations Convention against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment (CAT) and to ensure that noncitizens have meaningful opportunities to seek protection from torture. *See* U.N. Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, art. 3, Dec. 10, 1984, S. Treaty Doc. No. 100-20, at 20 (1988); Foreign Affairs Reform and Restructuring Act of 1998 § 2242(a), Pub. L. No. 105-277, Div. G. Title XXI, 112 Stat. 2681 (1998) (codified at 8 U.S.C. § 1231 notes) (implementing CAT); 8 C.F.R. § 208.16 to 208.18 (FARRA procedure). CAT categorically prohibits returning a noncitizen to any country where they would more likely than not face torture. *See* 8 U.S.C. § 1231 note. These protections apply regardless of the mechanism for removal.

years later. *See, e.g., PLIVA, Inc. v. Mensing*, 564 U.S. 604, 622 (2011) (“[I]f by any fair course of reasoning the two [statutes] can be reconciled, both shall stand.”) (quoting *Ludlow’s Heirs v. Johnston*, 3 Ohio 553, 564 (1828)) (alterations in original). An “appropriate case” for reunification under 6 U.S.C. § 279(b)(1)(H) is one in which a child has been ordered removed at the conclusion of § 1229a proceedings or has requested and been granted voluntary departure by an immigration judge, as required by the TVPRA. At that point, the government bears a responsibility to ensure the child’s safety in departing the United States. *See, e.g.*, 8 U.S.C. § 1232(a)(1), (5). The HSA offers no substantive grant of authority to do anything beyond what is authorized by statute. It contains a general list of eleven functions transferred to ORR, including “ensuring that the interests of the child are considered in decisions and actions relating to the care and custody of an unaccompanied alien child.” *Id.* § 279(b)(1)(B). If there were any doubt that this reading is proper, Congress stated clearly that § 279 “may [not] may be construed to transfer the responsibility for adjudicating benefit determinations under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) from the authority of any official of the Department of Justice, the Department of Homeland Security, or the Department of State.” 6 U.S.C. § 279(c); *see* ECF No. 2-2 at 1, L.G.M.L. Decl., ¶ 3; *id.* at 3 L.M.R.S. Decl., ¶ 3; *id.* at 5, M.O.C.G. Decl., ¶ 3; *id.* at 7, H.L.E.C. Decl., ¶ 3.

Defendants’ transfers from ORR custody and summary expulsions of unaccompanied minors are an obvious violation of the TVPRA and the INA are an obvious violation of the TVPRA and the INA. “[T]he President and federal agencies may not ignore statutory mandates or prohibitions merely because of policy disagreement with Congress.” *In re Aiken Cnty.*, 725 F.3d 255, 261 (D.C. Cir. 2013). Plaintiffs are likely to succeed on the merits of their claim that Defendants are violating the TVPRA and INA.

2. *Plaintiffs are likely to succeed on the merits because Defendants’ actions violate Due Process.*

Plaintiffs are likely to succeed on their claim that Defendants’ actions the Due Process Clause of the Fifth Amendment. “‘It is well established that the Fifth Amendment entitles aliens to due process of law’ in the context of removal proceedings.” *Trump v. J.G.G.*, 145 S. Ct. 1003, 1006 (2025) (quoting *Reno v. Flores*, 507 U.S. 292, 306 (1993)). The three-part balancing test in *Mathews v. Eldrige*, 424 U.S. 319 (1976), “is the leading authority for deciding what procedural protections are required to comport with the Due Process Clause.” *Al-Hela v. Biden*, 66 F.4th 217, 228 (D.C. Cir. 2023). The *Mathews* test balances (1) the private interest that will be affected; (2) the risk of an erroneous deprivation through the procedures used and the probable value of any additional or substitute procedural safeguards; and (3) the government’s interest, including any administrative or fiscal burdens of the additional or substitute procedures. *See, e.g., id.* at 229 (quoting *Mathews*, 424 U.S. at 335). Each factor weighs in Plaintiffs’ favor.

As to the first prong, Plaintiffs have several protected interests upon which Defendants are infringing. *First*, Plaintiffs have an indisputable interest in avoiding summary expulsion. *See, e.g., J.G.G.*, 145 S. Ct. at 1006 (“The detainees’ rights against summary removal . . . are not currently in dispute.”).

Second, the TVPRA creates protected interests in the three core procedures it mandates on behalf of unaccompanied children. *See, e.g., Immigrant Defs. L. Ctr.*, 2025 WL 1191572, at *15-16 (concluding that unaccompanied children’ rights to apply for affirmative asylum before an asylum officer in the first instance and to seek voluntary departure “are constitutionally protected property interests.”). A statute creates a protected interest where it includes “rules or understandings that secure certain benefits and that support claims of entitlements to those benefits.”, *Bd. of Regents v. Roth*, 408 U.S. 564, 577 (1972); *see also Abrego Garcia v. Noem*,

777 F. Supp. 3d 501 (D. Md. 2025) (finding that INA’s withholding of removal provision created a protected interest “in avoiding forcible removal to El Salvador” by limiting DHS’s discretion to remove noncitizen absent process), *aff’d in relevant part sub. nom.*, 145 S. Ct. 1017 (2025).

Congress enacted the TVPRA to create mandatory procedures for unaccompanied children in removal proceedings and offer them special protection when they seek immigration relief.

Congress exempted unaccompanied children from expedited removal, guaranteed them eligibility for voluntary departure at no cost, provided them enhanced access to counsel. 8 U.S.C. § 1232(a)(5)(D). It created a special procedure for non-adversarial review of their asylum applications. 8 U.S.C. § 1158(b)(3)(C). And it further provided a special form of custody in the care of ORR that takes account of their particular vulnerability. 8 U.S.C. § 1232(b)(1); *see also* 45 C.F.R. § 410.1003 (implementing the TVPRA by providing general principles for caring and placing unaccompanied children). Each of these rules mandatorily structures removal proceedings in such a way as to protect and benefit unaccompanied children in light of their unique vulnerabilities. Thus, unaccompanied children have a protected interest in the immigration procedures and specially tailored custody system guaranteed to them by statute.

Third, putative class members who have petitioned for or been granted SIJS, *see, e.g.*, Ex. L, Declaration of S.M.G.T. (“S.M.G.T. Decl.”) ¶ 4; Ex. S, Declaration of M.F.I.T. (“M.F.I.T. Decl.”), ¶ 3, also have a protected interest in that status. *See, e.g., Osorio-Martinez v. Att’y Gen. of the U.S.A.*, 893 F.3d 153, 171 (3d Cir. 2018) (“Congress . . . afforded these aliens [granted SIJS] a host of procedural rights designed to sustain their relationship to the United States and to ensure they would not be stripped of SIJ protections without due process.”); *Joshua M. v. Barr*, , 679 (E.D. Va. 2020) (“SIJ status may constitute a protected liberty or property interest, and it may be revoked only for what the Secretary of Homeland Security deems ‘good and

sufficient cause,’ 8 U.S.C. § 1155; 8 C.F.R. § 205.2.”); *J.L. v. Cissna*, 374 F. Supp. 3d 855, 869 (N.D. Cal. 2019) (“Plaintiffs [with *unapproved* SIJS petitions] have plausibly alleged that they have a protected property interest in SIJ status.”).

As to the second prong, the risk of erroneous deprivation is extremely high. Defendants are discarding mandatory procedural protections in favor of no procedure at all. Defendants have offered Plaintiffs *no* procedure by which to challenge their transfer from ORR custody and their summary expulsion. *See generally* Ex. A, Suppl. Flores Decl. (describing haphazard and abrupt process by which children were roused from their sleep without notice and put on planes in the middle of the night); *cf.* Ex. B, Vander Hoek Decl., ¶ 27 (describing the procedures “[u]nder normal circumstances” for children granted voluntary departure); Ex. E, Tabaddor Decl. ¶¶ 15, 17 (describing “carefully and deliberately coordinated” process for “very rare instances where voluntary departure was ultimately requested and granted”).

The risk of erroneous deprivation is also uniquely elevated because Defendants have failed to provide unaccompanied children notice that they will be imminently transferred from ORR custody imminently subject to summary expulsion. *See generally* Ex. A, Suppl. Flores Decl.; *see also, e.g., Abrego Garcia*, 777 F. Supp. 3d at 517 (“Defendants deprived Abrego Garcia of this right without *any procedural protections* due to him. Indeed, nothing in the record suggests that Abrego Garcia received any process at all.”); *cf. A.A.R.P. v. Trump*, 145 S. Ct. 1364, 1367-68 (2025) (“Due process requires notice that is ‘reasonably calculated, under all the circumstances, to apprise interested parties’ and that ‘afford[s] a reasonable time ... to make [an] appearance.’”) (quoting *Mullane v. Cent. Hanover Bank & Trust Co.*, 339 U.S. 306, 314 (1950)). Deprived of lawful procedures, Plaintiffs or putative class members erroneously transferred from ORR custody or expelled have no recourse to challenge these deprivations. Moreover, those with

viable asylum claims and pending or granted SIJS petitions have no mechanism to challenge the erroneous deprivation of their protected interest.

As to the third prong, the government does not have an interest in violating the TVPRA and its implementing regulations or in unlawfully expelling unaccompanied children. Any interest that it may posit in this practice, however significant, must be measured against “the necessity that [the government interest] be pursued in a manner consistent with the Constitution.” *A.A.R.P.*, 145 S. Ct. at 1368; *cf.* Ex. E, Tabaddor Decl. ¶ 16 (“Immigration courts recognized the need to safeguard the child’s independent rights and ensure compliance with statutory protections.”).²¹ Moreover, any fiscal or administrative burdens imposed by compliance with the mandatory scheme created by the TVPRA and its implementing regulations²² and with the INA are outweighed by the profound deprivation of Plaintiffs’ protected interests and by the manifest risk of erroneous deprivation. *See, e.g., Minney v. United States Office of Personnel Mgmt.*, 130 F. Supp. 3d 225, 233 (D.D.C. 2015) (additional administrative burden on the government was “far outweighed by the considerable private interests at stake.”).

The procedures used to determine whether unaccompanied children should remain in the United States and how they should be treated in custody can be—and have been—
“tailored . . . to the capacities of those who are heard . . . to ensure that they are given a

²¹ *See also* Ex. E, Tabaddor Decl. ¶ 19 (“In my professional judgment, any decision to repatriate a child based solely on a parent’s request, without ensuring independent counsel, full procedural safeguards, and consideration of the child’s best interests, would be inconsistent with the standard practices and protections afforded to unaccompanied minors in immigration proceedings.”).

²² Immigration courts are well-versed in complying with statutory and constitutional requirements within limited administrative resources. *See, e.g., id.* ¶ 18 (“While immigration judges are constrained by the INA, over time practices developed to provide additional safeguards, including specialized dockets, enhanced access to counsel, and attention to child welfare considerations.”).

meaningful opportunity to present their case” without burdening the government. *Mathews*, 424 U.S. at 349; *see also Bellotti v. Baird*, 443 U.S. 622, 635 (1979) (noting that “the State is entitled to adjust its legal system to account for children’s vulnerability and their needs for concern, sympathy, and paternal attention.”) (quotation marks, alterations, and citation omitted). Indeed, Defendants seek to deprive Plaintiffs of protected interests by eschewing procedures and systems tailored by Congress to their unique capacities. Plaintiffs show a likelihood of success on the merits of their claim that Defendants’ actions violate the Due Process Clause of the Fifth Amendment.

3. *Plaintiffs are likely to succeed on the merits of their claim that ORR’s actions violate the Accardi principle.*

ORR’s actions to remove children from its custody and repatriate them to Guatemala without any of the protections provided to unaccompanied children violate the agency’s own regulations. The *Accardi* doctrine, a bedrock administrative law precept, establishes that “agencies may not violate their own rules and regulations to the prejudice of others.” *Battle v. FAA*, 393 F.3d 1330, 1336 (D.C. Cir. 2005) (citing *U.S. ex rel. Accardi v. Shaughnessy*, 347 U.S. 260, 267 (1954)). This principle upholds “a fundamental tenet of our legal system” that “[a]ctions by an agency of the executive branch in violation of its own regulations are illegal and void.” *VanderMolen v. Stetson*, 571 F.2d 617, 624 (D.C. Cir. 1977). Conduct in derogation of a regulation is thus “not in accordance with law” (namely the law established by the agency’s own rule). *Damus v. Nielsen*, 313 F. Supp. 3d 317, 337 (D.D.C. 2018).

The Foundational Rule falls within *Accardi*’s ambit. ORR promulgated the Rule as a formal regulation pursuant to notice-and-comment procedures. By definition, it “has the legal effect of binding the agency or other parties,” *Kennecott Utah Copper Corp. v. U.S. Dep’t of Interior*, 88 F.3d 1191, 1207 (D.C. Cir. 1996) (cleaned up), and “must be adhered to” under

Accardi. United Space Alliance, LLC v. Solis, 824 F. Supp. 2d 68, 82 (D.D.C. 2011); accord *Brock v. Cathedral Bluffs Shale Oil Co.*, 796 F.2d 533, 536 (D.C. Cir. 1986) (Scalia, J.) (“It is axiomatic that an agency must adhere to its own regulations”) (citing *Accardi*, 347 U.S. at 265-67)). This conclusion applies with “particular force” here because the Foundational Rule affects “the rights of individuals.” *Damus*, 313 F. Supp. 3d at 335. Indeed, safeguarding the individual rights of unaccompanied children is the Foundational Rule’s explicit purpose. *See* 89 Fed. Reg. 34384, 34385 (“Pursuant to these statutory requirements, the UC program provides safe and appropriate environment for unaccompanied children in ORR custody”); *id.* at 34389 (“The purpose of this rule is to finalize a regulatory framework that (1) codifies policies and practices related to the care and custody of unaccompanied children, consistent with ORR’s statutory priorities; and (2) implements relevant provisions in the [*Flores* Settlement Agreement].”).

Despite the Foundational Rule’s binding nature, Defendants have defied it in favor of carrying out a scheme the agency itself previously rejected. When promulgating the Foundational Rule, ORR considered and rejected a proposal to prioritize repatriation rather than release unaccompanied children to sponsors. During notice and comment, one commenter recommended ORR amend its proposed rule to “prioritize uniting unaccompanied children with their families in home countries.” 89 Fed. Reg. 34,442-43 (Apr. 30, 2024). ORR responded to explain that ORR “is not authorized to make decisions regarding repatriating individuals in their country of origin” and that “where appropriate, ORR may unite children with a parent abroad” but “placement with a vetted and approved family member or other vetted and approved sponsor is generally in the best interest of the child.” *Id.*

The Foundational Rule requires ORR to treat children in their custody “with dignity, respect, and special concern for their particular vulnerability.” 45 C.F.R. § 410.1003(a). The Rule states that ORR “shall place each unaccompanied minor in the least restrictive setting that is in the best interest of the child and appropriate to the child’s age and individualized needs, provided that such setting is consistent with the interest in ensuring the unaccompanied child’s timely appearance before DHS and the immigration courts and in protecting the unaccompanied child’s well-being...” 45 C.F.R. § 410.1103(a).

To accomplish these ends, the Rule lays out a detailed structure for carrying out ORR’s statutory obligations. If an unaccompanied child wishes to be repatriated, there is a clear process by which they may do so. In fact, all of the children in ORR custody should be aware of their right to pursue voluntary departure because the Foundational Rule requires ORR to “provide or arrange for” “legal services information regarding ... the ability to apply for asylum with U.S. Citizenship and Immigration Services (USCIS) in the first instance, and the ability to request voluntary departure in lieu of removal.” 45 C.F.R. § 410.1302(c)(12); *see also* 45 C.F.R. § 410.1309(a)(2)(B)(iv)-(v). Those regulations likewise protect children’s best interest, even when it is in the best interests of an individual child to return to their country of origin.

The Foundational Rule also executes the TVPRA’s requirements by providing services to the children in ORR’s care; identifying, vetting, and releasing children to the care of suitable family members in the United States; providing legal services information and accurate legal advisal regarding their right to various immigration processes; and screening children for various vulnerabilities to facilitate the appropriate protection and referrals. 45 C.F.R. § 1302(c). The Foundational Rule also outlines detailed processes for evaluating and denying release to a sponsor in the United States, including notifying a child’s counsel of such denial. 45 C.F.R. §

410.1205(e). Under the Foundational Rule, child advocates must also be able to meaningfully explain “the consequences and potential outcomes of decisions that may affect their unaccompanied child client” and advocate for the child client’s “best interest with respect to care, placement, services, release, and within proceedings to which the child is a party.” 45 C.F.R. § 1308(c)(2)-(3). Children’s legal representatives and child advocates play an integral role in their protection and therefore must be kept informed of developments in their cases and be able to advocate on their behalf in a timely and meaningful way. *See* 45 C.F.R. §§ 410.1308(b); 410.1309 *et seq.*

Finally, the Foundational Rule outlines logistical processes and protections for children while in ORR custody including while being transferred to different locations. 45 C.F.R. § 410.1600. These protections include providing sufficient notice to interested parties (like a child’s attorney of record or child advocate) well in advance of such transfer and ensuring children are medically cleared for travel. *Id.* These regulations apply whether children are transferred individually or in large groups. *Id.* at § 410.1600(c).

Summarily expelling children without any individualized assessment of their safety or needs, and without any “concern for their particular vulnerability” clearly contradicts the Foundational Rule’s requirements. Instead of following the careful regulations designed to ensure that children would be safe and protected, Defendants failed to meaningfully notify children’s attorneys and child advocates that they would be summarily removed. *See* Ex. A, Suppl. Flores Decl. ¶¶ 13-17. Moreover, rather than ensuring children knew what was happening and why, ORR woke children in the night and subjected them to the trauma of imminent removal contrary to best practices and the children’s welfare. *See id.* ¶ 7. Summary removal interferes with ORR’s obligations to release children to suitable caregivers in the United States. ECF No.

2-2 at 10, T.A.C.P. Decl. ¶ 2. ORR functionally prevented children from exercising the rights that it is required to advise children of by preventing them from appearing in immigration court, even to request voluntary departure. *See, e.g.*, ECF No. 2-2 at 26, A.R.M.D. Decl. ¶ 4; ECF No. 2-2 at 7, H.L.E.C. Decl. ¶ 3; ECF No. 2-2 at 5, M.O.C.G. Decl. ¶ 3; ECF No. 2-2 at 10, T.A.C.P. Decl. ¶ 4; ECF No. 2-2 at 24, G.A.B.B. Decl. ¶ 5. ORR did not follow many of its regulated procedures for transferring children, like ensuring children were medically cleared for travel or notifying interested parties 48 hours prior to physical transfer. 45 C.F.R. § 1600(a)(2)-(3). In flouting its own regulations designed to protect children, ORR placed children in serious peril.

To the extent Defendants argue that children *want* to be repatriated, there is a clear process by which they may do so as discussed above. *See, e.g.*, Ex. E, Tabaddor Decl. ¶¶ 14-17. In fact, all of the children in ORR custody should be aware of their right to pursue voluntary departure because the Foundational Rule requires ORR to “provide or arrange for” “legal services information regarding ... the ability to apply for asylum with U.S. Citizenship and Immigration Services (USCIS) in the first instance, and the ability to request voluntary departure in lieu of removal.” 45 C.F.R. § 410.1302(c)(12); *see also* 45 C.F.R. § 410.1309(a)(2)(B)(iv)-(v). Those regulations likewise protect children’s best interest, even when it is in the best interests of an individual child to return to their country of origin.

Defendants have thus done “precisely what the regulations forbid” them from doing. *Accardi*, 347 U.S. at 267. This conduct “not in accordance with law” must be “h[e]ld unlawful” as a result. *See* 5 U.S.C. § 706(2)(A).

B. Plaintiffs will suffer irreparable harm in the absence of an injunction.

To establish irreparable harm, plaintiffs must show “(1) that the harm is ‘certain and great, actual and not theoretical, and so imminent that there is a clear and present need for equitable relief to prevent irreparable harm’ and (2) that the harm is ‘beyond remediation.’”

Cath. Legal Immigr. Network, Inc. v. Exec. Off. for Immigr. Rev., 513 F. Supp. 3d 154, 175 (D.D.C. 2021) (quoting *League of Women Voters of U.S. v. Newby*, 838 F.3d 1, 7-8 (D.C. Cir. 2016) (cleaned up)).

Here, Plaintiff Children and putative class members have demonstrated clear and irreparable harms if removed to Guatemala. To begin, the threat of expulsion without the opportunity to apply for humanitarian protection or other immigration relief constitutes irreparable injury. *Huisha-Huisha v. Mayorkas*, 560 F. Supp. 3d 146, 172 (D.D.C. 2021) (finding irreparable harm where plaintiffs “face the threat of removal prior to receiving any of the protections the immigration laws provide”), *aff’d in part, rev’d in part on other grounds*, 24 F.4th 718 (D.C. Cir. 2022); *P.J.E.S. ex rel. Escobar Francisco v. Wolf*, 502 F. Supp. 3d 492, 517 (D.D.C. 2020) (irreparable injury exists where class members were “threatened with deportation prior to receiving any of the protections the immigration laws provide”).

The events of August 31, 2025 show the imminence and severity of the harm Plaintiffs face. Putative class members were on the verge of unlawful expulsion but for Judge Sooknanan’s intervention. *See, e.g.*, Ex. A, Suppl. Flores Decl. ¶¶ 13-17 (describing abrupt and disruptive government efforts, witnessed by declarant, to expel putative class members in the early morning hours of August 31, 2025); *id.* ¶ 7 (“[O]ne young girl [at the ORR shelter declarant visited] was extremely distraught, crying, and repeatedly saying she could not back to Guatemala [O]ne young girl was so scared that she vomited and asked to speak with a clinician [O]ne young teenager was so scared that he might end up murdered like one of his family member.”).

Plaintiffs and putative class members risk imminently experiencing or reexperiencing this trauma, which cannot be remediated; Ex. A, Suppl. Flores Decl. ¶ 9 (“My 10-year-old client, the lead Plaintiff LGML, was asleep at the Urban Strategies San Benito shelter. She told me she was

taken out of bed around 4:30 in the morning for transport. Her Child Advocate from the Young Center was present at the facility and was able to get her removed from transport. LGML was tired and worried.”). *See, e.g.*, Ex. P, A.J.D.E. Decl. ¶¶ 11-12 (“The director of the shelter told us that we were not going to be deported because a judge had issued an order pausing the deportations The impact is real. I feel totally traumatized. I don’t even know how to explain it.”).

If the Court does not issue a preliminary injunction, there is little doubt that Defendants will again put Plaintiffs back on airplanes and unlawfully expel them to Guatemala, where many have suffered abuse or neglect by parents and where they will not be able to live safely upon return. Statements in the record from Guatemalan unaccompanied children demonstrate the irreparable harm they imminently face:

- “I came to the United States after experiencing abuse and neglect from my father and abuse from the father of my child. If I am sent back, I will not be able to live safely.” ECF No. 2-2 at 7, H.L.E.C. Decl., ¶ 6.
- “Since I was little in Guatemala I have suffered from physical and emotional abuse from both of my parents. I am receiving mental health care here in the shelter. My parents would say ugly things to me like, 'why was I born, that I have ruined their lives and why I was always in their way.' They hit me with a belt, with their hands and with sticks, and sometimes I would bleed. I fear that if I were to return to Guatemala my life would end. This is the reason why I do not want to return to Guatemala, and I wish to continue my legal process here in the United States.” Ex. J, Declaration of J.A.I.T. (“J.A.I.T. Decl.”), ¶¶ 7,8,9,10.
- “I have a deportation case before the Immigration Court in New York, NY. I still have hearings before the Immigration Court for my case, so I am fighting for protection against being deported to Guatemala. I learned recently that the government might try to deport me before I have gotten a chance to defend myself in my deportation case with Immigration Court. I do not want to be deported. I am afraid to return to Guatemala. My parents did not take care of me like they should have when I was in Guatemala; I do not believe my parents would be able to take care of me if I have to return. My attorney is helping me seek protection from the harm I suffered at the hands of my parents in Family Court. I ask that this Court allow me

to stay safely in the United States while I work with my attorneys to continue with my cases before the Family Court and Immigration Court. Ex. H, Declaration of E.M.V.M. (“E.M.V.M. Decl.”), ¶¶ 3-8.

- “Before coming to the United States, I lived in [], Guatemala. My mother died when I was around 12 years old. Before my mother died, I stopped attending school to care for her fulltime. After she died, I lived with my father and stepmother and did not return to school. Instead, I had to work in the fields and do housework even though I wanted to go to school. My stepmother treated me differently than her kids, and I did not feel comfortable at home.

I fled to the U.S. on my own without a parent, and I am afraid to go back to Guatemala because there is a problem of gangs kidnapping girls my age and forcing them to be their girlfriends. I am afraid that will happen to me. There is no one who can care for me or protect me if am forced to return to Guatemala. Because I am Chuj, I don’t think the government will help me if I need it. I feel safe and cared for here in the United States.

Around a week and a half ago, some immigration agents came to ask me questions at the foster care program. The agents asked me if I have any family in my home country, and if I talk to my parents. The agents did not ask me if I was afraid to go back to Guatemala, if I have ever been forced to work, if I can go back to live with my father, or what would happen to me if I had to go back to Guatemala. I felt vely anxious during the interview. I had never met the officers before and did not understand why they were asking me the questions they did or what they would do with the information.” Ex. I, Declaration of S.C. (“S.C. Decl.”), ¶¶ 3-5.

- “I am afraid of return to Guatemala by [sic] is in danger there. My father is dead and my mother does not want me to return.” Ex. K., Declaration of E.A.M. (“E.A.M. Decl.”).

The conditions under which Defendants will transfer Plaintiffs from ORR custody in order to summarily expel them absent a preliminary injunction constitute further irreparable harm. Plaintiffs are at imminent risk of being denied care and access to basic needs such as shelter, food, and education that Defendants are legally required to provide either in ORR custody or through safe repatriation *after* unaccompanied children have completed their removals proceedings or chosen to voluntarily depart with legally mandated safeguards. Ex. B, Vander Hoek Decl. ¶ 23. Plaintiffs would be removed from the United States without—or in

some cases in defiance of—a child advocate’s regulatorily-mandated Best Interest Determination and denied the informed consideration of an immigration judge adjudicating a voluntary departure application. ECF No. 2-2 at 33, TVPRA Child Advocate Garcia Decl. ¶ 11 (“It is our determination that it is in H.M.O.C.’s best interests for this Court to ensure H.M.O.C. remains in the United States while her immigration case is pending and to protect her from being removed before she is able to have her case fully adjudicated by immigration officials If H.M.O.C. is ever ordered to leave the United States by an immigration judge, she should do so only after provisions are made under the TVPRA for her safe repatriation, including confirmation by her Child Advocate and attorney that she will have a safe, appropriate and permanent place to which she can return. Once they are removed to Guatemala, harms will be irreparable.”). Both constitute indispensable procedural protections to prevent harm to repatriated UACs. Ex. B, Vander Hoek Decl. ¶ 22 (“In many cases where there are concerns about the child’s safety in home country, the Young Center will conduct a safe repatriation assessment, contracting with experts into the child’s home country to visit the child’s community, meet with family members, and determine whether the child will be safe upon return.”).

Further, Guatemalan unaccompanied children with pending asylum applications risk imminent removal from ORR custody and expulsion without the opportunity for their applications to be adjudicated. They risk imminent persecution or torture upon return to Guatemala. Once they are expelled, there will be no remedy for this violation. *P.J.E.S.*, 502 F. Supp at 517 (“[P]utative class members are being returned without any opportunity to apply for asylum or withholding of removal. Once expelled from the United States and outside the jurisdiction of the Court, it is not clear that a remedy can be provided.”); *Orantes-Hernandez v. Meese*, 685 F. Supp. 1488, 1504–05 (C.D. Cal. 1988) (plaintiffs would suffer irreparable harm if

they were summarily removed without being afforded opportunity to exercise their right to apply for asylum). Many fear persecution or torture upon return and wish to continue pursuing their asylum claims before the immigration court:

- “I identify as part of the LGBTQIA+ community and fear returning to Guatemala where I will be raped by men in my community and my family will force me to marry a man. If I had to return to Guatemala, I would kill myself.” Ex. Q, G.Y.V.S. Decl. ¶ 5.
- “I am terrified of having to return to Guatemala because of the many terrible things that happened to me there...Also, I am certain that people there who hurt me and threatened to kill me before will once again hurt me and will carry out their threats to kill me. The Guatemalan police and government will not protect me. I am afraid of the Guatemalan government. Before I left Guatemala, a judge put me in a shelter for boys whose families severely mistreated them. This was supposed to protect me. However, living in that government shelter was horrific. For close to one year, staff members subjected me to many kinds of physical abuse on an almost daily basis, and also sexually abused me. I want the chance to have my claim for asylum, withholding of removal, and protection under the Convention Against Torture fully and fairly decided.” Ex. F., D.I.R. Decl., ¶¶ 6,7,8.
- “I came to the United States after receiving threats from gang members. One day on my way from picking my brother up from school gang members approached us and told us to tell our mom to pay an extortion that she could not afford or they would kill us. If I am sent back, I will not be able to live safely. My mother did not request my return to Guatemala, she fears for my safety there. I want to remain in the United States and continue to fight my case in Immigration Court and have a fair opportunity to be heard.” Ex. G, Declaration of D.E.C.E. (“D.E.C.E. Decl.”), ¶¶ 5-6, 8.
- “I fear returning to Guatemala. I was a victim of human trafficking in the United States and my country does not have resources for victims of human trafficking.” Ex. R, R.M.S.C.C. Decl., ¶ 5.

But for a preliminary injunction, Plaintiffs face imminent removal from ORR custody and summary expulsion from the United States, including harms “beyond remediation” like the loss of their substantial rights in their pending removal proceedings, in their applications for relief, and in the safe repatriation guaranteed to them should they ever seek to or be ordered to

return to Guatemala. *See Wisc. Gas Co. v. FERC*, 758 F.2d 669, 674 (D.C. Cir. 1985). Plaintiffs’ imminent summary removals clearly constitute irreparable harm.

C. The Balance of Equities and Public Interest Weigh Decidedly in Favor of a Preliminary Injunction.

The balance of equities and the public interest factors merge in cases against the government. *See Pursuing Am. ’s Greatness v. FEC*, 831 F.3d 500, 511 (D.C. Cir. 2016) (citations omitted). Where, as here, the challenged governmental conduct deprives Plaintiffs of their rights and is contrary to the rule of law, both factors weigh in Plaintiffs’ favor. Defendants, to begin, “cannot suffer from harm from an injunction that merely ends an unlawful practice.” *Open Communities Alliance v. Carson*, 286 F. Supp. 3d 148, 179 (D.D.C. 2017). That is exactly the relief Plaintiffs seek. The public—and therefore the government—has an interest in protecting people in government custody, particularly children. *See Nken v. Holder*, 556 U.S. 418, 436 (2009) (describing the “public interest in preventing aliens from being wrongfully removed, particularly to countries where they are likely to face substantial harm”). Moreover, “[i]t is always in the public interest to prevent the violation of a party’s constitutional rights.” *Simms v. D.C.*, 872 F. Supp. 2d 90, 105 (D.D.C. 2012) (quotation marks and citations omitted); *see also Torres v. U.S. Dep’t of Homeland Sec.*, 18-cv-02604, 2020 WL 3124216, at *9 (C.D. Cal. Apr. 11, 2020) (“[T]he public has an interest in the orderly administration of justice[.]”); *League of Women Voters v. Newby*, 838 F.3d 1, 12 (D.C. Cir. 2016) (describing the “substantial public interest in having governmental agencies abide by the federal laws that govern their existence and operations”) (citation omitted).

An injunction would particularly serve the public interest here given the public’s special concern for child welfare, which the TVPRA clearly articulates. The public has a particular interest in ensuring children are not unlawfully removed to unsafe conditions. *See, e.g., M.M.M.*

on behalf of J.M.A. v. Sessions, 347 F. Supp. 3d 526, 537 (S.D. Cal. 2018) (“[T]he public has an interest in ensuring that these children [seeking asylum] receive the process that Congress has provided.”). An injunction would particularly serve the public interest here given the public’s special concern for the treatment and the unprecedented actions the government is taking planning to remove them without following clear legal mandates. That interest is best served by an injunction that ensures that ORR remain responsible for Plaintiffs’ and putative class members’ welfare, as Congress requires, during the pendency of this litigation.

D. The Court Should Not Require Plaintiffs to Provide Security Prior to the Preliminary Injunction.

Fed. R. Civ. P. 65(c) provides that “[t]he court may issue a preliminary injunction or a temporary restraining order only if the movant gives security in an amount that the court considers proper to pay the costs and damage sustained by any party found to have been wrongfully enjoined or restrained.” However, “courts in this Circuit have found the Rule ‘vests broad discretion in the district court to determine the appropriate amount of an injunction bond,’ including the discretion to require no bond at all.” *Simms v. D.C.*, 872 F. Supp. 2d 90, 107 (D.D.C. 2012) (internal quotation marks, citation, and alterations omitted). District courts exercise this discretion to require no security in cases brought by indigent and/or incarcerated people, and in the vindication of immigrants’ rights. *See, e.g., P.J.E.S. by & through Escobar Francisco v. Wolf*, 502 F. Supp. 3d 492, 520 (D.D.C. 2020). This Court should do so here as well. Alternatively, the Court should order Plaintiffs to post security in the amount of \$1.00.

CONCLUSION

The motion for a preliminary injunction should be granted.

Dated: September 3, 2025

Respectfully submitted,

/s/ Efrén Olivares

Efrén C. Olivares*

Hilda Bonilla (D.C. Bar No. 90023968)

Lynn Damiano Pearson**

Kevin Siegel**

**NATIONAL IMMIGRATION LAW
CENTER**

1121 14th Street, Suite 200

Washington, D.C. 20005

Tel: (213) 639-3900

Fax: (213) 639-3911

bonilla@nilc.org

olivares@nilc.org

damianopearson@nilc.org

siegel@nilc.org

Counsel for Plaintiffs

**Admitted pro hac vice*

***Pro hac vice application forthcoming*

CERTIFICATE OF SERVICE

I hereby certify that on September 3, 2025, I electronically filed the foregoing with the Clerk of the Court for the United States District Court for the District of Columbia by using the CM/ECF system. I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the CM/ECF system.

/s/ Efrén Olivares
Efrén C. Olivares
Attorney for Plaintiffs

L.M.G.L. v. Noem

Motion in Support of a Preliminary Injunction

- A. Supplemental Declaration of Lauren Fisher Flores
- B. Declaration of Carrie Vander Hoek, Young Center for Children's Rights
- C. Declaration of M. Y. V. S. (Mother of Plaintiff M.F.A.P.V.)
- D. Declaration of R. A. T. C. (Father of Plaintiff M.Y.A.T.C.)
- E. Declaration of Amy Tabaddor, Immigration Judge (Ret.)
- F. Declaration of D.I.R.
- G. Declaration of D.E.C.E.
- H. Declaration of E.M.V.M.
- I. Declaration of S.C.
- J. Declaration of J.A.I.T.
- K. Declaration of E.A.M.
- L. Declaration of S.M.G.T.
- M. Declaration of E.Y.T.T.
- N. Declaration of W.M.R.P.
- O. Supplemental Declaration of A.R.M.D.
- P. Declaration of A.J.D.E.
- Q. Declaration of G.Y.V.S.
- R. Declaration of R.M.S.C.C.
- S. Declaration of M.I.F.T.

EXHIBIT A

SUPPLEMENTAL DECLARATION OF LAUREN FISHER FLORES

I, Lauren Fisher Flores, pursuant to 28 U.S.C. § 1746, declare:

1. I am the Legal Director of the South Texas Pro Bono Asylum Representation Project (ProBAR), a project of the American Bar Association. ProBAR was founded in 1989 as a pro bono project to provide access to justice and due process to detained migrants and asylum seekers in the Rio Grande Valley region of South Texas. Today, ProBAR provides pro bono legal services to immigrant adults, children, and families with a specialized focus on detained unaccompanied children in the Rio Grande Valley. ProBAR provides legal services at 22 shelters for unaccompanied children in the Rio Grande Valley and Corpus Christi regions.
2. I make this declaration to supplement my declaration filed on August 30, 2025, and based on personal knowledge and information made known to me in the course of my professional experience.
3. On the evening of Friday, August 29, I became aware that the shelters ProBAR serves in South Texas were preparing to repatriate Guatemalan children in their custody—a total of 69 children. The shelter facilities are the following: Upbring Bokenkamp, Compass Connections Harlingen, Compass Connections Cameron, Compass Connections Driscoll, Compass Connections Henderson, Chicanos Por La Causa Magnolia House, Grace House Children's Shelter, Hands of Healing Casa Sunshine, Hands of Healing Casa Harlingen, Upbring New Hope, Sunny Glen Children's Home New Life Resiliency Center, Upbring LSSS- Corpus Christi Long Term Foster Care, Urban Strategies Refugio Alamo, Urban Strategies San Benito, and Vision Quest Jake Devonshire Center. ProBAR staff began contacting Guatemalan children in custody at these facilities and providing them information about their rights.
4. On Saturday, August 30 at approximately 2:30 pm Central Time ProBAR contacted the shelter program directors and the ORR Federal Field Specialists and advised them of the rights of Guatemalan unaccompanied children to the protections of the TVPRA and the ORR Foundational Rule (45 CFR§ 410.1601(a)(3)) which requires ORR to notify the child and the child's attorney, legal provider, or advocate, at least 48 hours before transfer or discharge of a child. SEE ATTACHMENT 1.
5. On Saturday evening around 11:30 pm Central Time, ProBAR began to receive calls and messages from shelter programs. The programs advised ProBAR that they had been told to prepare children to be repatriated and that transport would arrive to pick them up in two hours.
6. ProBAR is already operating with fewer staff due to layoffs in May of this year because of cuts to ProBAR's federal funding. Many of ProBAR's staff were traveling for the Labor Day holiday. Most were asleep. ProBAR's director mobilized several attorneys to

go to shelters in person and meet with others virtually. ProBAR's director and attorney staff were able to visit the following shelters in the middle of the night: Hands of Healing Los in Los Fresnos, New Hope in McAllen, and Urban Strategies in Alamo. ProBAR staff were able to virtually Zoom into Compass Connection Harlingen and Urban Strategies Refugio in San Benito, Texas.

7. At all of the shelters visited in the middle of the night, ProBAR staff witnessed children who had been pulled out of their beds. They were confused and scared. At Hands of Healing Los Fresnos, one young girl was extremely distraught, crying and repeatedly saying that she could not go back to Guatemala. At New Hope McAllen, one young girl was so scared that she vomited and asked to speak with a clinician. At Urban Strategies Alamo, one young teenager was scared that he might end up murdered like one of his family members. At Compass Connection in Harlingen, an attorney was able to meet with only one child. None of these children's parents in their home country had requested their return. ProBAR's client and named Plaintiff ARMD was at Compass Connection, but he was transported to a plane without notifying me as his attorney of record.
8. On Sunday, August 30 at approximately 2:57 a.m. Central Time, ProBAR staff contacted ORR, through the email address provided to ProBAR for the first time in the middle of the night orrguatemalareunification@acf.hhs.gov, and ICE OCC and reiterated to them the rights of Guatemalan unaccompanied children to the protections of the TVPRA and of the ORR Foundational Rule cited above of advising ProBAR 48 hours prior to any transfer or discharge of a child. In this email, ProBAR requested attorney consultation with Guatemalan clients and prospective clients in ORR Custody in the Rio Grande Valley and Corpus Christi regions. ProBAR also confirmed that, as the legal service provider, ProBAR was not provided notice of the imminent removal of certain Guatemalan children in ORR custody as required under the law. SEE ATTACHMENT 2.
9. My 10-year-old client, the lead Plaintiff LGML, was asleep at the Urban Strategies San Benito shelter. She told me she was taken out of bed around 4:30 in the morning for transport. Her Child Advocate from the Young Center was present at the facility and was able to get her removed from transport. LGML was tired and worried.
10. My 17-year-old client, Plaintiff AMRD, was taken to be put on a plane for Guatemala. He was scared and praying for God to protect him. No one would tell him where they were taking him. He was scared to return to Guatemala, where his single mother could not protect him from the violence in his community or keep him safe.
11. On Sunday August 31 between approximately 3:40 and 4:40 am Central Time, ProBAR sent an email to all shelter directors informing them of the issuance of the Temporary Restraining Order preventing the removal of the 10 named plaintiffs and the protected class of Guatemalan children. ProBAR included a copy of the Court's Minute Order of 4:22 am Eastern Time with that email. SEE ATTACHMENT 3.

12. On Sunday August 31 between approximately 1:45 and 3:45 pm Central Time, ProBAR sent an additional email to all shelter directors informing them of the issuance of an updated Temporary Restraining Order preventing the removal of the named plaintiffs and class members, and clarifying the class of children protected by the order. ProBAR included a copy of the Court's Minute Order of 12:37 pm Eastern Time with that email. SEE ATTACHMENT 4.
13. I woke up to a flurry of messages and emails on Sunday morning. I learned that children, including ProBAR's clients, had been removed from the shelter facilities and were believed to be already on an ICE-contracted transport plane at the Harlingen airport.
14. I arrived at the FBO Sun Valley Airport in Harlingen. I could see two of the ICE transport planes parked on the tarmac. The stairs had already been pulled away and the door to the plane, which I had been informed had the children on board, was already closed. I went to the building at the tarmac. I could see officers inside. I knocked on the door. I told the young man who answered the door that I was an attorney, that I had clients on the plane, and that I had a court order stopping the plane from leaving. I asked to speak to his supervisor. I gave the same message to every person who badged in the locked door. I told them they were all complicit in violating a federal court order if the plane left. The young man came back out and told me that he had advised his supervisor who was trying to contact ICE. I explained again the federal court order and the importance of stopping the plane. Another agent came out and physically pulled the young man back into the building. I could see the other staff members through the glass. They were jeering and laughing. I repeated that they were all complicit in the violation of the judge's order.
15. Around 10:30 am, while I was standing outside the FBO airport building, I saw one of the planes begin to move. I identified it as the plane that I believed ProBAR's clients to be on. I knocked on the door again. I watched the plane taxi away from the building. About 20 minutes later, the plane taxied back and parked again. I stayed watching the plane with the children on it. It was hot, sunny, in the upper 90s. I thought about the children on that plane and how hot and stuffy it must have been, how tired they must be, and how scared and confused.
16. The plane sat parked on the tarmac with the stairs up as the hearing on the Plaintiff's Motion for a Temporary Restraining Order (TRO) occurred on Sunday afternoon and continued on the tarmac after the hearing ended. About thirty minutes after the TRO hearing, buses approached the tarmac. At 1:00 pm, 5 buses lined up at the tarmac gate. Finally, at 1:30 pm, the children finally started to get off the plane. The children appeared to get on the buses, then the buses went and parked on the back side of the FBO airport building, still inside the gates to the tarmac. I left the airport around 2 pm. It is my understanding that finally, around 4:00 pm, the buses carrying the children left the airport.

17. ProBAR tried to find the Guatemalan clients for whom we had entered our appearance before Office of Refugee Resettlement and whom we believed to be on the plane including named Plaintiff AMRD, their status on the UC portal listed as discharged, and were unable to locate them until late Sunday evening, when ProBAR started to hear from the shelter programs.

/s/ Lauren Flores

Signature

9/2/2025

Date



AMERICAN BAR ASSOCIATION

ProBAR | South Texas Pro Bono
Asylum Representation Project



August 30, 2025

Dear Program Director,

I write on behalf of the South Texas Pro Bono Asylum Representation Project (ProBAR) as a longstanding partner with your shelter to protect and safeguard the rights and wellbeing of immigrant children under the custody of the Office of Refugee and Resettlement ("ORR"). I am asserting certain children's rights to an immediate meeting with a ProBAR attorney or accredited D.O.J. representative. In accordance with the TVPRA (codified at 8 U.S.C. 1232(c)(5)), and as part of the Acacia Network, ProBAR is the Legal Service Provider charged with providing Know-Your-Rights presentations and legal screenings at 22 shelters for unaccompanied children in the Rio Grande Valley and Corpus Christi regions, including your shelter.

ProBAR recently received information concerning the imminent repatriation of unaccompanied children from Guatemala currently in your care. The identifying information of the children at risk will be emailed separately. These planned repatriations are a significant deviation from the established procedures to handle unaccompanied children's legal cases and therefore warrant a right to a prompt legal consultation.

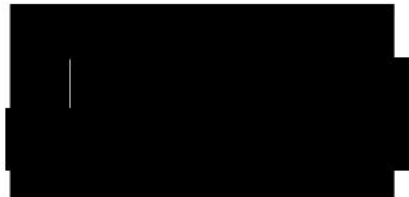
The ORR Unaccompanied Children Program Foundational Rule (specifically codified at 45 C.F.R 410.1309) mandates access to legal information and consultation to protect children's right in the complex U.S. immigration system. According to 45 C.F.R 410.1309(d)(1), ORR should ensure access to counsel "to the greatest extent practicable." Facilitating meeting with ProBAR attorneys does not represent a significant burden on ORR and therefore is practicable.

ProBAR requests facilitation of legal consultations with all Guatemalan children because the abrupt change in the established legal framework to handle their immigration status puts their rights in jeopardy. Specifically, the TVPRA at § 235(a)(5)(D) mandates that unaccompanied children from non-contiguous countries, which includes Guatemala, must be placed in removal proceedings under INA § 240 and their immigration status handled by an immigration judge. The planned repatriations of Guatemalan children appear to be handled outside of immigration proceedings and outside of the jurisdiction of an immigration judge. Children targeted by the immediate repatriations are entitled to accurate and up to date legal information and advice in order to protect their rights under the TVPRA.



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With such an alarming attempt to undermine the rights of children under your care, I further request that any attempt to transfer custody of children to Immigration and Customs Enforcement be delayed until all targeted children have had their right to confer with counsel. As a reminder, the ORR Foundational Rule (45 CFR§ 410.1601(a)(3)) requires ORR to notify the child and the child's attorney, legal provider, or advocate, at least 48 hours before transfer.

We stand ready to ensure the rights and safety of children under your care are protected. And we look forward to your continued commitment to the same.

A handwritten signature in black ink, appearing to read 'Laura Peña', enclosed within a thin black rectangular border.

Laura Peña
Director

From: [Laura Pena](#)
To: ORRGuatemalaReunification@acf.hhs.gov
Cc: [ICE-OPLA-SNA-HLG-DUTY](#); [REDACTED]; [Laura Flores](#); [REDACTED]; [Lauren Fisher Flores](#); [REDACTED]
Subject: Urgent Request // Cease & Desist
Date: Sunday, August 31, 2025 2:56:58 AM
Attachments: [image001.png](#)
[image002.png](#)
[image003.png](#)
[image004.png](#)
[image.png](#)
[Final - ProBAR Letter to Shelters - Assert Rights.pdf](#)
[Guatemalan clients - ProBAR.xlsx](#)

I am emailing to request attorney consultation with Guatemalan clients and prospective clients in ORR Custody in the Rio Grande Valley and Corpus Christi regions. ProBAR, as the legal service provider, was not provided notice as required under the law of the imminent removal of certain Guatemalan children in ORR custody. See attached letter requesting legal access yesterday to several shelters.

I am also attaching a list of detained Guatemalan children that we request immediate access to; we further request ICE cease and desist from removing any of the children in our legal service area until we have an opportunity to appropriately screen for potential risk of tracking, fear of return to home country, and ensure the children have full knowledge of their rights under the law.

Regards,

Laura Pena
 Director
 [REDACTED]


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Laura Peña

[REDACTED]

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attachments immediately. Thank you.

From: [REDACTED] <[REDACTED]>
Sent: Sunday, August 31, 2025 1:58 AM
To: ORRGuatemalaReunification@acf.hhs.gov <ORRGuatemalaReunification@acf.hhs.gov>
Cc: ICE-OPLA-SNA-HLG-DUTY <ice-opla-sna-hlg-duty@ice.dhs.gov>; Laura Pena
[REDACTED]
Subject: Urgent: Credible Fear Claim for Guatemalan Child

Good morning,

I am writing to facilitate the expression of fear on behalf of the minor S [REDACTED] S [REDACTED] -V [REDACTED], A- [REDACTED]. We represent the minor and the L-3 is on file with the shelter. She does not meet the "criteria" for removal to Guatemala, is afraid of returning to her home country.

ICE should immediately cease and desist from attempting to repatriate her to home country until she has had an interview or hearing on her expressed fear.

Regards,

[REDACTED]

American Bar Association ProBAR

[REDACTED]



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From: [REDACTED]
To: [REDACTED]
Cc: [REDACTED]; [Laura Flores](#); [Laura Pena](#); [Lauren Fisher Flores](#); [REDACTED]
Subject: URGENT: Temporary Restraining Order Preventing Removal of Guatemalan Children
Date: Sunday, August 31, 2025 4:45:55 AM
Attachments: [image.png](#)
[image.png](#)
[image.png](#)
[image.png](#)
[Fw: Activity in Case 1 25-cv-02942 L.G...TRO Order.pdf](#)

Good evening,

Please be advised that a Temporary Restraining Order has been granted in a federal court case challenging the imminent removal of Guatemalan unaccompanied children. Please see the attached order. No children may be removed while the order is in place. Please inform ICE should they still be seeking to remove children.

If you have any questions, please contact Laura Flores, ABA Commission on Immigration Deputy Director of Legal Programs and Operations, [REDACTED].

Thanks,

[REDACTED]
[REDACTED]
[REDACTED]

American Bar Association ProBAR

[REDACTED]



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From: [REDACTED]
To: E [REDACTED]; christopher.cantu@aclu.hhs.gov; [REDACTED]
Cc: [Laura Pena](#); [Lauren Fisher Flores](#); [REDACTED]
Subject: Re: Sunny Glenn New Day - Urgent Request for Legal Access to Guatemalan Children
Date: Sunday, August 31, 2025 3:20:21 PM
Attachments: [image.png](#)
[image.png](#)
[L.G.M.L v. KRISTI NOEM, 1 25-cv-02942 – CourtListener.pdf](#)

Good Afternoon,

I am following up on our emails below with an updated order of the court in this matter. An updated Temporary Restraining Order has been issued confirming:

1. Motion for Temporary Restraining Order is Granted
2. Motion to Certify Class is Granted
3. The Court further ORDERS that the government shall not transfer, repatriate, remove, or otherwise facilitate the transport of any Plaintiff or member of the putative class from the United States for 14 days absent further Order of the Court.
4. The Court ORDERS that the Defendants cease any ongoing efforts to transfer, repatriate, remove, or otherwise facilitate the transport of any Plaintiff or member of the putative class from the United States.
5. The protected class is defined by the court as follows:
all Guatemalan unaccompanied minors in Department of Health and Human Services Office of Refugee Resettlement custody as of 1:02 AM ET on August 31, 2025, the time of the filing of the Complaint, who are not subject to an executable final order of removal.

I have attached the order here. It is our understanding that any children who were picked up will be returned to the shelter. Please refrain from presenting the children for repatriation for the duration of the judge's order.

Thank you for your assistance. If you have questions, please do not hesitate to reach out to [REDACTED]
[REDACTED]

Thank you,
[REDACTED]



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 Please consider the environment before printing this email.

From: [REDACTED]

Sent: Saturday, August 30, 2025 3:07 PM

To: [REDACTED]

[REDACTED]

[REDACTED]; kristopher.cantu@acf.hhs.gov

<kristopher.cantu@acf.hhs.gov>

Cc: Laura Pena [REDACTED] Lauren Fisher Flores

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Subject: Sunny Glenn New Day - Urgent Request for Legal Access to Guatemalan Children

Dear Shelter Partners,

Please review the attached letter and send to your program leadership. We will follow up with the request to meet with Guatemalan children in your care.

Best,


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EXHIBIT B

Declaration of Carrie Vander Hoek

I, Carrie Vander Hoek, declare as follows:

1. This declaration is based on my personal knowledge. If called to testify in this case, I would testify competently about these facts.

2. I currently work as a Deputy Program Director of the Child Advocate Program at the Young Center for Immigrant Children's Rights ("Young Center"). The Young Center is a national non-profit organization whose mission is to protect and advance the rights and best interests of immigrant children in accordance with state, federal, and international law. Since 2004, the Young Center has been appointed by the Office of Refugee Resettlement (ORR) within the U.S. Department of Health and Human Services to serve as the independent Child Advocate, akin to a best interests guardian *ad litem*, for unaccompanied and separated immigrant children. The Young Center is appointed as Child Advocate pursuant to the Trafficking Victims Protection Reauthorization Act (TVPRA), which authorizes ORR to appoint Child Advocates to "child trafficking victims and other vulnerable unaccompanied [immigrant] children." 8 U.S.C. § 1232(c)(6)(A).

3. The Young Center's Child Advocate Program currently operates in nine locations across the country including: Phoenix, Arizona; Los Angeles, California; Chicago, Illinois; Grand Rapids, Michigan; New York, New York; Harlingen, Texas; Houston, Texas; San Antonio, Texas; and Washington, D.C.

4. Since its founding, the Young Center has served as the independent Child Advocate for more than 7,000 children in federal custody. We are the only organization authorized by ORR to serve in that capacity.

5. The Young Center is serving as next friend for the plaintiffs, who are minors, in this case. Over the years, the Young Center has served as next friend for

1 unaccompanied children in other federal litigation seeking to protect their rights and
2 best interests.

3 6. I am a Licensed Master Social Worker (LMSW). For the last 18 years I have
4 worked with unaccompanied children in federal custody and children in the state
5 foster care system. Prior to joining the Young Center, I spent over seven years
6 working for General Dynamics IT pursuant to its work with ORR. In that capacity,
7 I provided review, assessment, and third-party release recommendations for
8 children in ORR custody seeking release to family and later supervised 11 bilingual
9 Case Coordinator staff who submitted child welfare-based recommendations on
10 family reunification, transfers, and placements of unaccompanied children in ORR
11 custody.

12 7. I received my Master of Social Work Degree from the University of New
13 England in 2014, during which time I completed an internship with the Hope
14 Family Health Center, and I received my Bachelor of Social Work from Calvin
15 College in 2007. I am bilingual in Spanish and English.

16 8. I have worked at the Young Center for more than six years. From 2019 to
17 2020, I served as a Staff Child Advocate in our Harlingen, Texas, office, providing
18 Child Advocate services for unaccompanied children in ORR custody. In that role, I
19 advocated for children's best interests and developed Best Interests Determinations
20 (BIDs) regarding children's care, custody, release, legal representation, and
21 repatriation. I also provided case consultations and case support for staff on issues
22 involving child welfare, child development, and trauma. I also supervised volunteer
23 Child Advocates who were assigned to meet regularly with children in federal
24 custody. From 2020 to 2021, I served as a Managing Social Worker, supervising
25 both staff and volunteer Child Advocates in the Young Center's Harlingen, Texas,
26 office. My role was to ensure our team's best interests advocacy was grounded in

1 child welfare and trauma-informed best practices. I engaged with local stakeholders
2 on all issues impacting children's time in custody, and reviewed BIDs that were
3 submitted in children's cases.

4 9. Since 2021, I have served as a Deputy Program Director of the Young
5 Center's Child Advocate Program, based out of our Harlingen, Texas, office and
6 more recently out of our Houston, Texas, office. In that capacity, I have overseen
7 Child Advocate staff in our Harlingen, Houston, San Antonio, Washington, D.C.,
8 and Grand Rapids offices. I serve as a primary point of contact for Young Center
9 Child Advocate and supervisory staff, ORR staff, ORR grantees and ORR
10 contractors. I support Child Advocate Program staff in their role of providing BIDs
11 regarding a child's safe release from ORR care, including reunification with
12 sponsors in the United States and safe repatriation.

13
14 The Role of Independent Child Advocates

15 10. Young Center attorneys and social workers are appointed as independent
16 Child Advocates alongside trained, bilingual volunteers to particularly vulnerable
17 unaccompanied and separated children. The role of the Child Advocate is to
18 determine and advocate for the best interests of children on matters related to a
19 child's custody, placement, transfer, reunification with family or release to another
20 sponsor, access to services, immigration case, and repatriation, where appropriate.
21 Child Advocates identify a child's best interests by considering the child's
22 expressed wishes, safety, right to family integrity, liberty, developmental needs, and
23 identity. These "best interests factors" are well-established in the child welfare laws
24 of all 50 states and in international law, including the Convention on the Rights of
25 the Child.

1 11. Child Advocates meet regularly with the children to whom they are
2 appointed, to learn their story, understand their wishes, and to develop
3 recommendations about what course of action by government officials will be in
4 that child's best interests.

5 12. To inform the Child Advocate's recommendations regarding the child's best
6 interests, Child Advocates also gather information about the child's history from
7 any adult who has relevant information about the child. This includes from parents
8 and other adult family members, whether in the United States or in the child's
9 country of origin.

10 11 The Role of Parents in the ORR Reunification Process

12 13. When a child arrives in ORR care, the role of the ORR care provider's case
13 manager is to support the child in locating a sponsor to ensure the child's prompt
14 and safe release to a community setting while the child continues their immigration
15 proceedings.

16 14. The case manager speaks with the child and their parent(s) or legal guardian
17 to identify a potential sponsor. A sponsor is an adult in the United States who can
18 care for the child while the child's immigration case proceeds through immigration
19 court or before U.S. Citizenship and Immigration Services (USCIS)—a process that
20 can take months or even years.

21 15. The case manager is required to interview the child and contact the child's
22 parent or legal guardian, regardless of that adult's location, within 24 hours of the
23 child's placement in ORR care. *See Admin. for Child. & Fams. Off. of Refugee*
24 *Resettlement, Unaccompanied Child Manual of Procedures*, § 2.2.1. If an
25 individual other than the child's parent was the child's caregiver in the child's
26 country of origin, the care provider also speaks with that individual as part of a

1 safety assessment. *See* Admin. for Child. & Fams. Off. of Refugee Resettlement,
2 *Unaccompanied Child Manual of Procedures*, § 2.2.

3 16. Federal law requires ORR to place children in the least restrictive setting in
4 their best interest, which means prompt release to a safe adult whenever possible.
5 *See* 8 U.S.C. § 1232(c)(2). In accordance with federal law, ORR gives first
6 preference to a parent, if a parent is available in the United States. If a parent is not
7 available, then ORR engages the child's parent(s) to identify whether there is an
8 adult in the United States who would be an appropriate sponsor (caregiver) for the
9 child.

10 17. Once a potential sponsor is identified, the case manager contacts the potential
11 sponsor to submit a sponsor application, referred to as a family reunification packet,
12 and completes an interview with the potential sponsor called the "sponsor
13 assessment" that assesses the potential sponsor's willingness and ability to care for
14 the child.

15 18. Before a child can be released to a non-parental sponsor, ORR typically
16 obtains a written authorization from the child's parent for their child to be released
17 to the sponsor through a form known as a "Letter of Designation for Care of a
18 Minor." It is my understanding that ORR staff retain a copy of the letter in the
19 child's ORR case files. In my experience, parents who can be located and contacted
20 rarely decline to provide authorization for release to a sponsor.

21 19. In some cases, ORR is unable to secure a parent's authorization for a child's
22 release to a sponsor because the parent(s) is/are deceased, a parent is unknown, the
23 parent's location is unknown, or because the parent has otherwise abandoned care
24 of the child. In these cases, ORR may gather information from a prior caregiver and
25 conduct additional assessments to ensure a child's safe release to a sponsor, and if
26
27
28

1 ORR deems that the child can be safely released to the sponsor, ORR will release
2 the child to the sponsor without a signed authorization from the child's parent.

3
4 Reunification in the Child's Country of Origin

5 20. I have worked with unaccompanied children in ORR care for over 15 years.
6 What happened this past weekend is highly irregular. I have never experienced a
7 purported reunification of a child in ORR care that occurred in the middle of the
8 night, with minimal notice to the ORR care provider and with no notice to the child
9 or to their family.

10 21. Typically, if children wish to return to their country of origin, ORR is not
11 involved in this decision-making because the legal mechanism for return generally
12 requires the involvement of an immigration judge. ORR is not a party to the child's
13 immigration proceedings and does not provide recommendations related to
14 repatriation to the immigration judge. If the immigration court grants voluntary
15 departure, ORR plays a limited role in the process of return.

16 22. If a child wishes to return to their country of origin, the child's legal service
17 provider or attorney supports the child in requesting voluntary departure before an
18 immigration court. If there are concerns about the child repatriating due to their
19 young age, safety reasons, or other concerns, the Young Center is often appointed
20 as Child Advocate to the child to help conduct a safety assessment related to the
21 child's repatriation and then provide a BID to the immigration judge, DHS, and the
22 child's attorney. In many cases where there are concerns about the child's safety in
23 the child's country of origin, the Young Center will conduct a safe repatriation
24 assessment, contracting with experts in the child's country of origin to visit the
25 child's community, meet with family members, and determine whether the child
26 will be safe upon return.

23. If the immigration court grants a child's request for voluntary departure, federal law requires the federal government to provide safeguards to ensure safe repatriation. *See* 8 U.S.C. § 1232(a)(1),(5). When a child is being repatriated, the U.S. Department of Homeland Security (DHS) typically notifies consulate and government officials for the child's country of origin and communicates with these officials to obtain necessary travel documents and make travel arrangements for the child. For children to whom the Young Center is appointed, Young Center Child Advocates collaborate with the Young Center's Safe Repatriation Team to identify case-specific safeguards and coordinate with local partner organizations in the child's country of origin to ensure the child's safe return. These safeguards typically including ensuring that the child's parents or caregiver is timely and adequately notified of (1) the child's travel itinerary, including when the child will leave ORR care and when the child will arrive in their country of origin; (2) the location where the child will arrive; and (3) the documentation the caregiver needs to bring with them (typically proof of relationship such as the child's birth certificate and proof of the caregiver's identification) so that the caregiver can retrieve the child and resume care of the child once the child arrives. If the child has any medical needs or other special circumstances, the Young Center informs DHS so that they can ensure that the adults traveling with the child can implement appropriate care for the child during their travel back to their country of origin. In nearly every case where a Child Advocate recommends specific safeguards regarding safe repatriation, the Young Center recommends that travel (departure and arrival) occur during daylight hours, to ensure that the child gets a developmentally appropriate night of sleep and arrives at a reasonable time of the day so that they can connect with their caregivers safely.

Guatemalan Children at Risk of Unsafe Return

24. On Friday, August 29, 2025, my team and I learned that immigration officials might attempt to return to Guatemala children in ORR custody who did not have a parent in the U.S. seeking their release. We were immediately concerned, as many of the Guatemalan children to whom we are appointed as Child Advocate and who do not have a parent in the U.S. available to sponsor the child's release from custody have informed their Child Advocate that they do not want to repatriate to Guatemala because they fear conditions in Guatemala or because they do not have a safe, permanent caregiver able or willing to care for them. Some children may have parents in Guatemala, but have experienced abuse, abandonment, or neglect at their hands.

25. On August 29, 2025, my colleagues and I quickly compiled a list of 114 Guatemalan children in ORR custody to whom we are appointed as Child Advocate and who do not have a parent in the U.S. available to sponsor the child's release from custody. The Young Center also has pending referrals for many other children who meet those criteria; but we have not yet been appointed due to limited capacity. The Young Center receives far more referrals for the appointment of Child Advocates each year than it is funded to serve.

26. Of the 114 Guatemalan children to whom the Young Center is appointed and who do not have a parent in the U.S. available to sponsor them, only two (2) had requested and received permission from an immigration judge to return to their country of origin through voluntary departure. Two other children had indicated an interest in seeking voluntary departure but had not yet appeared in immigration court.

27. Under normal circumstances, the two children granted voluntary departure by a judge would prepare to return with safeguards, including advance notice of their travel, advance notice to their family, and support for family who need assistance

1 traveling to the location of the child's return—usually Guatemala City, which may
2 be a full-day trip for families living in other parts of the country.

3 28. In contrast, 14 children had already filed claims for asylum or Special
4 Immigrant Juvenile Status (SIJS), meaning that they feared return to Guatemala.
5 These cases are pending before USCIS.

6 29. An additional 32 children have been identified as eligible for asylum or
7 Special Immigrant Juvenile status but were still searching for counsel to assist them
8 in developing those complex legal claims.

9 30. For the remaining children, our information about their desire to seek
10 protection was incomplete to due to our recent appointment to the case, limited
11 information from the child or other stakeholders, or our rush to compile information
12 about more than 100 active cases on such short notice.

13 31. In total, four (4) children to whom the Young Center was appointed were
14 woken up and abruptly removed from ORR facilities in the dead of night between
15 Saturday, August 30, 2025, and Sunday, August 31, 2025. All of those children
16 were returned to ORR custody by the evening of August 31st.

17 32. However, two children who had previously been placed in ORR Long-Term
18 Foster Care (LTFC) programs were not returned to their foster families and were
19 instead placed in ORR shelter (congregate care) settings. In addition to the trauma
20 that they experienced this weekend, these two children are now having to adapt to
21 wholly new facilities with new staff and new children. One child had been in her
22 LTFC placement for nearly 3 months, after having been in an ORR congregate care
23 setting for almost 4 months. The other child had been in his LTFC placement for
24 over 4 months, after having been in an ORR shelter setting for 5 months. Children
25 in LTFC often live with a foster family that is trained to receive and care for
26 unaccompanied children. Children in LTFC attend school in the community. In

1 these two cases, both children were integrating well into their foster homes and
2 were excited because they had started public high school in August. Both children
3 had expressed that do not wish to return to Guatemala. Now both children are living
4 in a more restrictive, congregate care setting, hours away from their foster families,
5 their attorneys, and without access to their schools, further exacerbating the harm of
6 the events of August 30-31, 2025.

7
8 I declare under penalty of perjury that the foregoing is true and correct. Executed
9 this 2nd day of September, 2025, at Houston, Texas.

10
11 

12
13

Carrie Vander Hoek

DECLARACION OF M [REDACTED] Y [REDACTED] V [REDACTED]
S [REDACTED], MOTHER OF M [REDACTED] F [REDACTED] A [REDACTED]
. P [REDACTED] V [REDACTED]

1. Mi nombre es M [REDACTED] Y [REDACTED] V [REDACTED] S [REDACTED]. Tengo 36 años. Soy madre de M [REDACTED] F [REDACTED] A [REDACTED] P [REDACTED] V [REDACTED] quien actualmente vive con una familia de acogida en Fresno, California.
2. Hace aproximadamente dos semanas, dos mujeres me visitaron en casa para hablar de mi hija, M [REDACTED]. Parecían enojadas y me regañaban. Me dijeron que no debería haber enviado a mi hija a los Estados Unidos.
3. Les dije a las mujeres que vinieron a mi casa que M [REDACTED] se había ido a los Estados Unidos porque quería tener una vida mejor y ella sabía que conmigo no la podría tener.
4. M [REDACTED] vivía con mi madre, pero cuando ella falleció, ya no estaba protegida. Mi madre le proporcionaba comida, ropa y todo lo que necesitaba. Yo no tenía suficientes recursos para poder mantener a mi hija. No tenemos casa propia y alquilamos en cuarto. Podríamos perder el lugar en donde vivimos.
5. M [REDACTED] vivió muchos problemas familiares con su padre. Él tomaba y me pegaba a mí y a M [REDACTED]. Cuando vivíamos con su padre, no teníamos comida, ni ropa. Les dije a las mujeres que me visitaban en casa que M [REDACTED] quería algo diferente.
6. Somos indígena maya. En donde M [REDACTED] asistía a la escuela, sufría bullying y discriminación por ser indígena y pobre. Los niños de mejor posición económica la acosaban sexualmente y le levantaban la falda. No podemos reclamar este trato porque no nos escuchan por ser indígena.
7. Quiero que M [REDACTED] se quede en los Estados Unidos.
8. Les conté todo esto a las mujeres que llegaron a mi casa. Me dijeron que "así es la vida" y que tengo que aguantarlo. No me dieron comprensión. Estaban enojadas. No querían escucharme. Me dijeron que yo tendría que recoger a M [REDACTED] cuando llegara a Guatemala. Me hablaron de un albergue en Guatemala en donde habían muerto varias niñas por un incendio como amenaza que M [REDACTED] podría salir lastimada si no la recogía. Nunca les dije a estas mujeres que quería que regresara M [REDACTED] a Guatemala. Fue el opuesto a eso, les dije que quiero que mi hija se quede en los Estados Unidos. Ella vivió experiencias muy difíciles con mi ex pareja-su padre-y en la escuela y ahora ella quiere algo mejor.

DECLARATION OF M [REDACTED] Y [REDACTED] V [REDACTED]
S [REDACTED], MOTHER OF M [REDACTED] F [REDACTED] A [REDACTED]
P [REDACTED] V [REDACTED]

I, M [REDACTED] Y [REDACTED] V [REDACTED] S [REDACTED], declare as follows:

1. My name is M [REDACTED] Y [REDACTED] V [REDACTED] S [REDACTED]. I am 36 years old. I am the mother of M [REDACTED] F [REDACTED] A [REDACTED] P [REDACTED] V [REDACTED] who is currently living with a foster family in Fresno, California.
2. About two weeks ago, I was visited by two women at my house to talk about my daughter, M [REDACTED]. These women seemed angry and were reprimanding me. They told me that I should not have sent my daughter to the United States.
3. I told the women that came to my house that M [REDACTED] went to the United States because she wanted a better life and she knows that she doesn't have that with me.
4. M [REDACTED] lived with my mother but when my mother died, M [REDACTED] was no longer protected. My mother was able to provide food, clothing, everything that she needed. I did not have the resources to support my daughter. We do not have a house and rent a small room. We could lose the place that we live.
5. M [REDACTED] had to live through family problems with her father. He would drink and hit me and hit M [REDACTED]. When we lived with her father, we didn't have food or clothing. I told the women that visited me that M [REDACTED] wanted something different from herself.
6. We are indigenous Mayan. Where M [REDACTED] attended school, she regularly suffered bullying and discrimination because we were indigenous and poor. The children from a better economic position would sexually harass her and lift her skirt. We cannot say anything about this treatment because we are not listened to for being indigenous.
7. I want M [REDACTED] to remain in the United States.
8. I told all of this to the women that arrived to my house. They told me that "this is how life is" and I have to deal with it. They did not understand. They were angry. They didn't want to hear me. They told me I would need to pick M [REDACTED] up when she is returned to Guatemala. They told me about a shelter in Guatemala that had burned down killing many girls to threaten me that she could be hurt if I did not pick her up. I never told these women that I wanted M [REDACTED] to return. It was the opposite, I told them I want my child to stay in the United States. She lived very difficult experiences with my former partner-her father- and at school and she wants something better now.

Conforme a 28 USC Sec. 1746 yo certifico bajo pena de perjurio bajo las leyes de los Estados Unidos que lo anterior es verdadero y correcto.

Ejecutado el 2 de septiembre en [REDACTED] Guatemala.

M [REDACTED] Y [REDACTED] V [REDACTED] S [REDACTED]

CERTIFICATE OF TRANSLATION

I, Erin Maxwell, declare under penalty of perjury that I am competent in both the Spanish and English languages. I have accurately and completely translated the relevant information in the attached document from Spanish into English.

Executed on September 2, 2025, in San Francisco, California.



Pursuant to 28 USC Sec. 1746, I certify under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.
Executed on 9/02/2025 in [REDACTED] Guatemala.

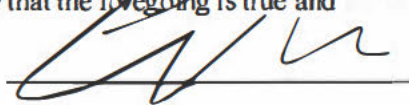
M [REDACTED] Y [REDACTED] V [REDACTED] S [REDACTED]

CERTIFICATION OF ORAL TRANSLATION

I, Erin Maxwell, declare and say as follows:

I certify that I am competent to render oral translation in both the English and Spanish languages, that I simultaneously translated the applicant's oral declaration in Spanish onto paper and into English, to the best of my knowledge and ability, and I reviewed the declaration with M [REDACTED] Y [REDACTED] V [REDACTED] S [REDACTED] who confirmed that she understood and verified the contents thereof prior to signing.

I declare under penalty of perjury that the foregoing is true and correct. Date: 09/02/2025



Erin Maxwell

EXHIBIT D

Declaration of R[REDACTED] A[REDACTED] T[REDACTED] C[REDACTED]

I, R[REDACTED] A[REDACTED] T[REDACTED] C[REDACTED], pursuant to 28 U.S.C. s.1746 declare as follows:

1. My name is R[REDACTED] A[REDACTED] T[REDACTED] C[REDACTED] I live in [REDACTED] Guatemala.
2. I am the father of my daughter, M[REDACTED] Y[REDACTED] A[REDACTED] T[REDACTED] C[REDACTED]. My wife, A[REDACTED] Y[REDACTED] C[REDACTED] I[REDACTED] T[REDACTED] is M[REDACTED]'s mother.
3. To my knowledge, M[REDACTED] is currently living in New York.
4. M[REDACTED] arrived in the United States in around January 2023 in pursuit of safety and a better life.
5. On or around August 15, 2025, my wife and I received a strange phone call. The person told us in Spanish that the U.S. government is going to soon deport M[REDACTED] as part a large group of Guatemalan children from the United States. The person asked us in Spanish whether we would be able to receive M[REDACTED] back. We told the person that M[REDACTED] was going to school in the United States and that she has an attorney there. We were very surprised to receive this call.
6. I was alarmed and extremely worried about my daughter after receiving this call. My wife and I told our daughter M[REDACTED] about this call, and she became very worried and scared. We do not know why we received this call. We never asked for M[REDACTED] to be sent back to Guatemala.
7. Neither my wife nor I have ever asked for M[REDACTED] to be sent back to Guatemala. To the contrary, we believe that M[REDACTED] is safe and protected in the United States, where she is studying and has stability. We are in regularly in communication with our daughter and she has told us that she is happy and safe in the United States.
8. We do not want our daughter to be sent back to Guatemala. In the United States, M[REDACTED] is attending school, and she is an honors student.
9. I am afraid for my daughter to be deported to Guatemala. My wife and I would like our daughter to remain in New York, where she has safety and stability. To my understanding, my daughter M[REDACTED] has the support of an attorney and she has a pending petition for asylum. She should remain in the United States so that she can have her case heard.

10. I respectfully ask the Court to protect my daughter from deportation and allow M[REDACTED] to remain in the United States and seek humanitarian relief.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on September 2, 2025, in [REDACTED] Guatemala.

[REDACTED]
R[REDACTED] A[REDACTED] T[REDACTED] C[REDACTED]

The above statement was read to me in the Spanish language by Chris Suquitana, who is competent in English and Spanish to render such translation. I understand the content of the document and the statements herein are true and correct to the best of my knowledge.

[REDACTED]
F[REDACTED] A[REDACTED] T[REDACTED] C[REDACTED]

Dated: 09/02/2025

CERTIFICATE OF TRANSLATOR'S COMPETENCE

I, Chris Suquitana, hereby certify that I am competent in written and oral Spanish and English, and that I have rendered an oral translation of the foregoing declaration from English to Spanish to the best of my ability and skill to R[REDACTED] A[REDACTED] T[REDACTED] C[REDACTED]

Dated: 09/02/2025

Chris Suquitana

EXHIBIT E

Declaration of Hon. A. Ashley Tabaddor (Ret.)

I, A. Ashley Tabaddor, declare as follows:

Professional Background

1. I am over the age of 18 and capable of making this declaration.
2. I served in the United States federal government for nearly three decades, including over fifteen years as an Immigration Judge with the Los Angeles Immigration Court (10/2005 to 1/2021), and four years as Chief Counsel of U.S. Citizenship and Immigration Services (USCIS). I retired from federal service on January 20, 2025.
3. During my tenure as an Immigration Judge, I volunteered to serve on the first dedicated **Unaccompanied Alien Children (UAC) docket** in the Los Angeles Immigration Court. This docket was created in response to the growing number of unaccompanied minors entering removal proceedings, particularly during the 2013–2014 period, when there was a significant increase in children arriving at the southern border.
4. The establishment of this docket highlighted the systemic challenge that unaccompanied minors were “getting lost” in the immigration court system due to the lack of structures specifically designed for their cases. The dedicated docket allowed judges, counsel, and child advocates to focus attention on this especially vulnerable population.
5. As part of this process, Immigration Judges worked closely with stakeholders, including legal orientation programs, pro bono attorneys, and child advocacy organizations. For a period of time, the Department of Justice provided training for Immigration Judges assigned to UAC dockets. There was also discussion of creating a supervisory immigration judge for vulnerable populations and issuing best practices guidance for cases involving children, though the latter initiative was never finalized. Policy memoranda did, however, recognize the distinct needs of children in immigration proceedings.

Legal Framework for UACs in Immigration Court

6. Beyond the protections in the Trafficking Victims Protection Reauthorization Act, such as adjudication of asylum applications before USCIS in the first instance and voluntary departure at no cost, the Immigration and Nationality Act (INA) does not comprehensively contemplate the unique circumstances of unaccompanied minors navigating proceedings without parents or guardians.
7. Unlike state courts, immigration courts lack statutory authority to appoint guardians ad litem or counsel for children. Judges must rely on external sources of representation, such as pro bono attorneys or child advocates.
8. Within 8 C.F.R. §§ 1240.1-1240.70, which govern the conduct of removal proceedings, the only regulation in that directly addresses minors is 8 C.F.R. § 1240.10(c). This regulation recognizes that children under the age of 18 cannot concede to their own removability. Beyond that provision, the INA and regulations provide little specific guidance on how unaccompanied minors should be treated in proceedings.

Forms of Relief Available to UACs

9. Unaccompanied minors may pursue forms of relief available under the INA, including asylum, withholding of removal, and protection under the Convention Against Torture (CAT).
10. A particularly important form of relief for children is **Special Immigrant Juvenile Status (SIJ)**. To qualify, a state juvenile or family court must issue an order finding that:
 - a. The child has been abused, abandoned, or neglected by one or both parents;
 - b. Reunification with that parent (or parents) is not viable; and
 - c. It is not in the child's best interest to return to their country of nationality.
11. Where such a state court order exists, it is generally recognized by the immigration court and the Department of Homeland Security (DHS) that repatriation or voluntary departure is inconsistent with the findings of the state court. In my experience, I do not recall any instance in which a child with an SIJ order pursued voluntary departure. By that stage, the child is typically in the custody of a safe adult in the

United States and a state court in the United States has determined that returning the child abroad would not be in their best interests.

12. Voluntary departure, while available under statute, is rare for unaccompanied minors and requires careful scrutiny. Immigration Judges generally ensured that any such request was made with the advice of independent counsel and, where possible, with input from a child advocate.
13. When an unaccompanied minor applied for asylum or petitioned for SIJS, immigration judges sometimes administratively closed, terminated, or dismissed their removal proceedings as a docket management tool where the respondents appeared likely to win immigration relief before USCIS. Doing so did not mean they could be removed from the United States. In my experience, an immigration court would never close a case for purposes of removal, and in fact when a TVPRA or SIJS case was closed it was for the sole purpose of pursuing relief before USCIS.

Cases Involving Parental Requests for Return

14. On rare occasions, a situation arose where a parent or guardian in the child's home country expressed a desire to have the child returned.
15. The standard practice in such cases was to ensure that the child had independent legal representation. Counsel, often working with child advocates, would investigate the circumstances of the proposed return, including whether the child would face danger, coercion, or undue pressure to abandon claims for relief in the United States.
16. A parent's request for repatriation alone was not sufficient to establish eligibility for voluntary departure. Immigration courts recognized the need to safeguard the child's independent rights and ensure compliance with statutory protections.
17. In the very rare instances where voluntary departure was ultimately requested and granted, only after investigations into the home environment and parental circumstances had been completed, the process was carefully and deliberately coordinated. Counsel for the child, government counsel, and the parent worked together to ensure that the child's travel and hand-off were arranged safely and smoothly.

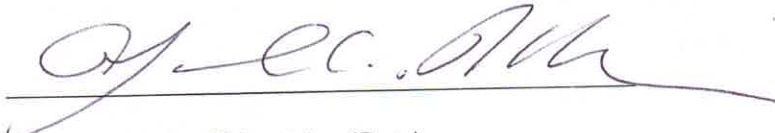
Conclusion

18. Based on my experience, unaccompanied minors face unique and heightened challenges in navigating the immigration court system. While immigration judges are constrained by the INA, over time practices developed to provide additional safeguards, including specialized dockets, enhanced access to counsel, and attention to child welfare considerations.

19. In my professional judgment, any decision to repatriate a child based solely on a parent's request, without ensuring independent counsel, full procedural safeguards, and consideration of the child's best interests, would be inconsistent with the standard practices and protections afforded to unaccompanied minors in immigration proceedings.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Executed this 2nd day of September 2025, at 5:02 pm PT

A handwritten signature in dark ink, appearing to read "A. Ashley Tabaddor", written over a horizontal line.

Hon. A. Ashley Tabaddor (Ret.)

EXHIBIT F

DECLARATION OF D [REDACTED] I [REDACTED] R [REDACTED]

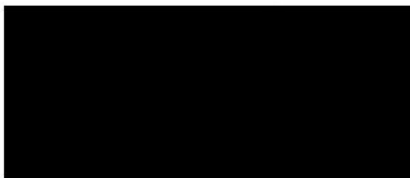
I, D [REDACTED] I [REDACTED] R [REDACTED], declare under penalty of perjury the following:

1. My name is D [REDACTED] I [REDACTED] R [REDACTED]. I am seventeen years old and I am originally from Guatemala.
2. I came to the United States in 2024, and the U.S. Department of Homeland Security designated me as an Unaccompanied Non-Citizen Child. I am currently detained under the care of the Office of Refugee Resettlement at the Abbott House Long-Term Foster Care Program in Bronx, New York.
3. I am in removal proceedings before the Immigration Court. In April 2025 my proceedings were administratively closed; my case has not yet been decided, and I still have the right to continue fighting for protection.
4. I recently learned that I may be at risk of being removed from the United States before my case is fully heard. I am very afraid that I could be deported even though I am still waiting for the Court to decide my case.
5. In early 2024, I submitted a TVPRA Application for Asylum and Withholding of Removal with the United States Citizenship and Immigration Service (USCIS). On June 12, 2025, I was interviewed by USCIS about my application. I am still waiting to find out whether USCIS will approve my application or if USCIS will send it to an Immigration Court for a judge to decide.
6. I am terrified of having to return to Guatemala because of the many terrible things that happened to me there, and because there is no one there who can care for me and keep me safe. Also, I am certain that people there who hurt me and threatened to kill me before will once again hurt me and will carry out their threats to kill me. The Guatemalan police and government will not protect me.
7. I am afraid of the Guatemalan government. Before I left Guatemala, a judge put me in a shelter for boys whose families severely mistreated them. This was supposed to protect me. However, living in that government shelter was horrific. For close to one year, staff members subjected me to many kinds of physical abuse on an almost daily basis, and also sexually abused me.
8. I want to remain in the United States and continue to fight my case in Immigration Court. I want the chance to have my claim for asylum, withholding of removal, and protection under the Convention Against Torture fully and fairly decided.

9. I respectfully ask the Court to allow me to remain in the United States while my case is pending and to protect me from being removed before I have had a full day in court.

Executed on September 2, 2025 in New York, New York

The above statement was read to me in Spanish by Tonya Putnam, who is competent in English and Spanish to render such translation. I understand the content of the document and the statements herein are true and correct to the best of my knowledge.

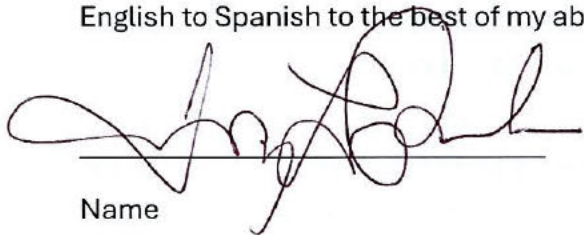


9/2/2025

Date

CERTIFICATE OF TRANSLATOR'S COMPETENCE

I, Tonya Putnam, hereby certify that I am competent in written and oral Spanish and English, and that I have rendered an oral translation of the foregoing declaration from English to Spanish to the best of my ability and skill to D [REDACTED] I [REDACTED] R [REDACTED]


Name

9/2/2025
Date

DECLARATION OF D [REDACTED] E [REDACTED] C [REDACTED] E [REDACTED]

I, D [REDACTED] E [REDACTED] C [REDACTED] E [REDACTED] declare under penalty of perjury as follows:

1. My name is D [REDACTED] E [REDACTED] C [REDACTED] E [REDACTED]. I am fourteen years old and originally from Guatemala.
2. I am currently detained at National Youth Advocate Program in Lawrenceville, Georgia.
3. I am awaiting initiation of removal proceedings before the Immigration Court. My case has not been decided yet, and I still have the right to continue fighting for protection.
4. I recently learned that I may be at risk of being removed from the United States before my case is fully heard. I am very afraid that I could be deported even though I am still waiting for the Court to decide my case.
5. I came to the United States after receiving threats from gang members. One day on my way from picking my brother up from school gang members approached us and told us to tell our mom to pay an extortion that she could not afford or they would kill us. If I am sent back, I will not be able to live safely.
6. My mother did not request my return to Guatemala, she fears for my safety there.
7. I understand that there is a prospect of release to a safe sponsor here in the United States, and I am hopeful that I may be placed with a trusted caregiver who can provide me with safety and stability.
8. I want to remain in the United States and continue to fight my case in Immigration Court and have a fair opportunity to be heard.
9. I respectfully ask the Court to allow me to remain in the United States while my case is pending and to protect me from being removed before I have had a full day in court.

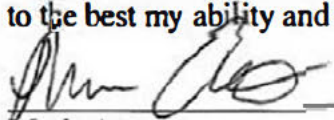
Executed on September 2, 2025, at Lawrenceville, Georgia.

The above statement was read to me in the Spanish language by Maria Acosta, who is competent in English and Spanish to render such translation. I understand the content of the document and the statements herein are true and correct to the best of my knowledge.

09/02/2025
Date

CERTIFICATE OF TRANSLATOR'S COMPETENCE

I, Maria Acosta, hereby certify that I am competent in written and oral Spanish and English, and that I have rendered an oral translation of the foregoing declaration from English to Spanish to the best of my ability and skill to D[REDACTED] E[REDACTED] C[REDACTED] E[REDACTED]



Maria Acosta

09/02/2025
Date

EXHIBIT

DECLARATION OF E [REDACTED] M [REDACTED] V [REDACTED] M [REDACTED]

I, E [REDACTED] M [REDACTED] V [REDACTED] M [REDACTED], declare under penalty of perjury that:

1. My name is E [REDACTED] M [REDACTED] V [REDACTED] M [REDACTED]. I was born on [REDACTED], 2009, in Guatemala.
2. I currently live under the custody of the Office of Refugee Resettlement, and I live in a program called JCCA Long Term Foster Care in the Bronx, NY.
3. I have a deportation case before the Immigration Court in New York, NY. I still have hearings before the Immigration Court for my case, so I am fighting for protection against being deported to Guatemala.
4. I learned recently that the government might try to deport me before I have gotten a chance to defend myself in my deportation case with the Immigration Court.
5. I do not want to be deported.
6. I am afraid to return to Guatemala. My parents did not take care of me like they should have when I was in Guatemala; I do not believe my parents would be able to take care of me if I have to return.
7. My attorney is helping me seek protection from the harm I suffered at the hands of my parents in Family Court.
8. I ask that this Court allow me to stay safely in the United States while I work with my attorneys to continue with my cases before the Family Court and Immigration Court.

Executed on September 2, 2025, in Bronx, New York.

The above statement was read to me in the Spanish language by Laura Catherine McCrary-Lehrer, who is competent in English and Spanish to render such translation. I understand the content of the document and the statements herein are true and correct to the best of my knowledge.

A solid black rectangular box used to redact the signature of the declarant.

Signature

09/02/2025

Date

CERTIFICATE OF TRANSLATOR'S COMPETENCE

I, Laura Catherine McCrary-Lehrer, hereby certify that I am competent in written and oral Spanish and English and that I have rendered an oral translation of the foregoing declaration from English to Spanish to the best of my ability and skill to E [REDACTED] M [REDACTED] V [REDACTED] M [REDACTED]

Laura Catherine McCrary-Lehrer

Laura Catherine McCrary-Lehrer

09/02/2025

Date

EXHIBIT

DECLARATION OF S [REDACTED] C [REDACTED]

I, S [REDACTED] C [REDACTED], under penalty of perjury pursuant to 28 U.S.C. § 1746, do hereby state and declare:

1. My name is S [REDACTED] C [REDACTED]. I was born on [REDACTED], 2010, in [REDACTED] Guatemala, and I am Chuj, an indigenous group in Guatemala.
2. I entered the United States around January 25, 2025, and I am currently under the care of [REDACTED], a grantee of the Office of Refugee Resettlement ("ORR"). This organization operates a long-term foster care program for ORR, and as part of that program, I live with a foster family in Connecticut.
3. Before coming to the United States, I lived in [REDACTED], Guatemala. My mother died when I was around 12 years old. Before my mother died, I stopped attending school to care for her fulltime. After she died, I lived with my father and stepmother and did not return to school. Instead, I had to work in the fields and do housework even though I wanted to go to school. My stepmother treated me differently than her kids, and I did not feel comfortable at home.
4. I fled to the U.S. on my own without a parent, and I am afraid to go back to Guatemala because there is a problem of gangs kidnapping girls my age and forcing them to be their girlfriends. I am afraid that will happen to me. There is no one who can care for me or protect me if I am forced to return to Guatemala. Because I am Chuj, I don't think the government will help me if I need it. I feel safe and cared for here in the United States.
5. Around a week and a half ago, some immigration agents came to ask me questions at the foster care program. The agents asked me if I have any family in my home country, and if I talk to my parents. The agents did not ask me if I was afraid to go back to Guatemala, if I have ever been forced to work, if I can go back to live with my father, or what would happen to me if I had to go back to Guatemala. I felt very anxious during the interview. I had never met the officers before and did not understand why they were asking me the questions they did or what they would do with the information.
6. I have an upcoming immigration hearing on September 4, 2025. My attorney is going to talk to the judge about my case and the protection I am in the process of applying for to ask for permission to stay in the United States.
7. I want to stay in the United States. I do not want to go back to Guatemala because I would not be safe there.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

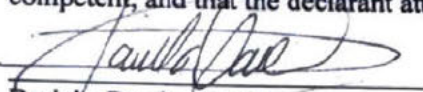
Executed on: September 2, 2025 at [REDACTED], Connecticut

Signed by:

[REDACTED]
S [REDACTED] C [REDACTED]

Certificate of Interpretation

I, Dariela Garcia Cantillo, do hereby state and declare, under pains and penalties of perjury, that I am competent in the English and Spanish languages, that I have read the foregoing English version of the declaration to the declarant in its entirety in Spanish, a language in which she is competent, and that the declarant attested to its veracity prior to signing.


Dariela Garcia Cantillo

09/02/2025
Date

EXHIBIT

Declaration of J ■ A ■ I ■ T ■

I swear under penalty of perjury that the following information is true and correct to the best of my knowledge and understanding.

1. My name is J ■ A ■ I ■ T ■. My immigrant number is A ■.
2. I am from Toto, Guatemala. My date of birth is ■, 2007.
3. Currently I am residing at Caminos West – Everstand in Pennsylvania under the custody of the Office of Refugee Resettlement.
4. I left Guatemala in April of 2025 to go to the United States. When I crossed the border, I was taken to a shelter for minors because I was 17 years old and I was on my own.
5. I have attended two immigration hearings. I have another hearing scheduled for September 19, 2025.
6. I am going to apply for special immigrant juvenile status and asylum.
7. Since I was little in Guatemala I have suffered from physical and emotional abuse from both of my parents. I am receiving mental health care here in the shelter.
8. My parents would say ugly things to me like, 'why was I born, that I have ruined their lives and why I was always in their way.' They hit me with a belt, with their hands and with sticks, and sometimes I would bleed.
9. I fear that if I were to return to Guatemala my life would end.
10. This is the reason why I do not want to return to Guatemala, and I wish to continue my legal process here in the United States.
11. I don't have any other family in Guatemala who I would live with.

Juro bajo pena de perjurio que la siguiente información es verdadera y correcta a mi leal saber y entender.

1. Mi nombre es J ■ A ■ I ■ T ■. Mi número de extranjero es A ■.
2. Yo soy de Toto, Guatemala. Mi fecha de nacimiento es ■ del 2007.
3. Actualmente mi residencia es en el albergue Caminos West – Everstand en Pensilvania en custodia de la Oficina de Reubicación de Refugio.
4. Yo salí de Guatemala en abril del 2025 para los Estados Unidos. Cuando yo cruce la frontera, me mandaron a un albergue para jóvenes porque yo tenía 17 años e yo estaba solo.
5. Yo ya he asistido dos audiencias de inmigración. Tengo otro programados para el 19 de septiembre 2025.
6. Voy a procesar una aplicación del estatus de juvenil inmigrante especial y asilo.
7. Desde pequeño en Guatemala yo he sufrido por danos de abuso fisca y verbal por ambos padres. Actualmente estoy recibiendo cuidado de salud mental aquí en el albergue.
8. Mis papas me decían cosas feas como, 'porque nací, arruiné sus vidas y que yo era un estorbo para ellos.' Me pegaban con un cincho, con las manos y con palos y a veces me salía sangre.


9. Yo tengo miedo de que si regreso a Guatemala allí terminara mi vida.
10. Por esta razón yo no quiero regresar a Guatemala y deseo continuar con mi proceso legal aquí en los Estados Unidos.
11. Yo no tengo más familia en Guatemala con quien pudiera convivir.



September 2, 2025

Certificate of Translation

I, Yvonne Badilla, hereby swear and affirm that I am competent in both the Spanish and English languages and that I translated the foregoing declaration from Spanish to English to the best of my abilities.



Yvonne Badilla
(717) 701-2857
CWS Lancaster
308 E King St
Lancaster, PA 17602

September 2, 2025

EXHIBIT

2 de Septiembre de 2025

Mi nombre es F [REDACTED] A [REDACTED] M [REDACTED] y
mi numero A es [REDACTED] y mi fecha
de nacimiento es [REDACTED] 2008.

Tengo miedo de regresar a Guatemala porque
mi vida corre peligro alla. Mi padre está
muerto y mi madre no quiere que yo
viegese.

E

September 2, 2025

My name is F [REDACTED] A [REDACTED] M [REDACTED] and
my A number is [REDACTED] and my birth date
is [REDACTED], 2008. I am afraid to return to
Guatemala by life is in danger there. My father
is dead and my mother does not want me
to return.

EXHIBIT

DECLARATION OF S [REDACTED] M [REDACTED] G [REDACTED] T [REDACTED]

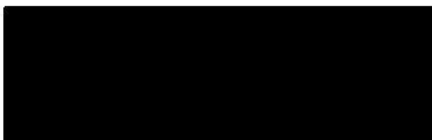
I, S [REDACTED] M [REDACTED] G [REDACTED] T [REDACTED], declare under penalty of perjury as follows:

1. My name is S [REDACTED] M [REDACTED] G [REDACTED] T [REDACTED]. I am seventeen years old and originally from Guatemala.
2. I am currently detained at Inspire Georgia in Palmetto, Georgia.
3. This is my second time in a shelter. The first time was after I arrived in 2022. I was in a shelter until I reunified in January of 2023 with my older brother, who was my sponsor.
4. On July 12th, 2024, I applied for an I-360 petition as a special immigrant juvenile. On October 30th, 2024, my special immigrant juvenile visa was approved.
5. I was given deferred action with my I-360 petition approval. But, my lawyer told me that my deferred action was terminated on July 1st, 2025.
6. My case was in the immigration court before, and I had a Master Calendar Hearing on August 15th, 2024. The government and my attorney agreed to dismiss the case, and the judge ordered my case dismissed.
7. I was attending school ever since I was released from the shelter to my brother. However, during my summer break from school this year, I was a passenger in a vehicle with other people including my brother. There was a traffic stop and me and everyone in the vehicle got arrested, and I was sent to the Inspire Georgia shelter.
8. I recently learned from my lawyer that I may be at risk of being removed from the United States. I am very afraid that I could be deported even though I have my special immigrant juvenile visa.
9. I do not want to lose my special immigrant juvenile visa. I would like to apply for permanent residence when a visa number is available for me.
10. I am afraid to return to Guatemala.
11. After my lawyer told me that I was at risk of being removed from the United States, I spoke to my mother on Saturday, August 30th. She told me that my parents had not asked for me to return to Guatemala.

12. I understand that there is a chance I can be released to a safe sponsor here in the United States, and I hope that I can be placed with someone who can provide me with safety and stability.
13. I want to remain in the United States and to fight my case in Immigration Court and have a fair opportunity to be heard.
14. I respectfully ask the Court to allow me to remain in the United States and to protect me from being removed and losing my special immigrant juvenile visa before I have had a full day in court.

Executed on September 2nd, 2025, in Palmetto, Georgia.

The above statement was read to me in the Spanish language by Eddy Brandt, who is competent in English and Spanish to render such translation. I understand the content of the document and the statements herein are true and correct to the best of my knowledge.



09/02/2025

Date

CERTIFICATE OF TRANSLATOR'S COMPETENCE

I, Eddy Brandt, hereby certify that I am competent in written and oral Spanish and English, and that I have rendered an oral translation of the foregoing declaration from English to Spanish to the best my ability and skill to S■■■■ M■■■■ G■■■■ T■■■■

Eddy Brandt
Eddy Brandt

09/02/2025

Date

EXHIBIT M

DECLARATION OF E.Y.T.T, A MINOR CHILD

I, E.Y.T.T, declare under penalty of perjury as follows:

1. My name is E.Y.T.T. I am fifteen (15) years old and originally from Guatemala.
2. I am currently detained at an Office of Refugee Resettlement (“ORR”) Shelter in Houston, Texas.
3. I am in removal proceedings before the Immigration Court. My case has not been decided yet, and I still have the right to continue fighting for protection.
4. I recently learned that I may be at risk of being removed from the United States before my case is fully heard. I am very afraid that I could be deported even though I am still waiting for the Court to decide my case.
5. I fear returning to Guatemala because random men have threatened if I do not do what they want. These men have targeted me at least four (4) times. If I am sent back, I believe I will be in danger.
6. I understand that there is a prospect of release to a safe sponsor here in the United States, and I am hopeful that I may be placed with a trusted caregiver who can provide me with safety and stability.
7. I want to remain in the United States and continue to fight my case in Immigration Court. I want the chance to present my claim for asylum, withholding of removal, and protection under the Convention Against Torture, and to have a fair opportunity to be heard.
8. I respectfully ask the Court to allow me to remain in the United States while my case is pending and to protect me from being removed before I have had my full day in court.

Executed on September 2, 2025, in Houston, Texas.



E.Y.T.T

EXHIBIT N

DECLARATION OF W.M.R.P.

I, W.M.R.P., declare under penalty of the perjury as follows:

1. My name is W.M.R.P. I am 16 years old and originally from Guatemala.
2. I am currently detained at Bokenkamp in Corpus Christi, Texas.
3. I am in removal proceedings before the Immigration Court. My case has not been decided yet, and I still have the right to continue fighting for protection.
4. I recently learned that I may be at risk of being removed from the United States before my case is fully heard. I am very afraid that I could be deported even though I am still waiting for the Court to decide my case.
5. I have participated in interviews with government officials, including HSI officers, about my case and identity. Even though I have cooperated, I have not been given any guarantee of safety or protection.
6. I fear returning to Guatemala because of violence and threats I received. If I am sent back, I believe I will be in danger.
7. I understand that there is a prospect of release to a safe sponsor here in the United States, and I am hopeful that I may be placed with a trusted caregiver who can provide me with safety and stability.
8. I want to remain in the United States and continue to fight my case in Immigration Court. I want the chance to present my claim for asylum, withholding of removal, and protection under the Convention Against Torture, and to have a fair opportunity to be heard.
9. I respectfully ask the Court to allow me to remain in the United States while my case is pending and to protect me from being removed before I have had my full day in court.

Executed on September 2, 2025, at Corpus Christi, Texas.

W. [REDACTED]

W.M.R.P.

EXHIBIT

DECLARATION OF A [REDACTED] R [REDACTED] M [REDACTED] D [REDACTED]

I, A [REDACTED] R [REDACTED] M [REDACTED] D [REDACTED], declare under penalty of perjury the following:

1. My name is A [REDACTED] R [REDACTED] M [REDACTED] D [REDACTED]. I am 17 years old and originally from Guatemala.
2. I began living at the Compass Connections Cameron Campus children's shelter in Los Fresnos, Texas, on August 31, 2025. I previously lived at the Compass Connections Harlingen Campus children's shelter in Harlingen, Texas.
3. I am in removal proceedings before the Immigration Court. My case has not been decided yet, and I still have the right to continue fighting for protection.
4. I recently learned that I may be at risk of being removed from the United States before my case is fully heard. I am very afraid that I could be deported even though I am still waiting for the Court to decide my case.
5. I have been asked to participate in interviews with government officials, including Homeland Security Investigation officers, about my case and identity.
6. My family in Guatemala has not participated in interviews with the Guatemalan government.
7. I came to the United States because of the violence and the drug dealers in the country who threaten my safety. I did not grow up with a father and experienced neglect and abandonment from him. He was not able to protect me from the violent conditions. My mother was worried about my safety in Guatemala and she didn't think she could protect me from the violent drug dealers.
8. On Sunday, August 31, 2025, around two in the morning, a supervisor at the Compass Connections Harlingen Shelter woke me up from my sleep. I woke up very scared, and I felt like I lost my breath for a second because they had never woken us up in the middle of the night before. The supervisor told me we were going to leave and to get our things. I asked for an explanation, but they didn't say why we were going to leave or where we were going. I started to pray to God because I was scared and wanted to stay in the shelter. I asked God to protect me and told him I would follow his will. I stayed seated in the room for a couple of minutes, praying and thinking about what would happen to me. They had not called my family, and I didn't know what to expect if they would take me

back to Guatemala. I was pensative and worried. I didn't have time to wash my face or brush my teeth before they placed me on a bus headed for the airport.

9. I asked the bus driver if he could tell us what was happening. He said he couldn't tell us anything and that we would see where they would take us. They took us to the airport, and we made it there around 5:30 am. They fed us breakfast while we were on the bus, but I wasn't able to eat because of my nerves. I had no appetite for food. Around 10 am, they began to take us off the bus. I got off the bus and I started to say goodbye to all the friends I had made in the shelter in case we would not see each other again. I thought they were going to make me board the plane like they did for the other kids from the shelter, but they asked me for my name and then told me I was not on the list. I saw the other kids get on the plane around 10:30 am, and I saw the plane go up in the air around 11 or 12 pm, but eventually the same plane came back to the airport. When I saw the plane land back at the airport, I thought it was another plane, and I thought the kids were already back in Guatemala, but it was the same group of kids in the plane. The kids got off the plane, and then they were all placed back on the bus. We left the airport around 6:30 pm, and they took me to a new shelter. I made it to Compass Connections Cameron around 8 pm.
10. When they told me I was not on the list of kids being returned, I was nervous that maybe they had made a mistake, and I thought they would still try to take me back to Guatemala. At one point, I saw more planes come, and I thought they might try to divide us up into planes. I got scared that they would still try to take me back to Guatemala later that night. I only felt safe once they took me to the shelter at night.
11. The impact of being woken up in the middle of the night and threatened with my return to Guatemala has been very hard on me. I was worried and scared the entire time. I didn't feel like I could cry or laugh about anything because I was so confused about what would happen to me. I had a big headache, and my feet started hurting from being seated on the bus for so long. I had very little appetite all day from all the nerves and anxiety I had. There were times when I wanted to sleep, but I couldn't because I was so scared. Since this happened, I feel like the days are really long. I don't feel like I can have fun anymore or play in the gym. I can't focus on anything because I just keep thinking about them trying to return me to Guatemala. I feel depressed.
12. I understand that there is a prospect of release to a safe sponsor here in the United States, and I am hopeful that I may be placed with a trusted caregiver who can provide me with safety and stability.
13. I want to remain in the United States and continue to fight my case in Immigration Court. Being here in the U.S. gives me security that I do not have in Guatemala.

14. I respectfully ask the Court to allow me to remain in the United States while my case is pending and to protect me from being removed before I have had a full day in court.

Executed on September 2, 2025, in Cameron County, State of Texas.

A. R. M. D.
A [REDACTED] R [REDACTED] M [REDACTED] D [REDACTED]

The above statement was read to me in the Spanish language by Jocelyne Torres, who is competent in English and Spanish to render such translation. I understand the content of the document and the statements herein are true and correct to the best of my knowledge.

A.R.M.D

Signature

09/02/2025

Date

CERTIFICATE OF TRANSLATOR'S COMPETENCE

I, Jocelyne Torres, hereby certify that I am competent in written and oral Spanish and English, and that I have rendered an oral translation of the foregoing declaration from English to Spanish to the best of my ability and skill to A [REDACTED] R [REDACTED] M [REDACTED] D [REDACTED].

Jocelyne Torres

Signature

09/02/2025

Date

EXHIBIT

DECLARATION OF A [REDACTED] J [REDACTED] D [REDACTED] E [REDACTED]

I, A [REDACTED] J [REDACTED] D [REDACTED] E [REDACTED], declare under penalty of perjury the following:

1. My name is A [REDACTED] J [REDACTED] D [REDACTED] E [REDACTED].
2. I live at the Alamo Refugio shelter. I am 16 years old and originally from Guatemala.
3. I am in removal proceedings and my second hearing is later this month. My case has not been decided and I still want to fight for relief from removal.
4. I have a potential sponsor in the United States. If my sponsor is unable to receive me, I desire to be placed in long-term foster care.
5. I am afraid to return to Guatemala. My sister was murdered in Guatemala in March of last year. I am afraid that the same thing could happen to me if I am returned.
6. My mother is in Guatemala, but she does not want me to return. She does not have the resources to care for me. My father is not a part of my life. I have no other family who could receive me.
7. Late Saturday night, we went to bed as normal. But then somebody woke me up and told me to come down to the main floor with other Guatemalan children. They sat us down and the director told me that they received a letter that all Guatemalans had to be returned to our home country. I wondered why, because I knew that I had a right not to be deported and speak with a judge. I felt like, wow, I have rights. When I was packing up my personal belongings, I was thinking about everything that could happen to me with all the crime in Guatemala. I was worried that I would be killed. We were brought to the front lobby area around 11 pm to wait for the vans.
8. At around 1:30 am I spoke with Laura Pena an attorney with ProBAR. I felt a little better because I told her that I was scared to go back to Guatemala and she said she would try to make sure that didn't happen.
9. I was afraid that I was going to be returned. At around 2:30 a.m., I called my mother to tell her I might be deported to Guatemala. My mom started crying. She said that we could only trust in God. She had no idea that the government had a plan to return me.
10. At around 4:00 a.m., a man showed up to take us away in a van. I was afraid of him. I didn't want him to take me. I watched Ms. Pena speak with him and then he called somebody. He then left. I was shocked.
11. The director of the shelter told us that we were not going to be deported because a judge had issued an order pausing the deportations. I was so relieved.
12. The impact is real. I feel totally traumatized. I don't even know how to explain it.
13. I respectfully ask the Court to allow me to remain in the United States while my case is pending and to protect me from being removed before I have had a full day in court.

Executed on September 2, 2025, Texas

Signed: /s/ A [REDACTED] J [REDACTED] D [REDACTED] E [REDACTED]

The above statement was read to me in the Spanish language by Laura Peña, who is competent in English and Spanish to render such translation. I understand the content of the document and the statements herein are true and correct to the best of my knowledge.



9/2/2025
Date

CERTIFICATE OF TRANSLATOR'S COMPETENCE

I, Laura Peña, hereby certify that I am competent in written and oral Spanish and English, and that I have rendered an oral translation of the foregoing declaration from English to Spanish to the best my ability and skill to (CLIENT NAME).

A J D E

Signature

9/2/2025
Date

EXHIBIT Q

Declaración Jurada de G.Y.V.S.

1. Mis iniciales son G.Y.V.S.
2. Soy una menor guatemalteca no acompañada de 16 años, bajo la custodia de la ORR en un programa LTFC.
3. Mis abogados me informaron que el gobierno de los Estados Unidos está coordinando con el gobierno de Guatemala para expulsarme de regreso a Guatemala.
4. Mis padres no han pedido mi regreso a Guatemala.
5. Temo regresar a Guatemala. Me identifico como parte de la comunidad LGBTQIA+ y temo regresar a Guatemala, donde seré violada por hombres de mi comunidad y mi familia me obligará a casarme con un hombre. Si tuviera que regresar a Guatemala, me suicidaría.
6. No tengo una orden de expulsión final, en cambio, mis procedimientos en el tribunal de inmigración han sido cancelados porque estoy solicitando asilo con USCIS.
7. El 21 de agosto de 2025, fui entrevistada por la unidad de Investigaciones de Seguridad Nacional (HSI) con el Departamento de Seguridad Nacional. Me hicieron preguntas sobre los nombres de mis padres, su información de contacto y sus fechas de nacimiento. Me preguntaron cómo vine a los Estados Unidos, si vine para acá sola y quien planeo mi viaje a los Estados Unidos.

Fecha: 2 de septiembre de 2025

G.Y.V.S.

G.Y.V.S.

Affidavit of G.Y.V.S.

1. My initials are G.Y.V.S.
2. I am a 16 year old Guatemalan unaccompanied child in ORR custody within an LTFC facility.
3. I was informed by my attorneys that the U.S. government is coordinating with the government of Guatemala to remove me back to Guatemala.
4. My parents have not requested my return to Guatemala.
5. I fear returning to Guatemala. I identify as part of the LGBTQIA+ community and fear returning to Guatemala where I will be raped by men in my community and my family will force me to marry a man. If I had to return to Guatemala, I would kill myself.
6. I do not have a final order of removal and, instead, my immigration court proceedings have been terminated because I am applying for asylum with USCIS.
7. On August 21, 2025 I was interviewed by the Homeland Security Investigations (HSI) Unit of the Department of Homeland Security. I was asked questions about my parents' names, contact information, and their dates of birth. I was asked how I came to the United States, when I came to the United States, if I came here alone, and who planned my trip to the United States.

Date: September 2, 2025

G.Y.V.S.

Certificate of Translation


I, **Jennifer Vazquez**, am competent in both English and Spanish and I certify that this **Affidavit of G.Y.V.S.** is an accurate **English** translation of the **Spanish** document entitled **Declaración Jurada de G.Y.V.S.**

Dated: September 2, 2025



Jennifer Vazquez
Children's Legal Center
(312) 722-6642
1100 West Cermak Road, Suite 422
Chicago, IL 60608

Subscribed and sworn to me on the **2nd** day of **September of 2025**.



Karina Serna, Notary



EXHIBIT R

Declaración Jurada de R.M.S.C.C.

1. Mis iniciales son R.M.S.C.C.
2. Soy una menor guatemalteca no acompañada de 16 años, bajo la custodia de la ORR en un programa LTFC.
3. Mis abogados me informaron que el gobierno de los Estados Unidos está coordinando con el gobierno de Guatemala para expulsarme de regreso a Guatemala.
4. Mis padres no han pedido mi regreso a Guatemala.
5. Temo regresar a Guatemala. Fui víctima de trata de personas en los Estados Unidos y mi país no cuenta con recursos para víctimas de trata de personas.
6. No tengo una orden de expulsión final del Tribunal de Inmigración; en cambio, mis procedimientos en el tribunal de inmigración se han cerrado administrativamente porque estoy esperando una decisión sobre mi solicitud de estatus T de no inmigrante. También tengo una carta de la Oficina de Trata en Personas (OTIP) que confirma que soy víctima de trata de personas.

Fecha: 2 de septiembre de 2025

RMSCC
R.M.S.C.C.

Affidavit of R.M.S.C.C.

1. My initials are R.M.S.C.C.
2. I am a 16 year old Guatemalan unaccompanied child in ORR custody within an LTFC program.
3. I was informed by my attorneys that the U.S. government is coordinating with the government of Guatemala to remove me back to Guatemala.
4. My parents have not requested my return to Guatemala.
5. I fear returning to Guatemala. I was a victim of human trafficking in the United States and my country does not have resources for victims of human trafficking.
6. I do not have a final removal order from the Immigration Court and, instead, my immigration court proceedings have been administratively closed because I am awaiting a decision on my Application for T Nonimmigrant Status. I also have a letter from the Office of Trafficking in Persons (OTIP) confirming that I am a victim of human trafficking.

Date: September 2, 2025

R.M.S.C.C.

Certificate of Translation

I, **Jennifer Vazquez**, am competent in both English and Spanish and I certify that this **Affidavit of R.M.S.C.C.** is an accurate **English** translation of the **Spanish** document entitled **Declaración Jurada de R.M.S.C.C.**

Dated: September 2, 2025



Jennifer Vazquez

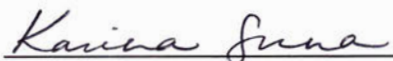
Children's Legal Center

(312) 722-6642

1100 West Cermak Road, Suite 422

Chicago, IL 60608

Subscribed and sworn to me on the **2nd** day of **September of 2025**.



Karina Serna, Notary



EXHIBIT S

DECLARATION OF M [REDACTED] I [REDACTED] T [REDACTED]

I, M [REDACTED] F [REDACTED] I [REDACTED] T [REDACTED] declare under penalty of perjury as follows:

1. My name is M [REDACTED] F [REDACTED] I [REDACTED] T [REDACTED]. I am seventeen years old and originally from Guatemala.
2. I am currently detained at Youth for Tomorrow Long Term Foster Care in Bristow, Virginia.
3. I was in removal proceedings before the Immigration Court until April 2025, when the judge terminated my case because I have Deferred Action as a Special Immigrant Juvenile. My I-360 Petition was approved on February 25, 2025.
4. I recently learned that I may be at risk of being removed from the United States even though I have Special Immigrant Juvenile Status. I do not want to return to Guatemala because I didn't have any opportunities there and wasn't able to study.
5. I was asked to participate in interviews with government officials, including Homeland Security Investigation officers and the Guatemalan consulate, about my case and identity. I did not participate in those interviews because I had already answered all of those questions in my case and my lawyer told me that it is my right to decide whether I want to answer more questions. My family in Guatemala has not told me if anyone came to talk to them about me.
6. I came to the United States because my parents did not send me to school and because I was working in dangerous conditions as a young teenager. If I had to go back to Guatemala, I would return to the same situation again.
7. I understand that my application to the Unaccompanied Refugee Minor (URM) program is pending. I am very excited about this program because there they can help me continue my studies and I can stay until I turn 21.
8. I want to remain in the United States and continue to move forward with my immigration case. I think that it would be unfair because I've been in this program and working on my case for two years and to have it taken away would be very hard.
9. I respectfully ask the Court to allow me to remain in the United States while my case is pending and to protect me from being removed without a decision from an immigration judge.

Executed on August 30, 2025, in Bristow, Virginia.

/s/ M [REDACTED] F [REDACTED] I [REDACTED] T [REDACTED]

The above statement was read to me in the Spanish language by Laura Nally, who is competent in English and Spanish to render such translation. I understand the content of the document and the statements herein are true and correct to the best of my knowledge.

/s/ M [REDACTED] F [REDACTED] J [REDACTED] T [REDACTED]

08/30/2025

DATE

CERTIFICATE OF TRANSLATOR'S COMPETENCE

I, Laura Nally, hereby certify that I am competent in written and oral Spanish and English, and that I have rendered an oral translation of the foregoing declaration from English to Spanish to the best my ability and skill to M [REDACTED] F [REDACTED] J [REDACTED] T [REDACTED]



08/30/2025

Laura Nally

Date

M

L.G.M.L., et al.

Plaintiffs,

v.

KRISTI NOEM, et al.,

Defendants.

Case No. 25-cv-2942

M

M

Upon consideration of Plaintiffs’ Motion for Preliminary Injunction, any opposition, reply, further pleadings and argument thereto, and the entire record before the Court:

Having determined that Plaintiffs are likely to succeed on the merits of their claims that Defendants’ attempts to remove Guatemalan unaccompanied minors from the United States violate Section 35 of the William Wilberforce Trafficking Victims Protection Reauthorization Act (“TVPRA”), Pub. L. No. 110-457, 122 Stat. 5044 (2008), 8 U.S.C. § 1232; the Immigration and Nationality Act (“INA”), 8 U.S.C 1101, *et seq.*; 45 C.F.R. 410.1000, *et seq.*; and the Fifth Amendment of the United States Constitution; that Plaintiffs will suffer irreparable injury in the absence of injunctive relief; and that the balance of hardships and public interest favor a preliminary injunction, it is, therefore,

ORDERED that Plaintiffs’ Motion for Preliminary Injunction is hereby GRANTED.

The Defendants, their agents, representatives, and all persons or entities in concert with them are hereby ORDERED, pending further order of this court:

1. Not to transfer, repatriate, remove, or otherwise facilitate the transport of any Plaintiff and putative class members from the United States;

2. The Office of Refugee Resettlement shall carry out its standard release and reunification process for all putative class members during the pendency of these proceedings in accordance with the TVPRA and all applicable laws and regulations.

It is further ORDERED that Plaintiffs shall not be required to furnish security for costs. Entered on _____, 2025 at _____ a.m./p.m.

The Honorable Timothy J. Kelly,
U.S. District Judge