



March 12, 2025

Judge Alan D. Albright
U.S. District Court
Western District of Texas

Sent via electronic mail

**Re: *United States v. Southwest Key Programs, Inc.*,
No. 1:24-CV-00798**

Dear Judge Albright:

On behalf of potential intervenors in *United States v. Southwest Key Programs, Inc.*, the National Center for Youth Law (NCYL)¹ writes to notify the Court of its urgent concerns. Today, Plaintiff United States and Defendant Southwest Key Programs, Inc., filed a stipulated motion to dismiss prior to Friday's hearing on Defendant's 12(b)(6) motion to dismiss (Doc. 22). We ask the Court to delay its ruling to provide NCYL a reasonable opportunity, of no less than thirty days, to file a motion to intervene on behalf of intervenors whose interests are no longer protected by the United States.

On Sunday, news broke of the possible, sudden reversal by the United States in seeking to prosecute its claims against Southwest Key. According to a story published in Bloomberg Law on March 9, 2025, Defendant's attorney Lisa Blatt sent an email to the Justice Department urging the administration to dismiss the case against Southwest Key.² In her email dated February 11, 2025, Ms. Blatt asserts that a ruling in favor of the United States on Defendant's motion to dismiss would "actually incentivize illegal crossings at the southern border" and undermine the administration's immigration policies.³ Putting aside the absurd notion that this

¹ NCYL is a national youth's civil rights organization founded in 1971. Our mission is to center youth voices and experiences through impact litigation, policy advocacy, collaboration, and research that fundamentally transforms our nation's approach to education, health, immigration, foster care, and youth justice. Among our substantial work on behalf of immigrant children, we are co-counsel in the class action case, *Flores v. McHenry*, No. 85-4544-DMG (C.D. Cal.). *Flores* establishes national minimum standards for the treatment, placement, and release of detained children.

² Justin Wise & Suzanne Monyak, *US Said to Drop Sex Abuse Lawsuit Against Migrant Child Shelter*, BLOOMBERG LAW (Mar. 9, 2025), <https://news.bloomberglaw.com/us-law-week/us-said-to-drop-sex-abuse-lawsuit-against-migrant-child-shelter>.

³ The full text of Ms. Blatt's email is appended to this letter. (See Appx.).

litigation would encourage children to cross the border and risk rape and sexual assault in shelter homes, it appears that it is not the rule of law and the merits of the claims, but rather the politicization of the Department of Justice, that is driving the stipulated motion.

As the Court is aware, this case involves serious allegations against Defendant, including allegations that child victims were subjected to severe sexual abuse and rape, solicitation of sex acts, solicitation of nude photos, entreaties for sexually inappropriate relationships, and inappropriate touching across several years. The allegations followed an extensive investigation by the U.S. Department of Justice of Southwest Key's shelters that housed and cared for unaccompanied minors. The United States publicized the filing of the case and media coverage was extensive. Several immigrant rights groups issued press releases proclaiming their appreciation for the hard work put in by Department of Justice attorneys and their pursuit of justice for the victims.⁴

Until today, the United States has faithfully sought to uphold the rule of law by prosecuting claims and seeking relief that would help both protect unaccompanied children and compensate them for their damages. Countless children now risk being denied any recourse for the terrible harms suffered while in the care of Southwest Key.

Accordingly, we ask that the Court exercise its inherent and equitable powers to ensure that justice is served to the child victims. *See, e.g., Odle v. Flores*, 899 F.3d 342, 343 (5th Cir. 2017) (quoting *Sommers v. Bank of American, N.A.*, 835 F.3d 509, 513 (5th Cir. 2016) (“reject[ing] the ‘suggest[ion] that intervention is always improper after a case has been dismissed.’”)). Within the powers of the Court, we request that the Court allow a reasonable period of time of at least thirty days for NCYL to identify potential intervenors in the case and file their respective motions to intervene before deciding the stipulated motion to dismiss. Intervention in Fair Housing Act pattern and practice claims is a right under 42 U.S.C. § 3614(e), which states:

Upon timely application, any person may intervene in a civil action commenced by the Attorney General under subsection (a) or (b) which involves an alleged discriminatory housing practice with respect to which such person is an aggrieved person or a conciliation agreement to which such person is a party. The court may grant such appropriate relief to any such intervening party as is authorized to be granted to a plaintiff in a civil action under section 3613 of this title.

⁴ See, e.g., Florence Project, *Florence Project Applauds DOJ's Southwest Key Lawsuit and Decries Longstanding Ineffective Oversight in Large Shelters for Unaccompanied Children* (Jul. 19, 2024), <https://firrp.org/florence-project-applauds-doj-southwest-key-lawsuit-and-decries-longstanding-ineffective-oversight-in-large-shelters-for-unaccompanied-children/>; Young Center for Immigrant Children's Rights, *Young Center for Immigrant Children's Rights Responds to DOJ Lawsuit Against Southwest Key* (Jul. 18, 2024), <https://www.theyoungcenter.org/stories/2024/7/18/young-center-for-immigrant-childrens-rights-responds-to-doj-lawsuit-against-southwest-key>.



We have copied counsel for the parties on this communication. We look forward to hearing back from the Court on this very important matter.

Sincerely,

/s/ David Hinojosa

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Appx.

Full Text of Email from Lisa Blatt to Department of Justice (February 11, 2025)

Counsel:

Apologies for what is now multiples emails you're receiving from me. But I have a time-sensitive request in yet another civil rights case that threatens the priorities of this Administration—specifically on illegal immigration. In *United States v. Southwest Key Programs, Inc.*, No. 1:24-CV-00798 (W.D. Tex.), filed in July 2024, the Biden DOJ asked the court that oversees roughly 600 miles of the southern border to recognize broad civil rights under the Fair Housing Act for illegal immigrants who are detained and in federal custody. The motion to dismiss has been fully briefed for three months and could be decided at any time. Unless this Administration reverses course immediately, the lawsuit risks a ruling that could recognize an unprecedented expansion of the Fair Housing Act as an all-encompassing antidiscrimination statute extending broad civil-rights protections to illegal immigrants and other federal detainees. The Biden DOJ's sweeping interpretation of the Fair Housing Act would hobble this Administration's ability to resolve the crisis at the southern border and address other matters of national security.

By way of background, Southwest Key has contracted with the federal government for years to detain unaccompanied minors who illegally cross the southern border, including during the first Trump Administration. As explained in the attached motion to dismiss, Southwest Key's facilities are similar to juvenile detention centers and minimum-security prisons.

In July 2024, just months before the presidential election, the Biden DOJ Civil Rights Division sued Southwest Key, alleging that Southwest Key engaged in sex discrimination under the Fair Housing Act. Southwest Key denies the allegations. More importantly, no court has ever held that the *Fair Housing Act*—a law intended to protect renters and home buyers—extends to illegal immigrants who are in federal custody and detained in facilities that they did not choose and cannot freely leave.

The Fair Housing Act's private cause of action for any "aggrieved person" compounds the problem. See 42 U.S.C. § 3613(a)(1)(A). Under the Biden DOJ's theory of the case, illegal immigrants or other federal detainees held in a federal contractor's facility could sue for money damages based on any perceived discrimination, whether on the basis of race, sex, or otherwise. Indeed, the DOJ team in this case has solicited immigrants who were apprehended by federal law enforcement and held in a Southwest Key facility to participate as complainants in this case. One such solicitation is attached. Every year, hundreds of thousands of unaccompanied alien children and adults are detained in contractors' facilities after unlawfully entering the United States. *Unaccompanied Alien Children Bureau Fact Sheet* (Jan. 29, 2025),



<https://www.acf.hhs.gov/orr/fact-sheet/programs/uc/fact-sheet>; *ICE Immigration and Removal Operations Statistics* (Sept. 30, 2024), <https://www.ice.gov/spotlight/statistics>. A ruling endorsing the Biden DOJ’s theory here would permit all of those detainees to claim discrimination and sue for money damages and attorney’s fees under the Fair Housing Act. This would actually *incentivize* illegal crossings at the southern border.

This lawsuit plainly undermines this Administration’s illegal-immigration policies. President Trump has directed the Attorney General “to rescind the policy decisions of the previous administration that led to the increased or continued presence of illegal aliens in the United States.” Exec. Order No. 14159, 90 Fed. Reg. 8443, 8446 (Jan. 20, 2025). The President’s priorities include “establish[ing] contracts to construct, operate, control, or use facilities to detain removable aliens” and “achiev[ing] the total and efficient enforcement of [immigration] laws, including through lawful incentives and detention capabilities.” *Id.* at 8443, 8445.

The government and Southwest Key should jointly stipulate to dismiss the case with prejudice. Fed. R. Civ. P. 41(a)(1)(A)(ii). At a minimum, we suggest submitting a joint motion to stay the proceedings *before* the court rules on the motion to dismiss. We emphasize that time is of the essence because Southwest Key’s motion to dismiss has been fully briefed since November, so the court could rule at any time.

We would welcome the chance to meet with you and discuss any of these items in further detail. My cell phone number is [XXX-XXX-XXXX].

Sincerely,

Lisa Blatt