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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION**

Jenny Flores, et al.,

Plaintiffs,

v.

*Todd Blanche, Acting Attorney General
of the United States, et al.,*

Defendants.

Case No. CV 85-4544-DMG-AGR_x

**PLAINTIFFS’ OPPOSITION TO
DEFENDANTS’ MOTION TO
RECONSIDER**

Judge: Hon. Dolly M. Gee

Hearing Date: May 22, 2026

Time: 9:30 A.M.

Location: Courtroom 8C, First Street
Courthouse

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1 **I. INTRODUCTION**

2 Defendants’ motion for reconsideration rests on a basic misunderstanding of the
3 Court’s September 2020 orders related to unlicensed hotel detention of immigrant
4 children. By their plain text, these orders apply to all *Flores* class members and are not
5 limited to children detained under Title 42. The Court’s April 3, 2026, order merely
6 reiterated Defendants’ existing obligations and did not extend or modify the Court’s prior
7 orders. Defendants’ motion for reconsideration is thus both untimely and unfounded.

8 There were two questions at issue in the September 2020 orders: (1) whether
9 children detained pursuant to Title 42 were class members and, if so, (2) whether
10 extended detention in hotels violated the *Flores* Settlement Agreement (“FSA” or
11 “Settlement”). The Court answered these questions independently in the affirmative.
12 Although Defendants cited Title 42 as a justification for detaining children in hotels in
13 2020, the Court explicitly rejected Defendants’ attempts to treat children detained under
14 Title 42 differently from children detained under Title 8. The Court’s September 2020
15 orders restricting unlicensed hotel detention and the Ninth Circuit’s June 2021 decision
16 affirming those orders each rest on the basic requirements of the Settlement, not any Title
17 42-specific standards. Indeed, following the Court’s September 2020 orders, Defendants
18 themselves interpreted these orders to apply generally to all class members and
19 represented to Plaintiffs, the Independent Monitor, and the Court that they were
20 complying with these orders even outside the context of Title 42 expulsions. Defendants
21 cannot now claim surprise at being reminded of their longstanding obligations.

22 Further, no changed factual circumstances warrant reconsideration of the Court’s
23 September 2020 orders. It is undisputed that hotels are not a licensed placement, which
24 the Ninth Circuit found to be an independently sufficient reason to affirm limits on these
25 placements. *Flores v. Garland*, 3 F.4th 1145, 1156-57 (9th Cir. 2021). Moreover,
26 conditions in hotels remain inconsistent with Defendants’ basic obligations to provide
27 safe conditions “appropriate to the minor’s age and special needs” and consistent with a
28

1 “concern for the particular vulnerability of minors.” FSA ¶¶ 11, 12.A. Class members
2 detained in hotels lack any access to the outdoors, much less structured recreation. They
3 receive no education and no mental health services. Contrary to Defendants’
4 representations, just as in 2020, children detained in hotels continue to be held almost
5 entirely incommunicado and without access to counsel, even in cases where children
6 already have retained counsel actively attempting to reach them.

7 **II. ARGUMENT**

8 **A. Defendants’ Motion for Reconsideration Is Untimely**

9 Under Local Rule 7-18, “[a]bsent good cause shown, any motion for
10 reconsideration must be filed no later than 14 days after entry of the Order that is the
11 subject of the motion or application.” C.D. Cal. L.R. 7-18. “A motion for reconsideration
12 of an Order on any motion or application may be made only on the grounds of (a) a
13 material difference in fact or law from that presented to the Court that, in the exercise of
14 reasonable diligence, could not have been known to the party moving for reconsideration
15 at the time the Order was entered, or (b) the emergence of new material facts or a change
16 of law occurring after the Order was entered, or (c) a manifest showing of a failure to
17 consider material facts presented to the Court before the Order was entered.” *Id.* None of
18 these circumstances are present here.

19 Defendants purport to seek reconsideration of the Court’s April 3, 2026, order
20 regarding the March 30, 2026, status conference. *See* Defendants’ Memorandum of
21 Points and Authorities in Support of Motion to Partially Reconsider at 1, April 17, 2026
22 [Doc. # 1760] (“Defs. MPA”). But that order merely reminded Defendants of their
23 obligations under the Court’s prior order issued in September 2020. *See* Order re March
24 30, 2026, Status Conference at 4, April 3, 2026 [Doc. # 1755] (“April 3 Order”) (“As
25 previously ordered, Defendants shall cease placing minors at hotels, with a narrow
26 exception for brief, one to two-night stays while in transit or prior to flights. [*See* Doc.
27 # 976.]”) (emphasis added). Defendants’ request for reconsideration is therefore more
28

1 accurately construed as a request to reconsider the Court’s 2020 orders. As discussed
2 below, the plain language of the Court’s September 2020 orders regarding unlicensed
3 hotel detention apply to all Flores class members and Defendants themselves originally
4 interpreted the Court’s September 2020 orders to apply to all class members. The time for
5 reconsideration has long passed, and Defendants have offered no good cause for their
6 delay.¹

7 **B. The Plain Language of the Court’s September 2020 Orders, and the Ninth**
8 **Circuit’s Opinion Affirming, Clearly Apply to All Class Members**

9 In Plaintiffs’ 2020 Title 42 motion to enforce, the parties’ primary dispute was
10 whether children held for expulsion under Title 42 were Flores class members entitled to
11 the same treatment as other children in the custody of the Department of Homeland
12 Security (“DHS”). The Court concluded that these children were class members in the
13 legal custody of DHS, rejecting Defendants’ argument that children held under Title 42
14 should be treated differently from children held under Title 8. Order re Plaintiffs’ Motion
15 to Enforce Settlement as to “Title 42” Class Members at 5-11, September 4, 2020 [Doc.
16 # 976] (“Sept. 4 Order”). After concluding that children held under Title 42 were class
17 members, the Court analyzed whether prolonged hotel detention complied with the plain
18 text of the Settlement, including the Settlement’s requirements regarding licensed
19 placement, safe and sanitary conditions, and access to counsel. *Id.* at 12-16.

20 Far from creating new standards unique to Title 42 class members, the Court
21 required Defendants to “comply with the Agreement with respect to such minors to the
22 same degree as any other minors held in their custody.” *Id.* at 17 ¶ 1 (emphasis added);
23 see also *id.* at 16-17 (recognizing “the exigencies created by COVID-19” but concluding
24 that there was “no excuse for DHS to skirt the fundamental humanitarian protections that
25 the *Flores* Agreement guarantees for minors in their custody[.]”); Order re Defendants’
26 Ex Parte Application to Stay at 2, September 21, 2020 [Doc. # 990] (“Sept. 21 Order”)
27 (“The Court did not demand any formal system of care beyond one that is safe and

28 ¹ To the extent Defendants rely on ICE’s July 2023 Temporary Housing Standards as a
basis for reconsideration, Defs. MPA at 7, this motion comes almost three years too late.

1 sanitary, appropriate to minors’ ages and special needs, and concerned for their particular
2 vulnerability as minors.”) (citing FSA ¶¶ 11-12.A). Consistent with this requirement of
3 equal treatment, the Court’s restrictions on unlicensed hotel detention apply to all class
4 members, regardless of the legal authority under which they are held. *See* Sept. 4 Order at
5 17 ¶¶ 2-3 (referencing “minors” and “all minors—both accompanied and
6 unaccompanied”); Sept. 21 Order at 5 ¶¶ 1-2 (referencing “minors” generally and “any
7 Class Members”).²

8 The Ninth Circuit affirmed the Court’s September 2020 orders and similarly
9 rejected Defendants’ efforts to justify differential treatment for children held under Title
10 42. *Flores v. Garland*, 3 F.4th at 1154-55. Notably, the Ninth Circuit affirmed the Court’s
11 restrictions on hotel detention based solely on the fact that these facilities are unlicensed,
12 deeming it unnecessary to consider whether these placements were safe and sanitary in
13 the specific factual circumstances at issue. *Id.* at 1156-57.

14 **C. Defendants’ Current Interpretation of the Court’s 2020 Orders Is**
15 **Inconsistent with their Prior Conduct and Representations**

16 Consistent with the plain language of the Court’s September 2020 orders,
17 Defendants themselves originally interpreted these orders to apply to all class members.
18 In March 2021 and May 2021, Defendants’ counsel emailed Plaintiffs’ counsel and the
19 Independent Monitor to provide notice of exigent circumstances requiring the brief use of
20 hotels to detain families prior to release due to Covid-19 quarantine requirements or other
21 exceptional circumstances. *See* Ex. 1, Declaration of Carlos Holguín ¶¶ 3-4, April 25,
22 2026. Defendants’ counsel noted this communication was made in compliance with the
23 Court’s September 2020 orders. *Id.* Given Defendants’ representation that these families

24 ² For this reason, Defendants’ arguments related to notice and an opportunity to respond
25 before extending an injunction are inapposite. *See* Defs. MPA at 16. Defendants note that
26 “the Court mentioned ‘Title 42’ no less than eight times” in its Sept. 4 rulings,” Defs.
27 MPA at 11, but neglect to mention that *none* of these references to Title 42 appear in the
28 operative paragraphs restricting hotel detention. Sept. 4 Order at 17 ¶¶ 2-3. Indeed,
paragraphs 2 and 3 of the Court’s Sept. 4 order are notable for the absence of any
mention of Title 42.

1 were being held awaiting release, it was clear these families were not subject to Title 42
2 expulsion.³

3 Similarly, the ICE Juvenile Coordinator represented to the Court in their 2022
4 Annual Report that “[w]hile the hoteling programs have ceased, ICE may have occasion
5 to rely on brief, ad hoc hotel stays for Class Members and their accompanying parents
6 and legal guardians, subject to the terms set forth in this court’s September 4 and
7 September 21, 2020 orders.” July 1, 2022 ICE Juvenile Coordinator Annual Report at 2,
8 Doc. # 1259-2 (emphasis added).

9 In July 2022, Plaintiffs requested to meet and confer with Defendants regarding
10 violations of the Settlement and the Court’s September 2020 orders based on the
11 extended hotel detention of unaccompanied minors in unsafe and inappropriate
12 conditions, including verbal and physical abuse by ICE security contractors, inability to
13 go outdoors, lack of attention to their mental health needs, and severe restrictions on
14 access to counsel. *See* Declaration of Mishan Wroe ¶¶ 17-20 & Exhibit C at 1-3, May 31,
15 2024, [Doc. # 1427-1] (“Wroe Decl.”); *see also* Declaration of Jennifer Vanegas ¶¶ 9-11,
16 July 19, 2022 [Doc. #1427-10] (“Vanegas Decl.”); Declaration of Vaneza Alvarado ¶¶ 7-
17 9, June 24, 2022 [Doc. # 1427-11] (“Alvarado Decl.”) (also attached within Ex. C. to
18 Wroe Decl.). Following the conference of counsel, Plaintiffs sent an additional letter in
19 August 2022 explaining that the plain language of the September 2020 orders applies to
20 all class members. *See* Wroe Decl. ¶ 18 & Exhibit D at 4-5. Plaintiffs highlighted the
21 Juvenile Coordinator’s recent representation that ICE was complying with the Court’s
22 September 2020 orders with regard to hotel detentions and noted that “[i]f Defendants
23 now contend that they may detain children arrested pursuant to Title 8 in hotels without
24 regard to the Court’s September 2020 orders, they should correct the record on this
25

26
27 ³ Although these emails reflect Defendants’ recognition that the September 2020 orders
28 applied outside the Title 42 context, Plaintiffs do not agree that these emails were in fact
sufficient to comply with the Court’s September 2020 orders.

1 point.” *Id.* Defendants did not act to correct the Juvenile Coordinator’s report or seek
2 reconsideration from this Court.

3 On March 6, 2026—nearly a month before the Court’s April 3 order—Plaintiffs
4 again wrote to Defendants’ counsel to advise them of violations of the Court’s September
5 2020 orders due to prolonged hotel stays, including a child held in various hotels for over
6 two and a half weeks. *See* Ex. 2, Declaration of Rebecca Wolozin ¶¶ 8-9, May 1, 2026
7 (“Wolozin Decl.”). As of the date of filing, Defendants have offered no substantive
8 response, despite repeated follow-up emails. *Id.* ¶¶ 10, 14.

9 **D. No Changed Factual Circumstances Warrant Reconsideration**

10 In all material respects, the conditions of hotel detention remain unchanged from
11 September 2020. Hotels are not licensed placements and prolonged detention in a hotel
12 room under the constant supervision of ICE officers without any access to the outdoors,
13 regardless of whether the child’s parent is present, remains inappropriate for minors and
14 inconsistent with a “concern for the particular vulnerability of minors.” FSA ¶¶ 11, 12.A.
15 Access to counsel remains nearly impossible because ICE prevents children and their
16 parents from calling attorneys and refuses to disclose class members’ locations or contact
17 information to their attorneys of record. Defendants have also refused to provide required
18 information regarding hotel stays to Plaintiffs’ counsel, making visits by class counsel
19 infeasible. To the extent hotel stays longer than one or two nights are truly necessary due
20 to exigent circumstances, the Court’s existing orders already account for those concerns
21 and provide Defendants flexibility.

22 *1. Conditions of Detention in Hotels Remain Inconsistent with a Concern for the*
23 *Special Vulnerability of Minors*

24 As in 2020, “[t]here is no dispute that hoteling is not a licensed program” and
25 hotels do not meet standards for licensed programs such as “educational services, daily
26 outdoor activity, and counseling sessions, among others.” Sept. 4 Order at 12. ICE’s
27 Temporary Housing Standards, for instance, do not require any access to the outdoors
28

1 regardless of the length of stay, merely providing that “ICE/contractor staff shall explore
2 opportunities for outdoor recreation as operationally feasible” after 72 hours. *See* ICE,
3 Temporary Housing Standards for Children, Families, and Single Adults at 26-27 (July
4 2023), <https://www.ice.gov/doclib/detention-standards/th.s.pdf>. In practice ICE does not
5 appear to provide any access to the outdoors, much less meaningful outdoor recreation.
6 One family with two children aged 12 and 14 years old was detained in a hotel room for
7 nine days in February 2026 and was unable to leave their hotel room or even look out the
8 window. Declaration of M.S.P. ¶¶ 3, 10-12, Mar. 12, 2026, [Doc. # 1751-2] (“M.S.P.
9 Decl.”); *see also* Ex. 3, Declaration of Lyndsey Marcelino-Schalkwyk ¶¶ 2, 16, April 28,
10 2026 (“Marcelino-Schalkwyk Decl.”) (8-year old and 14-year old clients held in hotel for
11 two weeks and reported they were not allowed outside the hotel room).

12 This total lack of access to outdoor recreation for over a week is incompatible with
13 the Settlement’s requirements that children be held in conditions appropriate to their
14 “ages and special needs, and concerned for their particular vulnerability as minors.” Sept.
15 21 Order at 2; FSA ¶¶ 11-12.A. The Ninth Circuit has repeatedly held that meaningful
16 access to outdoor recreation is a basic constitutional requirement, even for incarcerated
17 adults who pose known safety concerns. *See Shorter v. Baca*, 895 F.3d 1178, 1185-86
18 (9th Cir. 2018) (collecting cases); *see also id.* (“[I]n *Spain v. Proconier*, we concluded
19 that violent inmates in administrative segregation have a ‘right of outdoor exercise one
20 hour per day, five days a week unless inclement weather, unusual circumstances, or
21 disciplinary needs made that impossible.’”) (quoting 600 F.2d 189, 199 (9th Cir. 1979)).
22 These restrictions are even less justifiable today than in 2020, when Covid-19 protocols
23 were necessary.

24 Extended hotel detention is especially unsafe and inappropriate for children with
25 special medical needs. As ICE’s Juvenile Coordinator acknowledged at the March 30,
26 2026, status conference, when ICE detains a family in the interior, “unless there are
27 obvious medical issues or information disclosed that would prohibit travel, medical
28

1 examinations prior to travel are very limited” and “Dilley is really . . . the location in
2 which the families we encounter receive their medical examinations.” *See* Transcript of
3 March 30, 2026, Status Conference at 29:16-23 [Doc. # 1757]. One family with two
4 children aged 8 years old and 14 years old were detained in hotels for two weeks in
5 February 2026, and during habeas proceedings the government did not contest allegations
6 that one child, I.A.P.M., was not receiving appropriate medical care for panic attacks and
7 another, A.P.M., was not receiving follow up medical care related to a recent foot
8 surgery. Order Granting Writ of Habeas Corpus at 2-4 & n.2, 10, *M.R. et al. v.*
9 *Easterwood*, Case No. 26-cv-01405, ECF 8 (D.Minn. Feb. 17, 2026) (“M.R. Order”),
10 attached as Exhibit E to Wolozin Decl.; *see also* Marcelino-Schalkwyk Decl. ¶¶ 2, 11-13,
11 16 (describing children’s health conditions, missed follow-up appointment after foot
12 surgery, and traumatic effects of hotel detention).

13 Defendants assert that the safety concerns articulated by the Court regarding
14 unaccompanied children held alone in hotel rooms with ICE contractors do not apply to
15 children held with their parents. Defs. MPA at 14. The Court’s orders, however,
16 explicitly apply to “all minors—both accompanied and unaccompanied.” Sept. 4 Order at
17 17 & n.10. Special safety concerns related to unaccompanied children were thus not
18 essential to the Court’s orders. Further, Defendants acknowledge that even now some
19 unaccompanied children are subjected to extended hotel detention. *See* Defs. MPA at 12-
20 13 (noting that approximately 4.4% of hotel stays for unaccompanied children lasted over
21 48 hours).⁴ ICE’s February 2026 census data, for instance, indicates that one child was

22
23 ⁴ Even brief hotel stays of unaccompanied children detained alone and forced to share a
24 hotel room with ICE officers pose safety concerns, and the risk of harm becomes more
25 serious the longer a child remains detained. *See, e.g., U.H.A., et al. v. Bondi, et al.*,
26 ___F.Supp.3d___, 2026 WL 558824, at *3, 20-21 (D. Minn. Feb. 27, 2026) (noting the
27 “grave and immediate threat of irreparable harm facing Plaintiffs” in a case involving the
28 detention of refugees, including the example of a high school junior “compelled to spend
the night in a hotel room with two ICE agents—without even being provided with a room
of her own.”); *see also* Vanegas Decl. ¶¶ 9-11 (describing extended hotel detention of
unaccompanied child client in 2022); Alvarado Decl. ¶¶ 7-9 (same).

1 transferred from an ORR shelter to ICE custody in mid-February and spent 10 nights in a
2 hotel before removal. Wolozin Decl. ¶¶ 12-13 & Ex. C.⁵

3 *2. Children in Hotels are Denied Access to Counsel*

4 Children held in ICE hotel detention remain cut off from access to both their
5 individual counsel and Plaintiffs’ counsel, in violation of the Settlement. Defendants’
6 general representations regarding ICE standards for access to counsel, MPA at 15, simply
7 do not reflect class members’ experiences in practice.

8 Families and their attorneys report a near-total inability to access counsel while in
9 hotels. *See* M.S.P. Decl. ¶ 14; Marcelino-Schalkwyk Decl. ¶¶ 2-9, 14; Ex. 4, Declaration
10 of Michael Musa-Obregon ¶¶ 5-12, 16-20, April 30, 2026 (“Musa-Obregon Decl.”). The
11 location of families held in hotels does not appear in the ICE Detainee Locator and ICE
12 does not otherwise provide information regarding their location. M.R. Order at 3-4;
13 Marcelino-Schalkwyk Decl. ¶ 5; Musa-Obregon Decl. ¶ 7; Ex. 5, Declaration of Kira
14 Kelley ¶¶ 5-7, April 30, 2026 (“Kelley Decl.”).⁶ Children and their parents also face
15 extreme restrictions on calls to family members. *See* M.S.P. Decl. ¶ 13 (permitted one
16 brief call to family but not allowed to disclose location); Marcelino-Schalkwyk Decl.
17 ¶¶ 10, 16 (no outgoing phone calls permitted).

18 These families are caught in a Kafkaesque situation where ICE will not permit
19 them to contact their attorney unless their attorney reaches out first, but ICE
20 simultaneously prevents their attorneys from ascertaining their location or even the
21 procedures to contact them. *See* M.S.P. Decl. ¶ 14 (noting that ICE informed family that
22 their attorney “would have to provide a form proving he was our attorney to them to get
23 access to me. But there was no way for us to let him know he needed to provide this

24 _____
25 ⁵ On April 13, 2026, Plaintiffs requested an explanation from Defendants as to the reason
26 for this child’s lengthy hotel detention but have not received a response. Wolozin Decl.
27 ¶¶ 12-14 & Ex. C.

28 ⁶ Although minors do not appear in the ICE Detainee Locator, their adult parents
ordinarily should appear, but do not when they are held in hotels. *See* Marcelino-
Schalkwyk Decl. ¶ 5; Musa-Obregon Decl. ¶ 7.

1 form.”); Musa-Obregon Decl. ¶¶ 5-11, 16-20 (attorney for M.S.P. family attesting to his
2 inability to contact his clients despite active habeas case, existing G-28 on file, and prior
3 contact with ICE regarding their case).

4 I.A.P.M. and A.P.M., the children held for two weeks in hotel detention in early
5 February, had an active habeas case. But neither their immigration attorney, their habeas
6 attorney, nor even the federal district court was able to determine their location. M.R.
7 Order at 3-4, 9-10; Marcelino-Schalkwyk Decl. ¶¶ 2-9, 14. The district court explained
8 that “Petitioners’ counsel and the Court have searched more than once to ascertain the
9 location of Petitioners” and “[t]he fact that Petitioner’s own counsel cannot locate her
10 clients is of particular concern.” M.R. Order at 3-4, 9-10. The court found the
11 government’s failure to address the family’s current location “unresponsive at best and
12 cruel at worst, especially considering that two of the petitioners in this case are children
13 with medical needs” and noted it was “disturbing that an entire family unit can somehow
14 disappear into an ICE blackhole for more than two weeks.” M.R. Order at 4, 9-10.

15 These examples involve families who not only had retained counsel, but whose
16 counsel was willing to make extraordinary efforts to attempt to find them and file
17 petitions for habeas corpus. Musa-Obregon Decl. ¶¶ 5-11, 16-20; Marcelino-Schalkwyk
18 Decl. ¶¶ 2-9, 14. For children without previously retained attorneys, access to counsel is
19 even further out of reach. Therefore, nothing material has changed since 2020 regarding
20 access to counsel. *See* Sept. 4 Order at 15-16 (“Legal services providers attest that they
21 face unusual difficulty locating children within Title 42 custody, and DHS officials often
22 are unable to provide accurate information as to where a child is at any given moment.”).
23 Indeed, Defendants rely on the same types of representations the Court previously found
24 inadequate in 2020. *See* Defs. MPA at 15; *see also* Sept. 4. Order at 16 (noting
25 Defendants’ representations that they facilitate legal calls “[i]f an attorney has a notice of
26 appearance on record, or if a minor requests an attorney call”).

1 Plaintiffs’ counsel are similarly unable to contact class members or monitor
2 conditions in hotel detention. Despite the Court’s September 2020 orders requiring
3 immediate notice to Plaintiffs’ counsel of hotel placements and an explanation of good
4 cause, Defendants have not been providing Plaintiffs’ counsel such notice. Sept. 4 Order
5 at 17 ¶ 2; Sept. 21 Order at 5 ¶ 2. Plaintiffs receive information regarding hotel
6 placements as part of the monthly census data, but this information comes long after a
7 child’s actual placement and generally does not include the location or name of the hotel.
8 Wolozin Decl. ¶¶ 5-7. Based on the information provided, it is not possible for Plaintiffs’
9 counsel to conduct attorney-client visits with children detained in hotels as provided for
10 in Paragraph 32 of the Settlement. *See* Sept. 4 Order at 16 (“Paragraph 32 is
11 straightforward in requiring that Plaintiffs’ counsel be allowed to access the facilities and
12 contact the minors, even if they do not yet know the identity of a specific minor.”).

13 Since early March, Plaintiffs have repeatedly asked Defendants to provide an
14 explanation for children’s prolonged detention in hotels pursuant to Paragraph 28.A and
15 29 of the Settlement and the Court’s September orders. Wolozin Decl. ¶¶ 8-10, 12-14; *see*
16 *also* FSA ¶¶ 28.A, 29 (requiring data to include “reasons for every placement of a minor
17 in a detention facility or medium security facility”). As of the time of filing, Defendants
18 have not responded to these requests. Wolozin Decl. ¶ 14 & Exs. A-D, G-H. Plaintiffs
19 have also flagged numerous persistent errors in ICE’s monthly data, including a child
20 who was held in a hotel for two weeks but was omitted from ICE’s data. *Id.* ¶¶ 9, 13-14
21 & Exs. A, C, D. Plaintiffs became aware of this missing child only because they had a
22 habeas petition in federal court. *Id.* ¶ 14, Ex. D. Plaintiffs have no way of knowing
23 whether additional children held in hotels are similarly missing from the data reports.

24 *3. The Court’s Orders Already Provide for Exigent Circumstances*

25 Far from creating a Title 42-specific framework, the Court’s September 2020
26 orders recognized and accommodated ICE’s past routine use of hotels outside the Title 42
27 context, such as in cases of “unexpected flight cancellations or delays.” Sept. 4 Order at
28

1 11. The Court provided for flexibility in the cases of “exigent circumstances” and
2 “bottlenecks in the intake processes at licensed facilities,” with immediate notice to
3 Plaintiffs’ counsel. Sept. 4 Order at 17 ¶ 2; Sept. 21 Order at 5 ¶ 2; *see also Flores v.*
4 *Garland*, 3 F.4th at 1156 (“The district court’s orders in fact are not strict.”). To the
5 extent Defendants interpret the Court’s April 3, 2026, order to impose a strict one-to-two-
6 night limit on hotel stays, Plaintiffs have no objection to the Court’s clarifying its April 3,
7 2026, order to note the existing flexibility for exigent circumstances provided for in its
8 September 2020 orders.

9 Defendants, however, have not complied with the September 2020 orders.
10 Defendants have failed to provide Plaintiffs timely notice of extended hotel placements
11 and have failed to respond to Plaintiffs’ repeated requests over the past nearly two
12 months for an explanation for extended hotel stays pursuant to those orders and
13 Paragraph 28.A and 29 of the Settlement. Wolozin Decl. ¶¶ 9-10, 12-14. Plaintiffs
14 therefore cannot fully respond to Defendants’ asserted reasons for detaining children
15 beyond one or two nights. But it is clear from Defendants’ own articulated “operational
16 challenges” that—as in 2020—extended hotel stays are primarily being used as a
17 standalone placement prior to removal rather than as part of any “good faith effort
18 towards placing children in licensed programs.” Sept. 4 Order at 12; *see also* Declaration
19 of Dawnisha Helland ¶¶ 7-11, April 17, 2026, [Doc. # 1760-1] (“Helland Decl.”) (listing
20 removal-related issues such as obtaining travel documents, “holiday and winter weather
21 disruptions,” delayed or cancelled flights, and non-compliance with removal procedures
22 as justification for hotel stays “beyond 48 hours.”).

23 Given that children are held in hotels essentially incommunicado and often
24 deported immediately afterwards, it is very difficult for Plaintiffs to independently verify
25 the circumstances of children’s hotel detention. In the few instances where Plaintiffs were
26 able to determine children’s circumstances, they do not match Defendants’ description of
27 exigent circumstances or flight risk. I.A.P.M. and A.P.M., for instance, were detained
28 after their mother attended a regularly scheduled ICE check-in and complied with orders

1 to bring the children to an appointment. M.R. Order at 3; Marcelino-Schalkwyk Decl.
2 ¶¶ 4, 10. The government had previously determined the family was “neither a danger to
3 the community nor a flight risk,” the family “complied with all orders regarding their
4 immigration status,” and they were “not subject to final orders of removal.” M.R. Order
5 at 3. After two weeks in a hotel, the family was released on their own recognizance.
6 Marcelino-Schalkwyk Decl. ¶ 15; *see also* Wolozin Decl. Exs. C & F.

7 M.S.P. and her two children were similarly detained after attending a scheduled
8 ICE appointment. M.S.P. Decl. ¶ 9; Musa-Obregon Decl. ¶¶ 5, 17. The family had been
9 living in New York for nine years, was complying with release conditions, and the
10 mother was wearing an ankle monitor. M.S.P. Decl. ¶¶ 4, 9. After nine days in a hotel,
11 the family was transferred to Dilley. *Id.* ¶ 16; *cf.* Defs. MPA at 13 (asserting that “hotel
12 stays longer than two nights occur when there is not a practicable alternative,” such as
13 when a family cannot be sent to Dilley).

14 Even some of Defendants’ own articulated reasons for detaining children in hotels
15 for prolonged periods indicate a lack of exigency. ICE provided data in their March 13,
16 2026, filing showing that in December and January, ICE detained 43 children in hotels
17 for over 3 days. December 2025 ICE Hotel Stays Report [Doc. # 1736-6]; January 2026
18 ICE Hotel Stays Report [Doc. # 1736-7]. The data for January 2026 indicates that
19 multiple families were detained more than two days before their scheduled flights,
20 including one family who “was picked up on 1/16 for the departure flight on 1/22” and
21 another family with two children “picked up on 1/21 for the departure flight on 1/26”
22 (later rescheduled to 1/27), without any further explanation. Doc. # 1736-7 at 5, 7; *see*
23 *also id.* at 3-4, 6. Another family with two children was on their way to Dilley on January
24 11, but after an interview with USCIS “was temporarily housed in a hotel pending USCIS
25 decision” before being released on January 15. *Id.* at 3. It is not clear why the family had
26 to remain in a hotel room pending their USCIS decision. Most of the entries for hotel
27
28

1 stays exceeding 72 hours in the December 2025 hotel data merely refer vaguely to
2 “scheduling coordination” before removal. Doc. # 1736-6.

3 Defendants represent that stays exceeding 48 hours are rare and that ICE
4 headquarters “reviews and monitors hotel stays for children and must approve any hotel
5 stay expected to exceed 48 hours.” Defs. MPA at 7, 14 (citing Helland Decl. ¶ 9). Given
6 these representations, there should be no operational obstacle to Defendants promptly
7 notifying Plaintiffs of hotel detentions exceeding two nights and the specific exigent
8 circumstances necessitating such placements.

9 **III. CONCLUSION**

10 For the aforementioned reasons, Defendants’ motion for reconsideration should be
11 denied.

12
13 Dated: May 1, 2026

CENTER FOR HUMAN RIGHTS AND
CONSTITUTIONAL LAW

14 Carlos Holguín
15 Bardis Vakili
16 Sarah Kahn

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

20 CHILDREN’S RIGHTS
21 Leecia Welch
22 Eleanor Roberts

23
24 /s/ Diane de Gramont

25 Diane de Gramont
26 One of the attorneys for Plaintiffs
27
28

CERTIFICATE OF COMPLIANCE

The undersigned, counsel of record for Plaintiffs, certifies that this brief contains 4,749 words, which complies with the word limit of L.R. 11-6.1.

/s/ Diane de Gramont

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Flores, et al. v. Blanche, et al.
Case No. CV 85-4544-DMG (AGRx)

Exhibit Index to Plaintiffs' Opposition to Motion to Reconsider

Exhibit	Exhibit Description
1	Declaration of Carlos Holguín, April 25, 2026
2	Declaration of Rebecca Wolozin, May 1, 2026
3	Declaration of Lyndsey Marcelino-Schalkwyk, April 28, 2026
4	Declaration of Michael Musa-Obregon, April 30, 2026
5	Declaration of Kira Kelley, April 30, 2026

Previously Filed Documents

Docket No.	Description
1259-2	ICE Juvenile Coordinator Annual Report, July 1, 2022
1427-1	Declaration of Mishan Wroe, May 31, 2024
1427-10	Declaration of Jennifer Vanegas, July 19, 2022
1427-11	Declaration of Vaneza Alvarado, July 24, 2022
1736-6	December 2025 ICE Hotel Stays Report
1736-7	January 2026 ICE Hotel Stays Report
1751-2	Declaration of M.S.P., March 12, 2026
1757	Transcript of March 30, 2026 Status Conference

EXHIBIT 1

1 CENTER FOR HUMAN RIGHTS &
2 CONSTITUTIONAL LAW
3 Carlos R. Holguín (Cal. Bar No. 90754)
4 Bardis Vakili (Cal. Bar No. 247783)
5 Sarah E. Kahn (Cal. Bar No. 341901)
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7 Los Angeles, CA 90057
8 Telephone: (213) 388-8693
9 Email: crholguin@centerforhumanrights.org

10 *Attorneys for Plaintiffs*

11 *Additional counsel listed on following page*

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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION

JENNY LISETTE FLORES, *et al.*,
Plaintiffs,
v.
TODD BLANCHE, Attorney General of
the United States, *et al.*,
Defendants.

No. CV 85-4544-DMG-AGR_x
DECLARATION OF CARLOS HOLGUÍN
IN SUPPORT OF PLAINTIFFS’
OPPOSITION TO MOTION TO
RECONSIDER

1 NATIONAL CENTER FOR YOUTH LAW
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3 Diane de Gramont (Cal. Bar No. 324360)
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5 Oakland, CA 94612
6 Telephone: (510) 835-8098
7 Email: mwroe@youthlaw.org

8 NATIONAL CENTER FOR YOUTH LAW
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19 Email: lwelch@childrensrights.org

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DECLARATION OF CARLOS HOLGUÍN

I, Carlos Holguín, declare and say as follows:

1. I am counsel of record for Plaintiffs in the above-captioned case.

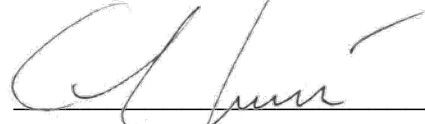
2. This declaration and the attached exhibits are based on my personal knowledge. If called to testify in this case, I would testify competently about these facts and those included in the exhibits described below.

3. On March 6, 2021, Defendants’ counsel emailed Plaintiffs’ counsel, including myself and Peter Schey, to inform us of “exigent circumstances” requiring ICE “to begin using hotels to house family units along the southwest border for very brief periods of time prior to release . . . to allow time for processing, COVID-19 testing, and to make travel arrangements.” Defendants’ counsel explained that she was providing this notice “[t]o ensure that Defendants remain in compliance with the Court’s September orders[.]” A true and correct copy of this email is attached as Exhibit A to this declaration.

///

1 4. On May 12, 2021, Defendants’ counsel emailed Plaintiffs’ counsel,
2 including myself and Peter Schey, as well as the Independent Monitor Andrea
3 Ordin and Special Expert Dr. Paul Wise, to inform us that “the government has
4 established Emergency Family Reception Sites (EFRS) at hotel facilities along or
5 near the southwest border” and may have to hold families in hotels for more than
6 72 hours prior to release if a family member tests positive for Covid-19 while in
7 DHS custody or as a result of certain other exceptional circumstances. Defendants’
8 counsel explained she was providing this notice “to remain consistent with the
9 letter and spirit of the *Flores* Court’s orders concerning the use of hotels to house
10 *Flores* class member[s].” A true and correct copy of this email is attached as
11 Exhibit B to this declaration.

12 I declare under penalty of perjury that the foregoing is true and correct.
13 Executed this 25th day of April, 2026, at Santa Clarita, California.

14 
15 _____
16 Carlos Holguín

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Exhibit A

From: "Fabian, Sarah B (CIV)" <Sarah.B.Fabian@usdoj.gov>

Subject: Flores - Update

Date: March 6, 2021 at 9:33:27 AM PST

To: Schey Peter <pschey@centerforhumanrights.org>, Carlos Holguín <crholguin@centerforhumanrights.org>

Cc: "Murley, Nicole (CIV)" <Nicole.Murley@usdoj.gov>, "Batool, Fizza (CIV)" <Fizza.Batool2@usdoj.gov>, "Silvis, William (CIV)" <William.Silvis@usdoj.gov>

Peter and Carlos:

Good morning. To ensure that Defendants remain in compliance with the Court's September orders, I write to notify you of a planned development related to the custody of family units in light of the exigent circumstances currently occurring along the southwest border. Very soon, possibly today, ICE plans to begin using hotels to house family units along the southwest border for very brief periods of time prior to release. The goal of this custody will be to allow time for processing, COVID-19 testing, and to make travel arrangements. ICE plans to engage—and is engaging—with NGO partners to participate in the process, and intends to ensure that this brief period of custody complies with *Flores*, including legal access, food and water, access to medical care, and safe and sanitary conditions. The expectation is that release will occur as expeditiously as possible and, except in very rare cases, custody will last no longer than 72 hours.

We have notified Ms. Ordin and Dr. Wise, and will work closely with them to provide what they need to monitor these facilities and answer any questions they may have.

Best,
Sarah

Sarah B. Fabian
Senior Litigation Counsel
Office of Immigration Litigation – District Court Section

Department of Justice
PO Box 868, Ben Franklin Station
Washington, DC 20044
(202) 532-4824

Exhibit B

From: "Fabian, Sarah B (CIV)" <Sarah.B.Fabian@usdoj.gov>

Subject: Flores - DHS Update

Date: May 12, 2021 at 2:24:44 PM PDT

To: "aordin@strumwooch.com" <aordin@strumwooch.com>, "Paul H. Wise" <pwise@stanford.edu>, Carlos Holguín <crholguin@centerforhumanrights.org>, Schey Peter <pschey@centerforhumanrights.org>, 'Alex Harten' <aharten@strumwooch.com>

Cc: "Batool, Fizza (CIV)" <Fizza.Batool2@usdoj.gov>, "Murley, Nicole (CIV)" <Nicole.Murley@usdoj.gov>

All:

In order to remain consistent with the letter and spirit of the *Flores* Court's orders concerning the use of hotels to house *Flores* class member, DHS wishes to notify you that that the government has established Emergency Family Reception Sites (EFRS) at hotel facilities along or near the southwest border, and believes that it may at times be necessary to hold family units (FAMU) who are awaiting release and have one or more members who test positive for COVID-19, as well as FAMU with logistical delays related to release, in these hotel sites for more than 72 hours.

First, where a member of a FAMU tests positive for COVID-19 while in DHS custody, DHS needs to maintain operational flexibility to transfer the FAMU to an EFRS—or to one of ICE's Family Staging Centers (FSCs) if the FAMU is near the Rio Grande Valley – for temporary housing for up to 10 days in accordance with current U.S. Centers for Disease Control & Prevention (CDC) guidance regarding quarantine. This flexibility is necessary unless and until an NGO capable of providing shelter space to a COVID-19-positive FAMU is able to safely care for the FAMU until the conclusion of the 10-day quarantine period (or until ICE no longer retains the legal authority to maintain custody of the FAMU (e.g., court order, bond

posting)). If ICE is obligated to facilitate the release of any COVID-19-positive FAMU prior to the expiration of the 10-day quarantine period recommended by the CDC, ICE will make prompt notification to the health departments of the local jurisdiction.

Second, while the goal is to release FAMUs within 72 hours or less in all other cases, exigent and unforeseen circumstances may also affect this timeline. Such circumstances include delay in identifying a sponsor or in securing logistics and travel to the final destination; delays in departure due to weather or other unforeseen circumstances; outstanding medical issues, such as clearance to travel; and the aforementioned potential quarantine due to COVID-19. The government does not anticipate that these exceptional circumstances will be common.

Please let me know if you have any questions regarding the above

Best,
Sarah

Sarah B. Fabian
Senior Litigation Counsel
Office of Immigration Litigation – District Court Section
Department of Justice
PO Box 868, Ben Franklin Station
Washington, DC 20044
(202) 532-4824

EXHIBIT 2

1 CENTER FOR HUMAN RIGHTS &
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9 Email: crholguin@centerforhumanrights.org

10 *Attorneys for Plaintiffs*

11 *Additional counsel listed on following page*

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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION

JENNY LISETTE FLORES, *et al.*,
Plaintiffs,
v.
TODD BLANCHE, Acting Attorney General of
the United States, *et al.*,
Defendants.

No. CV 85-4544-DMG-AGR_x
DECLARATION OF REBECCA
WOLOZIN IN SUPPORT OF
PLAINTIFFS' OPPOSITION TO
MOTION TO RECONSIDER
JUDGE: Hon. Dolly M. Gee

1 NATIONAL CENTER FOR YOUTH LAW
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23 New York, NY 10005
24 Telephone: (212) 683-2210
25 Email: eroberts@childrensrights.org
26
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DECLARATION OF REBECCA WOLOZIN

1
2
3 I, Rebecca Wolozin, declare as follows:

4 1. I am over 18 years of age and counsel of record for Plaintiffs in the above-
5 captioned case.

6 2. This declaration and the attached exhibits are based on my personal
7 knowledge. If called to testify in this case, I would testify competently about these
8 facts and those included in the exhibits described below.

9 3. Under the Court’s August 21, 2015 order [Doc. # 189], Defendants
10 Immigration and Customs Enforcement (“ICE”) and Customs and Border
11 Protection (“CBP”) are required to provide Plaintiffs’ counsel with monthly data
12 reports on all class members in their custody collected under Paragraph 28A of the
13 *Flores* Settlement Agreement (“monthly data reports”). Defendant Department of
14 Health and Human Services (“HHS”) is required to provide monthly data reports
15 with respect to children held in secure, heightened supervision, and out-of-network
16 facilities. [Doc. # 1516].

17 4. Attached as exhibits to this declaration are true and correct copies of the
18 Parties’ 2026 email correspondence regarding the monthly statistical reports
19 required under Paragraph 28A of the *Flores* Settlement Agreement.

20 Prolonged Hotel Detention

21 5. I regularly review Defendants’ monthly data reports, which are produced in
22 Excel format. The monthly data reports include parameters for “Facility Type” and
23 “Facility Name.” Hotel placements are listed as “Other” under “Facility Type” and
24 with rare exceptions the “Facility Name” is listed as “JFMTCU Temp Hotel Stay”
25 without identifying the name or location of the hotel.

26 6. On January 23, 2026, Defendants produced monthly data for December
27 2025.

28 7. On February 27, 2026, Defendants produced monthly data for January 2026.

1 8. Based on a review of the December 2025 and January 2026 ICE data
2 reports, Plaintiffs' counsel identified 10 children in the December 2025 data who
3 were held in hotels for three or more days. This includes one nine-year-old child
4 held in hotels for two and a half weeks in late December and early January.
5 Plaintiffs' counsel identified over 10 additional children in January 2026 data who
6 were held in hotels for three or more consecutive days.¹

7 9. On March 6, 2026, I emailed Defendants to request an explanation for each
8 of these prolonged hotel placements pursuant to Paragraph 28.A of the Settlement
9 and the Court's September 2020 orders. I also requested an explanation and
10 corrected data in response to persistent data discrepancies including the complete
11 omission of class members in the ICE data. These discrepancies were not resolved
12 despite Plaintiffs previously raising the issue and Defendants producing one set of
13 corrected data. A true and correct copy of this email is attached as Exhibit A, with
14 redactions only of children's A#s.²

15 10. On March 11, 2026, Defendants' counsel responded to my March 6 email
16 and indicated that Defendants were looking into these issues. On April 1, 2026, I
17 sent a follow up email asking for a response as soon as possible. On the same day,
18 Defendants' counsel responded noting that he would inform me once he had
19 additional information. A true and correct copy of this correspondence is attached
20 as Exhibit B.

21 _____
22 ¹ These numbers were calculated by filtering the "Facility Type" parameter in the
23 monthly data Excel spreadsheet to "Other," creating a list of placements including
24 hold rooms and hotel stays. Length of stay in placement in a hotel was calculated
25 by the number of days between the book-in date and time for the first consecutive
26 hotel placement and book-out date and time for the last consecutive hotel
27 placement listed. I worked with a paralegal at the National Center for Youth Law
28 to analyze the initial data and I personally checked it against the Excel
spreadsheets.

² On April 30, 2026 I emailed Defendants' counsel to alert them of minor errors in
my March 6, 2026 email. Attached hereto as Exhibit G is that email.

11. On March 31, 2026, Defendants produced monthly data for February 2026.

12. Based on a review of the February 2026 ICE data report, Plaintiffs’ counsel identified at least seven children with hotel stays significantly exceeding 72 hours, including two children under 10 years old who each spent two weeks in hotel detention.³ Below is a table indicating the length of hotel stay for the seven children identified by Plaintiffs’ counsel.

Class member	First hotel book-in	Last hotel book-out	Approx. Total Time, including transit between consecutive hotels
D.L.H. (age 3)	2/2/2026	2/15/2026	291 hours (13 nights)
A.P.M. (age 8) ⁴	1/30/2026	2/14/2026	327 hours (14 nights)
M.M.S. (age 12)	2/12/2026	2/21/2026	212 hours (9 nights)
C.M.S. (age 14)	2/12/2026	2/21/2026	212 hours (9 nights)
F.B. (age 17)	2/16/2026	2/26/2026	244 hours (10 nights)
M.C.N. (age 5)	2/4/2026	2/11/2026	144 hours (7 nights)
J.A.I.G. (age 1)	2/4/2026	2/10/2026	127 hours (6 nights)

13. On April 13, 2026, I emailed Defendants to request an explanation for these prolonged hotel placements. I also once again requested a substantive response to my March 6, 2026, email and noted additional significant data errors in both the HHS and ICE data reports. A true and correct copy of this email is attached as Exhibit C, with redactions only of children’s A#s. As of today’s date, I have not received a response.

14. Following my April 13, 2026, email, Plaintiffs’ counsel learned of and

³ These numbers were calculated in the same manner as described in footnote 1, *supra*, except that the February data also included an additional column for “Facility Length of Stay (Days).” I worked with a paralegal at the National Center for Youth Law to analyze the initial data and I personally checked it against the Excel spreadsheets.

⁴ As described in paragraph 14, Plaintiffs later learned that A.P.M.’s minor sibling was also detained for this same time period but was omitted from the data report.

1 reviewed two February 2026 court orders related to a petition for habeas corpus in
2 the District of Minnesota. The case involved two children, A.P.M. and I.A.P.M.,
3 detained with their mother for two weeks in hotels in February 2026. Although
4 A.P.M. appeared in the February 2026 ICE data report, I.A.P.M. did not. On April
5 23, 2026, I emailed Defendants to ask why I.A.P.M. was omitted from the data
6 report and attached the court orders. A true and correct copy of this email is
7 attached as Exhibit D. A true and correct copy of the court orders attached to my
8 email are included here as Exhibits E and F. Defendants confirmed receipt but as
9 of today's date, have not provided a substantive response to any of my emails
10 regarding prolonged hotel detention.

11 15. On the afternoon of May 1, 2026, Defendants produced monthly data for
12 March 2026. Defendants also produced a corrected ICE data report for February
13 2026. Plaintiffs have not yet had sufficient time to analyze this data. Defendants
14 did not provide a response to my inquiries regarding prolonged hotel detention. A
15 true and correct copy of this correspondence is attached as Exhibit H, with
16 redactions only of a child's name and portion of A#.

17
18 I declare under penalty of perjury that the foregoing is true and correct.
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21 Executed on May 1, 2026 in Washington, D.C.
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24 *Rebecca Wolozin*
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EXHIBIT A



Diane de Gramont <ddegramont@youthlaw.org>

Class members missing from ICE data reports

Becky Wolozin <bwolozin@youthlaw.org>

Fri, Mar 6, 2026 at 11:42 AM

To: "McCroskey, Joshua C. (CIV)" <Joshua.C.McCroskey@usdoj.gov>

Cc: Eleanor Roberts <ERoberts@childrensrights.org>, Diane de Gramont <ddegramont@youthlaw.org>, Leecia Welch <lwelch@childrensrights.org>, Mishan Wroe <mwroe@youthlaw.org>, Carlos Holguín <crholguin@centerforhumanrights.org>, Sarah Kahn <sarah@centerforhumanrights.org>, "Parascandola, Christina (CIV)" <Christina.Parascandola@usdoj.gov>, "Silvis, William (CIV)" <William.Silvis@usdoj.gov>, "Celone, Michael A. (CIV)" <Michael.A.Celone@usdoj.gov>, Katherine Johnson <kjohnson@childrensrights.org>

Hi Joshua,

We are writing to express concern about class members identified in the data who continue to spend unacceptably long periods of time in hotels. We also write with specific data questions to clarify the meaning of certain codes and acronyms used throughout the data in the past several months and to request updated December 2025 data again to address the discrepancies we identified based on the January 2026 data set.

Prolonged Hotel Stays

Hotels are being used as unlicensed detention facilities and pursuant to Paragraph 28.A we request information on the reasons for every hotel placement over 72 hours. As you know, in orders on September 4, 2020 (ECF 976), and September 21, 2020 (ECF 990), the court ordered DHS to stop placing class members in hotels for more than 72 hours and to provide Plaintiffs' counsel information regarding those placements." In addition, in a September 21, 2020, order (ECF 990), Judge Gee permitted hotel stays of not more than 72 hours and required notice to class counsel of such placements.

Yet, we identified 10 children in the December data who were held in hotels for three or more days.

One nine-year-old child (A.C.S. A# [REDACTED]) appears to have been moved around to different hotels over the course of two and a half weeks. A seven-year-old child (H.P.T. A# [REDACTED]) was arrested and held for three days in a hotel.

Similarly, in the January data, we identified at least 10 children who were held in hotels for three or more consecutive days.

J.P.P. (7yo) (A# [REDACTED]) & L.P.P. (3yo) (A# [REDACTED]) – 1/18 through 1/23
D.T.C.G. (12yo) (A# [REDACTED]) & D.T.C.G. (6yo) (A# [REDACTED]) – 1/22 through 1/27
P.I.G.V. (16yo) (A# [REDACTED]) – 1/07 through 1/11
I.N. (16yo) (A# [REDACTED]) & E.N. (14yo) (A# [REDACTED]) – 1/10 through 1/14
Y.M.L. (14yo) (A# [REDACTED]) – 1/16 through 1/23
D.M.M. (7yo) (A# [REDACTED]) – 1/16 through 1/22
Y.A.P. (14yo) (A# [REDACTED]) – 1/18 through 1/23
L.H.C. (11 yo) (A# [REDACTED]) – 1/21 through 1/26
J.G.V. (9yo) (A# [REDACTED]) – 1/22 through 1/27
C.N.V. (9yo) (A# [REDACTED]) – 1/23 through 1/27

Please explain what actions Defendants are taking to limit the use of hotels for detaining class members to very short-term stays in limited cases where overnight travel in ICE custody is needed, as required by the Settlement.

We also identified a number of children with irregular placement book-in dates but no book-out dates. Please also explain and/or correct the absence of book-out dates from irregular placements in the January data.

A.P.D. (A# [REDACTED]) – Greentree Inn Houston IAH Airport, book in 10/26/25, UC
A.A.V. (A# [REDACTED]) – Methodist Hospital, 1/20/26 (20-month-old AC)
B.M.S. (A# [REDACTED]) – Houston FO Holdroom, 1/14/26, UC
M.C.M. (A# [REDACTED]) – Florida Soft-Sided Facility South, 1/23/26
M.J.O.M. (A# [REDACTED]) – JFMTCU Temp Hotel Stay, 1/30/26

Data Clarification Questions

Please provide the definitions or an explanation for the following codes that appear in the data provided by Defendants:

· **Reportable violation** (Under ICE Detention Criteria in May 2025 ICE Flores Report – note this column is not repeated in subsequent reports-please explain)

· Disposition Codes:

○ **LOS CUST CASE**

○ **REL**

○ **I**

○ **NTA/DT**

○ **B**

· **T8** (Type – ICE with CBP additions Report)

· **Encounter DT** (Column heading- ICE with CBP additions Report)

Ongoing December 2025 Data Issues

Finally, in conducting our analysis of Defendants' January 2026 data, we identified what appears to be at least 80 children included in the January ICE data with book-in dates prior to December who were not included in the second set of updated December data sent by Defendants. This suggests that the updated December data provided by Defendants still contained significant data errors resulting in many children missing from the data. **Please provide the complete ICE data for December 2025** to Plaintiffs that captures all children held in custody over 72 hours. I am including a sample of the A#s of children who appear in the January 2026 data with book-in dates before December 2025 and January 2026 book-out dates:

· [REDACTED]
· [REDACTED]
· [REDACTED]
· [REDACTED]
· [REDACTED]
· [REDACTED]
· [REDACTED]
· [REDACTED]
· [REDACTED]
· [REDACTED]

Thank you for your prompt attention to these requests.

Becky



Becky Wolozin (she/her/ella)
Senior Attorney
Cell: (202) 964-0406

On Tue, Feb 24, 2026 at 3:02 PM McCroskey, Joshua C. (CIV) <Joshua.C.McCroskey@usdoj.gov> wrote:

Hi Eleanor,

ICE worked with class counsel to correct errors or answer questions raised in class counsel's emails sent on April 7, April 29, May 12, July 10, July 30, and August 13, 2025. ICE informs us that the discrepancy identified in class counsel's February 10, 2026 email was the result of a one-time human error. ICE is confident that its process for compiling the data is sound. If any specific concerns arise in the future, ICE will continue to work with class counsel to address them.

Best,

Joshua

From: Eleanor Roberts <ERoberts@childrensrights.org>
Sent: Monday, February 23, 2026 5:51 PM
To: McCroskey, Joshua C. (CIV) <Joshua.C.McCroskey@usdoj.gov>
Cc: Diane de Gramont <ddegramont@youthlaw.org>; Leecia Welch <lwelch@childrensrights.org>; Mishan Wroe <mwroe@youthlaw.org>; Becky Wolozin <bwolozin@youthlaw.org>; Carlos Holguín <crholguin@centerforhumanrights.org>; Sarah Kahn <sarah@centerforhumanrights.org>; Leecia Welch <lwelch@childrensrights.org>; Parascandola, Christina (CIV) <Christina.Parascandola@usdoj.gov>; Silvis, William (CIV) <William.Silvis@usdoj.gov>; Celone, Michael A. (CIV) <Michael.A.Celone@usdoj.gov>; Katherine Johnson <kjohnson@childrensrights.org>
Subject: [EXTERNAL] Re: Class members missing from ICE data reports

Joshua,

Thank you for sending the corrected data. The problem is that the data issues we have repeatedly brought to your attention have not been adequately remedied. The original census you sent on January 23, 2026, omitted at least 25 children who we found out were actually still in DHS custody at that time, and it is not clear if this accounts for all of the errors. This incomplete data makes it impossible for Plaintiffs to accurately determine how many children have been detained and for how long at any given time -- we can only keep track and point out the errors if we happen to make a site visit. We must have complete data in a timely manner. Please let us know when these data issues will be permanently fixed.

Best,

Eleanor

Eleanor Roberts | Staff Attorney

(she/her)

Children's Rights

88 Pine Street, Suite 800

New York, NY 10005

(267) 280-2728

eroberts@childrensrights.org

www.childrensrights.org

From: McCroskey, Joshua C. (CIV) <Joshua.C.McCroskey@usdoj.gov>
Sent: Wednesday, February 18, 2026 11:51 AM
To: Eleanor Roberts <ERoberts@childrensrights.org>
Cc: Diane de Gramont <ddegramont@youthlaw.org>; Leecia Welch <lwelch@childrensrights.org>; Mishan Wroe <mwroe@youthlaw.org>; Becky Wolozin <bwolozin@youthlaw.org>; Carlos Holguín

<crholguin@centerforhumanrights.org>; Sarah Kahn <sarah@centerforhumanrights.org>; Leecia Welch <lwelch@childrensrights.org>; Parascandola, Christina (CIV) <Christina.Parascandola@usdoj.gov>; Silvis, William (CIV) <William.Silvis@usdoj.gov>; Celone, Michael A. (CIV) <Michael.A.Celone@usdoj.gov>; Katherine Johnson <kjohnson@childrensrights.org>
Subject: [Not Virus Scanned] [Not Virus Scanned] RE: Class members missing from ICE data reports

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Hi Eleanor,

Thank you again for reaching out about this issue. An updated December report is attached (password to follow). After review, it appears that the individuals you identified were reported in the November report, but were accidentally taken off the December report by the manual reviewer. The data team is reminding all reviewers again that individuals need to remain on the report until they are removed or released.

Best,

Joshua

From: McCroskey, Joshua C. (CIV)
Sent: Tuesday, February 10, 2026 4:19 PM
To: Eleanor Roberts <ERoberts@childrensrights.org>
Cc: Diane de Gramont <ddegramont@youthlaw.org>; Leecia Welch <lwelch@childrensrights.org>; Mishan Wroe <mwroe@youthlaw.org>; Becky Wolozin <bwolozin@youthlaw.org>; Carlos Holguín <crholguin@centerforhumanrights.org>; Sarah Kahn <sarah@centerforhumanrights.org>; Leecia Welch <lwelch@childrensrights.org>; Parascandola, Christina (CIV) <Christina.Parascandola@usdoj.gov>; Silvis, William (CIV) <William.Silvis@usdoj.gov>; Celone, Michael A. (CIV) <Michael.A.Celone@usdoj.gov>; Katherine Johnson <kjohnson@childrensrights.org>
Subject: RE: Class members missing from ICE data reports

[removing a few DOJ folks]

Hi Eleanor,

Thank you for your email. We will let you know once we have more information to share in response to your inquiry.

Best,

Joshua

Joshua C. McCroskey

Trial Attorney

U.S. Department of Justice

Office of Immigration Litigation

P.O. Box 878, Ben Franklin Station

Washington, DC 20044

(202) 305-1540

joshua.c.mccroskey@usdoj.gov

From: Eleanor Roberts <ERoberts@childrensrights.org>

Sent: Tuesday, February 10, 2026 3:59 PM

To: McCroskey, Joshua C. (CIV) <Joshua.C.McCroskey@usdoj.gov>

Cc: Diane de Gramont <ddegramont@youthlaw.org>; Leecia Welch <lwelch@childrensrights.org>; Mishan Wroe <mwroe@youthlaw.org>; Becky Wolozin <bwolozin@youthlaw.org>; Carlos Holguín <crholguin@centerforhumanrights.org>; Sarah Kahn <sarah@centerforhumanrights.org>; Leecia Welch <lwelch@childrensrights.org>; Masetta Alvarez, Katelyn (CIV) <Katelyn.Masetta.Alvarez@usdoj.gov>; Parascandola, Christina (CIV) <Christina.Parascandola@usdoj.gov>; Silvis, William (CIV) <William.Silvis@usdoj.gov>; Celone, Michael A. (CIV) <Michael.A.Celone@usdoj.gov>; Vick, Lindsay (CIV) <lindsay.vick@usdoj.gov>; Gieger, Christopher G. (CIV) <Christopher.G.Gieger@usdoj.gov>; Katherine Johnson <kjohnson@childrensrights.org>

Subject: [Not Virus Scanned] [EXTERNAL] [Not Virus Scanned] Class members missing from ICE data reports

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Joshua,

We've reviewed the December ICE data reports and we noticed that numerous children who met with class counsel at Dilley on 1/14/26 and 1/15/26 do not appear on the reports, as well as children we interviewed at earlier site visits who we checked were still there in the census data during the January 2026 trip, despite spending well over 72 hours in ICE custody.

The ICE data is missing at least 25 children who were at Dilley for over 72 hours in December. Including G.S.H. [REDACTED], A.L.P. [REDACTED]; J.R.L.P. [REDACTED]; S.P.R. [REDACTED]; S.C. [REDACTED], I.M.B.S. [REDACTED], M.B.S. [REDACTED], H.B.O. [REDACTED], S.A. [REDACTED]; S.K. [REDACTED], G.S. [REDACTED]; A.K. [REDACTED]; C.R.B. [REDACTED]; H.S. [REDACTED], S. [REDACTED]; H.S. [REDACTED], A.S. [REDACTED], E.S. [REDACTED], E.P. [REDACTED], Z.P. [REDACTED], K.S. [REDACTED], V.S. [REDACTED], A.E. [REDACTED], AE [REDACTED], MPH [REDACTED].

I have attached a spreadsheet with these class members missing from the December reports, along with notes as to the information we have on their length of stay as of January 14, 2026. I will send a password separately. Please provide an explanation for these missing class members by Monday, February 16, 2026.

Best,

Eleanor

Eleanor Roberts | Staff Attorney

(she/her)

Children's Rights

88 Pine Street, Suite 800

New York, NY 10005

(267) 280-2728

eroberts@childrensrights.org

www.childrensrights.org

EXHIBIT B



Diane de Gramont <ddegamont@youthlaw.org>

Class members missing from ICE data reports

McCroskey, Joshua C. (CIV) <Joshua.C.McCroskey@usdoj.gov>Wed, Apr 1, 2026 at
9:14 AM

To: Becky Wolozin <bwolozin@youthlaw.org>

Cc: Eleanor Roberts <ERoberts@childrensrights.org>, Diane de Gramont <ddegamont@youthlaw.org>, Leecia Welch <lwelch@childrensrights.org>, Mishan Wroe <mwroe@youthlaw.org>, Carlos Holguín <crholguin@centerforhumanrights.org>, Sarah Kahn <sarah@centerforhumanrights.org>, "Parascandola, Christina (CIV)" <Christina.Parascandola@usdoj.gov>, "Silvis, William (CIV)" <William.Silvis@usdoj.gov>, "Celone, Michael A. (CIV)" <Michael.A.Celone@usdoj.gov>, "Lesnau, Jessica R. (CIV)" <Jessica.R.Lesnau@usdoj.gov>, Katherine Johnson <kjohnson@childrensrights.org>

Hi Becky,

Thank you for following up on this matter. I will let DHS know that you have followed up and will inform you once I have additional information to share.

Adding my colleague Jessica Lesnau.

Best,

Joshua

Joshua C. McCroskey

Trial Attorney

U.S. Department of Justice

Office of Immigration Litigation

P.O. Box 878, Ben Franklin Station

Washington, DC 20044

(202) 305-1540

From: Becky Wolozin <bwolozin@youthlaw.org>
Sent: Wednesday, April 1, 2026 12:07 PM
To: McCroskey, Joshua C. (CIV) <Joshua.C.McCroskey@usdoj.gov>
Cc: Eleanor Roberts <ERoberts@childrensrights.org>; Diane de Gramont <ddegramont@youthlaw.org>; Leecia Welch <lwelch@childrensrights.org>; Mishan Wroe <mwroe@youthlaw.org>; Carlos Holguín <crholguin@centerforhumanrights.org>; Sarah Kahn <sarah@centerforhumanrights.org>; Parascandola, Christina (CIV) <Christina.Parascandola@usdoj.gov>; Silvis, William (CIV) <William.Silvis@usdoj.gov>; Celone, Michael A. (CIV) <Michael.A.Celone@usdoj.gov>; Katherine Johnson <kjohnson@childrensrights.org>
Subject: Re: [EXTERNAL] Re: Class members missing from ICE data reports

Hi Joshua,

I am writing to follow up on the data issues we raised about three weeks ago. I saw that Defendants sent February data yesterday, but will there be an corrected data sets addressing the issues Plaintiffs raised? Please provide the requested information and corrected data as soon as possible.

Thank you,

Becky

Becky Wolozin (she/her/ella)

Senior Attorney

Cell: (202) 964-0406

Hi Becky,

Thank you for your email last Friday. These matters are being looked into.

Best,

Joshua

Joshua C. McCroskey

Trial Attorney

U.S. Department of Justice

Office of Immigration Litigation

P.O. Box 878, Ben Franklin Station

Washington, DC 20044

(202) 305-1540

joshua.c.mccroskey@usdoj.gov

From: Becky Wolozin <bwolozin@youthlaw.org>

Sent: Friday, March 6, 2026 2:43 PM

To: McCroskey, Joshua C. (CIV) <Joshua.C.McCroskey@usdoj.gov>

Cc: Eleanor Roberts <ERoberts@childrensrights.org>; Diane de Gramont <ddegramont@youthlaw.org>; Leecia Welch <lwelch@childrensrights.org>; Mishan Wroe <mwroe@youthlaw.org>; Carlos Holguín <crholguin@centerforhumanrights.org>; Sarah Kahn <sarah@centerforhumanrights.org>; Parascandola, Christina (CIV) <Christina.Parascandola@usdoj.gov>; Silvis, William (CIV) <William.Silvis@usdoj.gov>; Celone, Michael A. (CIV) <Michael.A.Celone@usdoj.gov>; Katherine Johnson <kjohnson@childrensrights.org>

Subject: [EXTERNAL] Re: Class members missing from ICE data reports

EXHIBIT C



Diane de Gramont <ddegramont@youthlaw.org>

Class members missing from ICE data reports

Becky Wolozin <bwolozin@youthlaw.org>

Mon, Apr 13, 2026 at 2:53 PM

To: "McCroskey, Joshua C. (CIV)" <Joshua.C.McCroskey@usdoj.gov>

Cc: Eleanor Roberts <ERoberts@childrensrights.org>, Diane de Gramont <ddegramont@youthlaw.org>, Leecia Welch <lwelch@childrensrights.org>, Mishan Wroe <mwroe@youthlaw.org>, Carlos Holguín <crholguin@centerforhumanrights.org>, Sarah Kahn <sarah@centerforhumanrights.org>, "Parascandola, Christina (CIV)" <Christina.Parascandola@usdoj.gov>, "Silvis, William (CIV)" <William.Silvis@usdoj.gov>, "Celone, Michael A. (CIV)" <Michael.A.Celone@usdoj.gov>, "Lesnau, Jessica R. (CIV)" <Jessica.R.Lesnau@usdoj.gov>, Katherine Johnson <KJohnson@childrensrights.org>

Hi Joshua,

It has now been over a month since we put Defendants on notice of significant data errors in the December 2025 data and advised Defendants of unlawfully lengthy hotel stays for class members. We also requested definitions of codes used in Defendants' data. To date, we have not received any substantive response from Defendants. If Defendants will not provide timely substantive responses to notice of missing or incorrect information in the data provided, Plaintiffs will be forced to seek relief from the court.

Based on our initial review of the February census data, it appears that Defendants have continued to provide inaccurate data to Plaintiffs and continue to unlawfully use hotels as unlicensed detention facilities for far longer than the brief stays permitted by the Court. *See* Order re March 30, 2026 Status Conference at 4, ECF 1755; Order re Application to Stay, ECF 990. Concerningly, the February data indicates a significant increase in lengthy hotel detention.

As we stated in our March 6, 2024 email, pursuant to Paragraph 28.A and the Court's Sept. 2020 orders, we request information on the reasons for every hotel placement over 72 hours. Children held in long hotels stays in February are listed below. This is in addition to the list of 19 children we identified in the December and January data.

January and February 2026 HHS data errors

In the January and February HHS data, there are no children listed as being held at the secure placement at Abraxas Academy in Pennsylvania on any of the tabs in the excel sheet. However, Plaintiffs' counsel is aware of multiple children detained at Abraxas Academy in both of those months and who remain in custody there. For reference, in December 2025, the Abraxas Academy census appeared on the Out of Network Placements tab but after that it disappeared from the census entirely. Please provide corrected HHS data as soon as possible.

February 2026 ICE data errors

The following children were listed on the Dilley census when Plaintiffs conducted a site visit in February but were not included in the February ICE data provided to Plaintiffs. Plaintiffs cannot know if other children are missing from the data because we were only able to view the census on the days of our February site visit, so this list of children not recorded in the February DHS data is likely representative but not comprehensive.

- S.E.R., A# [REDACTED]
- E.C., A# [REDACTED]
- D.S.B., A# [REDACTED]
- M.B.L., A# [REDACTED]
- Z.G.M., A# [REDACTED]

- A.V.G., A# [REDACTED]
- D.G.A., A# [REDACTED]
- S.F.A. and F.F.A., A#s [REDACTED] and [REDACTED]
- M.G.V., A# [REDACTED]

February Prolonged Hotel Stays

The February ICE data indicates that the issue of prolonged hotel stays has gotten significantly worse rather than better.

We identified the following children held in a combination of hold rooms and hotels for significantly longer than 72 hours:

D.L.H. (3yo) (A# [REDACTED]) - 2/1/26 through 2/15/26 (1 night in hold room, 13 nights in hotel) before transfer to Dilley on 2/15/26

A.P.M. (8yo) (A# [REDACTED]) - 1/30/26 to 2/14/26 (1 night in hold room, 14 nights in two hotels) before release on recognizance.

M.M.S. (12yo) (A# [REDACTED]) - 2/12/26 to 2/21/26 (9 nights in two hotels) before transfer to Dilley on 2/21/26

C.M.S. (14yo) (A# [REDACTED]) - 2/12/26 to 2/21/26 (9 nights in two hotels) before transfer to Dilley on 2/21/26

F.B. (17yo) (A# [REDACTED]) - 2/16/26 to 2/26/26 (10 nights in two hotels) before removal
- This class member was transferred from an ORR shelter to ICE custody while still a minor.

M.C.N. (5yo) (A# [REDACTED]) - 2/4/26 to 2/11/26 (7 nights in hotel) before voluntary departure

J.A.L.G. (1yo) (A# [REDACTED]) - 2/4/26 to 2/10/26 (6 nights in hotel) before removal

Thank you for your prompt attention to these issues.

Becky

Becky Wolozin
Senior Attorney
National Center for Youth Law

[Quoted text hidden]

EXHIBIT D



Diane de Gramont <ddegramont@youthlaw.org>

Class members missing from ICE data reports

McCroskey, Joshua C. (CIV) <Joshua.C.McCroskey@usdoj.gov>

Thu, Apr 23, 2026 at 12:05 PM

To: Becky Wolozin <bwolozin@youthlaw.org>

Cc: Eleanor Roberts <ERoberts@childrensrights.org>, Diane de Gramont <ddegramont@youthlaw.org>, Leecia Welch <lwelch@childrensrights.org>, Mishan Wroe <mwroe@youthlaw.org>, Carlos Holguín <crholguin@centerforhumanrights.org>, Sarah Kahn <sarah@centerforhumanrights.org>, "Parascandola, Christina (CIV)" <Christina.Parascandola@usdoj.gov>, "Silvis, William (CIV)" <William.Silvis@usdoj.gov>, "Celone, Michael A. (CIV)" <Michael.A.Celone@usdoj.gov>, "Lesnau, Jessica R. (CIV)" <Jessica.R.Lesnau@usdoj.gov>, Katherine Johnson <KJohnson@childrensrights.org>

Hi Becky,

Thank you for your email. I am confirming receipt.

Best,

Joshua

From: Becky Wolozin <bwolozin@youthlaw.org>**Sent:** Thursday, April 23, 2026 2:39 PM**To:** McCroskey, Joshua C. (CIV) <Joshua.C.McCroskey@usdoj.gov>**Cc:** Eleanor Roberts <ERoberts@childrensrights.org>; Diane de Gramont <ddegramont@youthlaw.org>; Leecia Welch <lwelch@childrensrights.org>; Mishan Wroe <mwroe@youthlaw.org>; Carlos Holguín <crholguin@centerforhumanrights.org>; Sarah Kahn <sarah@centerforhumanrights.org>; Parascandola, Christina (CIV) <Christina.Parascandola@usdoj.gov>; Silvis, William (CIV) <William.Silvis@usdoj.gov>; Celone, Michael A. (CIV) <Michael.A.Celone@usdoj.gov>; Lesnau, Jessica R. (CIV) <Jessica.R.Lesnau@usdoj.gov>; Katherine Johnson <KJohnson@childrensrights.org>**Subject:** Re: [EXTERNAL] Re: Class members missing from ICE data reports

Dear Joshua,

To follow up on my email early last week, we came across the attached habeas orders from the District of Minnesota that appear to reference one of the children (APM) that I asked about in my April 13 email. See *Elizabeth M.R., A.E.P.M., I.A.P.M. v. Easterwood, et. al.*, Case No. 25-01405, ECF 8 (D. Minn. February 17, 2016).

After reviewing the orders, we have two additional questions regarding this case:

1. As noted in my April 13 email, the February ICE data lists A.P.M. as detained between January 30, 2026, and February 15, 2026, including two weeks in hotels. But according to the D.Minn. case, A.P.M. was detained alongside a minor sibling I.A.P.M. I.A.P.M. does not appear in the February ICE census data. Please provide an explanation as to why I.A.P.M. was omitted from the data.

2. The February ICE data lists A.P.M. as 8 years old, but the court order indicates that A.P.M. is 14 years old and I.A.P.M. is 8 years old. Can you please clarify the children's ages?

Please confirm receipt of these emails and provide the requested information.

Best,

Becky

--

[Redacted signature]

[Quoted text hidden]

[Quoted text hidden]

EXHIBIT E

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Elizabeth M. R.,
A.E.P.M., a minor child,
I.A.P.M., a minor child,

Petitioners,

v.

**ORDER GRANTING WRIT OF
HABEAS CORPUS**

Civil File No. 25-01405 (MJD/ECW)

David Easterwood, et al.,

Respondents.

Lyndsey M. Marcelino Schalkwyk, Marcelino & Kim PC, Counsel for Petitioners.

David W. Fuller, Assistant United States Attorney, Counsel for Respondents.

I. INTRODUCTION

This matter is before the Court on Petitioners Elizabeth M. R., A.E.P.M., and I.A.P.M.'s petition for writ of habeas corpus filed on February 12, 2026. (Doc. 1.) ("Pet.") Petitioners assert they are being held in detention in violation of the law. They seek a writ of habeas corpus requiring, among other things, that Respondents immediately release them from custody into Minnesota.

I. FACTS¹

Petitioners are citizens of Mexico and residents of Burnsville, Minnesota who entered the United States on or about April 21, 2024. (Pet. ¶¶ 1, 9.)

Petitioner Elizabeth M. R. (“Ms. M. R.”) is the mother of I.A.P.M. and A.E.P.M., who are being held in detention with her. I.A.P.M. is eight-years-old and prone to panic attacks. (Id. ¶ 10.) Upon information and belief, I.A.P.M. has not been given access to appropriate medical care while in custody, including evaluation or treatment for his panic symptoms. (Id.) A.E.P.M. is 14-years-old and recently had foot surgery. (Id. ¶ 11.) A.E.P.M. has follow-up medical care scheduled in the near future related to that surgery. (Id.) Upon information and belief, AEPM has not been given access to necessary medical care while in custody, including post-operative follow-up and any related care. (Id.)

Upon entry, Petitioners presented themselves to an immigration official at the border. (Id. ¶ 1.) After a brief detention, the government found that Petitioners were neither a danger to the community nor a flight risk, and they

¹ “Because Respondents did not contest any of the factual allegations in the Petition, these allegations are deemed admitted.” Paula G. v. Bondi, No. 26-CV-410 (JMB/DLM), 2026 WL 146003, at *1 n.2 (D. Minn. Jan. 20, 2026) (citation omitted).

were released on their own recognizance with a Notice to Appear (“NTA”) for ordinary removal proceedings under 8 U.S.C. § 1229. (Id.) Petitioners’ immigration hearing date is March 30, 2026. (Doc. 5-2 (Gov. Ex. B).) Since entering the country, Petitioners have complied with all orders regarding their immigration status. (Pet. ¶ 2.) They are not subject to final orders of removal. (Id. ¶ 1.) Petitioners live “peacefully in Minnesota without incident, working, going to school, and engaging with their neighbors in the community.” (Id. ¶ 2.) None of Petitioners have a criminal record. (Id. ¶ 37.)

Despite this prior release from custody, Petitioners were arrested and detained on January 30, 2026. (Id. ¶ 3.) At her regularly-scheduled Intensive Supervision Appearance Program (“ISAP”) appointment, her ISAP case manager told Ms. M. R. to return the next day with her children, which she did. (Id.) At that time, all three of them were arrested and detained. (Id.) The arrest was warrantless. (Id.)

Although Petitioners’ counsel did not take the case until February 12, 2026, almost two weeks after Petitioners were seized, counsel was still unable to locate Petitioners via any ICE database or by calling ICE, which is what the online ICE Locator System instructed her to do. (Id. ¶¶ 4-5.) At one point, counsel was told

the family was being held at “an unidentified hotel.” (Id. ¶ 4.) Even after the Court issued its OSC, which required Respondents to return Petitioners to Minnesota if they had been transferred out of state, Respondents did not address Petitioners’ current location, which the Court finds unresponsive at best and cruel at worst, especially considering that two of the petitioners in this case are children with medical needs. (Doc. 4.) The Court’s own search of the ICE Detainee Locator returns no location for Ms. M. R. The Locator does not reveal locations for minors.

II. DISCUSSION

A writ of habeas corpus may be granted to a petitioner who demonstrates he is in custody in violation of the Constitution or federal law. 28 U.S.C. § 2241(c)(3). District courts have jurisdiction to hear habeas challenges to immigration-related detention. Zadvydas v. Davis, 533 U.S. 678, 687 (2001); Aditya W. H. v. Trump, Civ. No. 25-1976 (KMM/JFD), 782 F. Supp. 3d 691, 702-03 (D. Minn. May 14, 2025) (collecting cases). The petitioner bears the burden to prove illegal detention by a preponderance of the evidence. See Aditya, 782 F. Supp. 3d at 703 (collecting cases).

Although Petitioners raise various claims in their petition, this case, like so many other immigration cases in this District, turns on whether 8 U.S.C. §

1225(b) or 8 U.S.C. § 1226(a) applies to Petitioners' situation. Because the Court concludes that § 1226(a) applies here, the Court will grant the habeas petition.

In Mahamed C.A. v. Noem, Magistrate Judge John F. Docherty succinctly explained the two statutes at issue in this case:

Two provisions of the Immigration and Nationality Act are relevant to this case. Under 8 U.S.C. § 1225(b)(2), which applies to "an alien seeking admission" to the United States, detention while immigration proceedings are conducted is mandatory, while under 8 U.S.C. § 1226(a), which applies to an alien who is unlawfully present in the United States, detention is discretionary and may only be imposed after a hearing.

No. 25-CV-4551 (MJD/JFD), 2025 WL 3771299, at *1 (D. Minn. Dec. 16, 2025), R&R adopted sub nom., 2025 WL 3754012 (D. Minn. Dec. 29, 2025).

Respondents argue that because Petitioners are noncitizens who were encountered at the border and "initially processed for expedited proceedings under § 1225(b)(1) before being released into the United States and later detained for the resumption of those proceedings previously begun," they are distinguished from the noncitizens who enter the country without admission or inspection and who are later encountered by immigration officials inside the country. (Doc. 4 at 2.) This distinction, they assert, means that this petition is governed by § 1225(b). (Id.) Respondents argue that Petitioners are noncitizens present in the United States without having been admitted, and are therefore

“applicants” for admission under section 1225(b) and subject to mandatory detention under § 1225(b)(2). (*Id.* at 4.) Courts have overwhelmingly rejected Respondents’ interpretation, which says that section 1225(b)(2) requires the mandatory detention of all noncitizens living in the country who are “inadmissible” because they entered the United States without inspection. *See, e.g., Belsai D.S. v. Bondi*, No. 25-CV-3682 (KMM/EMB), 2025 WL 2802947, at *5-6 (D. Minn. Oct. 1, 2025) (collecting cases); *Andres R.E. v. Bondi*, No. 25-CV-3946 (NEB/DLM), 2025 WL 3146312, at *1 n.2 (D. Minn. Nov. 4, 2025) (collecting cases).

When interpreting a statute, “every clause and word of a statute should have meaning.” *United States ex rel. Polansky v. Exec. Health Res., Inc.*, 599 U.S. 419, 432 (2023) (internal quotation marks omitted) (quoting *Montclair v. Ramsdell*, 107 U.S. 147, 152 (1883)). Noncitizens like Petitioners, who have been living in the country for months or years, but who entered without inspection have not, historically, been considered to still be “arriving” under section 1225(b), which requires that several conditions be met before someone can be detained. An immigration officer must determine that the noncitizen “is [1] an applicant for admission . . . [2] seeking admission . . . [and 3] not clearly and beyond a doubt entitled to be admitted.” 8 U.S.C. § 1225(b)(2)(A).

Determining the plain meaning of the statute requires consideration of the tense of the verb “is” and the present participle “seeking.” Section 1225(b)(2) applies to persons who presently are applicants for admission and who presently are seeking admission at the time of their detention. To be seeking admission means to be seeking entry, which “by its own force implies a coming from outside.” United States ex rel. Claussen v. Day, 279 U.S. 398, 401 (1929); Belsai, 2025 WL 2802947, at *5-6. Petitioners have resided in the country for almost two years and therefore, are not currently “seeking admission” into the United States. They do not need to “come from outside.” They are already here.

In addition, Respondents issued Petitioners the same NTA that they issued to the petitioner in Andres R.E., 2025 WL 3146312, at *3. The Andres R.E. court explained that the NTA, itself, indicated that the petitioner was not “seeking admission” under § 1225:

R.E.’s notice to appear does not indicate any present-tense action. In fact, the immigration officer indicated that R.E. was “an alien present in the United States who has not been admitted or paroled,” while failing to indicate he was “an arriving alien”:

- You are an arriving alien.
- You are an alien present in the United States who has not been admitted or paroled.
- You have been admitted to the United States, but are removable for the reasons stated below.

(ECF 13-2 at 1.) Without any sort of present-tense action, R.E. is not “seeking admission,” and is thus not subject to Section 1225(b).

The government’s reading would also render Section 1226(c)’s recent amendment superfluous. Under the recent amendment set forth in the Laken Riley Act, people charged with certain crimes are not subject to discretionary release and must be detained. The government’s reading—that any noncitizen in the country that has not been admitted is subject to mandatory detention under Section 1225(b)—would render this amendment meaningless because the people who fall under mandatory detention in Section 1226(c) would already be subject to detention under Section 1225.

Id. (citations omitted). (See Doc. 5-2 at 1, 4, 7 (Petitioners’ NTAs).)

Petitioners have been in the United States for almost 2 years. Accordingly, the Court finds that their detention is governed by § 1226(a)’s discretionary framework, and not the mandatory detention provisions of § 1225(b). This District is united in finding that those who are already in the United States at the time they are detained by ICE are governed by the provisions of 8 U.S.C. § 1226, not § 1225(b). See Fuentes v. Olson, No. 25-CV-4456 (LMP/ECW), 2025 WL 3524455, at *4 (D. Minn. Dec. 9, 2025) (“Notably, every district judge in this District to consider this question on the merits has rejected the Government’s argument.”). Nationally, over 300 cases have been decided against the government on this issue. Id. at *1.

Pursuant to § 1226(a), Petitioners are entitled to a bond hearing. 8 U.S.C. § 1226(a)(1)(2); Belsai, 2025 WL 2802947, at *5–7; Andres R.E., 2025 WL 3146312, at *1 n.2. However, § 1226(a) provides that “[o]n a warrant issued by the Attorney General, an alien may be arrested and detained.” Thus, “[i]ssuance of a warrant is a necessary condition to justify discretionary detention under section 1226(a).” Cristian Z. v. Bondi, No. 26-CV-157 (ECT/ECW), 2026 WL 123116, at *2 (D. Minn. Jan. 16, 2026) (citation omitted). “It follows that absent a warrant a noncitizen may not be arrested and detained under section 1226(a).” Id. (cleaned up); Ahmed M. v. Bondi, No. 25-cv-4711 (ECT/SGE), 2026 WL 25627, at *3 (D. Minn. Jan. 5, 2026) (same).

Because Respondents admit in their own documents that Petitioners are not “arriving aliens” and because no warrant was issued or presented in this case, Petitioners’ immediate release is the proper remedy here. See Ahmed M., 2026 WL 25627, at *3 (a failure to satisfy warrant requirement is grounds for immediate release of an individual detained under Section 1226(a)).

Before the Court enters its order, it finds it necessary to comment on the human toll this case has wrought. Since at least February 12, 2026, both Petitioners’ counsel and the Court have searched more than once to ascertain the

location of Petitioners. The fact that Petitioners' own counsel cannot locate her clients is of particular concern. The Court refers Respondents to the Honorable Nancy N. Brasel's temporary restraining order in Advocates for Human Rights v. U.S. Dep't of Homeland Security, No. 26-CV-749 (NEB/DLM), 2026 WL 404457 (D. Minn. Feb. 12, 2026), which requires immigration agents at the Whipple Federal Building to allow detainees access to counsel.

Moreover, while by now most of those familiar with this system accept that it may take two or three days for an individual's location to register on the ICE Online Locator (assuming that person is not being transferred from location to location in an attempt to outrun the jurisdiction of a particular court), it is disturbing that an entire family unit can somehow disappear into an ICE blackhole for more than two weeks. This concern over the lack of transparency concerning Petitioners' whereabouts is exacerbated due to the children's health issues, which Respondents do not even mention in their brief. All the more reason to grant the petition.

III. ORDER

Based upon the files, records, and proceedings herein, **IT IS HEREBY ORDERED:**

1. Petitioners Elizabeth M. R., A.E.P.M., and I.A.P.M.'s Petition for Writ of Habeas Corpus [Doc. 1] is **GRANTED as follows**:
 - a. Respondents are ordered to immediately arrange for release of Petitioners into Minnesota at a safe time and in a safe place that is communicated at least two (2) hours in advance to Petitioner's counsel;
 - b. Respondents are ordered to release Petitioners on their own recognizance and without conditions beyond those that existed prior to their unlawful re-detention;
 - c. Respondents are ordered to immediately return all of Petitioners' personal items that were taken from them when they were detained in substantially the same condition as when the items were taken, such as a driver's license, immigration papers, passports, cell phones, children's items, and keys; and
 - d. Respondents are enjoined from re-detaining Petitioners under the same statutory theory that has been rejected in this Order.
2. Within 48 hours of the date of the filing of this Order, Respondents are ordered to file a status update with the Court reporting on their compliance with this Order.
3. Any motion for attorney fees and costs pursuant to the Equal Access to Justice Act must be filed within 21 days of entry of judgment in this matter, along with a well-reasoned memorandum of authorities explaining why an award of fees and costs is warranted.

LET JUDGMENT BE ENTERED ACCORDINGLY.

Dated: February 16, 2026

s/Michael J. Davis

Michael J. Davis

United States District Court

EXHIBIT F

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Elizabeth M. R.,
A.E.P.M., a minor child,
I.A.P.M., a minor child,

Petitioners,

v.

**ORDER DISMISSING WRIT
OF HABEAS CORPUS**

Civil File No. 26-1405 (MJD/ECW)

David Easterwood, et al.,

Respondents.

Lyndsey M. Marcelino Schalkwyk, Marcelino & Kim PC, Counsel for Petitioner.

David W. Fuller, Assistant United States Attorney, Counsel for Respondents.

On February 17, 2026, the Court granted Petitioners' Petition for Writ of Habeas Corpus and ordered Respondents to immediately release Petitioners from detention without additional conditions and with all of their personal property. [Doc. 8.] On February 18, 2026, Respondents informed the Court that Petitioners had been released from detention on February 15 without additional conditions and with all personal property. [Doc. 10.]

Accordingly, based upon the files, records, and proceedings herein, **IT IS HEREBY ORDERED** that Petitioners' Petition for Writ of Habeas Corpus [Doc. 1] is **DISMISSED without prejudice**.

LET JUDGMENT BE ENTERED ACCORDINGLY.

Dated: February 22, 2026

s/Michael J. Davis

Michael J. Davis

United States District Court

EXHIBIT G



Diane de Gramont <ddegramont@youthlaw.org>

Class members missing from ICE data reports

McCroskey, Joshua C. (CIV) <Joshua.C.McCroskey@usdoj.gov>

Thu, Apr 30, 2026 at 2:38 PM

To: Becky Wolozin <bwolozin@youthlaw.org>

Cc: Eleanor Roberts <ERoberts@childrensrights.org>, Diane de Gramont <ddegramont@youthlaw.org>, Leecia Welch <lwelch@childrensrights.org>, Mishan Wroe <mwroe@youthlaw.org>, Carlos Holguín <crholguin@centerforhumanrights.org>, Sarah Kahn <sarah@centerforhumanrights.org>, "Silvis, William (CIV)" <William.Silvis@usdoj.gov>, "Celone, Michael A. (CIV)" <Michael.A.Celone@usdoj.gov>, "Lesnau, Jessica R. (CIV)" <Jessica.R.Lesnau@usdoj.gov>, Katherine Johnson <KJohnson@childrensrights.org>

Hi Becky,

Thank you for these corrections. I have passed them along to DHS to assist their inquiry.

Best,

Joshua

From: Becky Wolozin <bwolozin@youthlaw.org>**Sent:** Thursday, April 30, 2026 5:27 PM**To:** McCroskey, Joshua C. (CIV) <Joshua.C.McCroskey@usdoj.gov>**Cc:** Eleanor Roberts <ERoberts@childrensrights.org>; Diane de Gramont <ddegramont@youthlaw.org>; Leecia Welch <lwelch@childrensrights.org>; Mishan Wroe <mwroe@youthlaw.org>; Carlos Holguín <crholguin@centerforhumanrights.org>; Sarah Kahn <sarah@centerforhumanrights.org>; Parascandola, Christina (CIV) <Christina.Parascandola@usdoj.gov>; Silvis, William (CIV) <William.Silvis@usdoj.gov>; Celone, Michael A. (CIV) <Michael.A.Celone@usdoj.gov>; Lesnau, Jessica R. (CIV) <Jessica.R.Lesnau@usdoj.gov>; Katherine Johnson <KJohnson@childrensrights.org>**Subject:** Re: [EXTERNAL] Re: Class members missing from ICE data reports

Good afternoon Joshua,

I am writing to correct some minor errors in the information sent to you on March 6, 2026 and April 13, 2026. Responses to these requests and the others in this email chain are still outstanding.

March 6 email corrections:

- J.P.P.'s first initial is "D" and the initials should read "D.P.P."
- P.I.G.V. was held in hotels from 1/6/2026 through 1/11/2026, a day longer than indicated in the email.
- I.N. and E.N. were held for one night in a hold room, prior to being held in a hotel.
- H.P.T. was held in a hold room for three days, not in a hotel room.

April 13 email corrections:

- A.V.G. did appear in February's data production
- J.A.L.G.'s initials should read J.A.I.G.

Best,

Becky

--

[Redacted]

[Quoted text hidden]

[Quoted text hidden]

EXHIBIT H



Diane de Gramont <ddegramont@youthlaw.org>

[Not Virus Scanned] [Not Virus Scanned] March 2026 - Flores Monthly Data

McCroskey, Joshua C. (CIV) <Joshua.C.McCroskey@usdoj.gov> Fri, May 1, 2026 at 1:14 PM
To: Sarah Kahn <sarah@centerforhumanrights.org>, Diane de Gramont <ddegramont@youthlaw.org>, Mishan Wroe <mwroe@youthlaw.org>, Becky Wolozin <bwolozin@youthlaw.org>, Carlos Holguin <crholguin@centerforhumanrights.org>, Leecia Welch <lwelch@childrensrights.org>, Eleanor Roberts <ERoberts@childrensrights.org>
Cc: "Celone, Michael A. (CIV)" <Michael.A.Celone@usdoj.gov>, "Silvis, William (CIV)" <William.Silvis@usdoj.gov>, "Lesnau, Jessica R. (CIV)" <Jessica.R.Lesnau@usdoj.gov>

This message has not been virus scanned because it contains encrypted or otherwise protected data. Please ensure you know who the message is coming from and that it is virus scanned by your desktop antivirus software.
This message has not been virus scanned because it contains encrypted or otherwise protected data. Please ensure you know who the message is coming from and that it is virus scanned by your desktop antivirus software.

Good afternoon,

The monthly data reporting for March is attached. The password will follow.

ICE produced updated reports for February and March. The updated reports contain cases that did not have "apprehension date" entered by field offices that ICE personnel discovered were not being pulled for February and March.

I do not yet have the CBP additions to the updated ICE report.

For your awareness, I have one note on the CBP [REDACTED] e February data report that will be filed on Monday with the juvenile coordinator's report, there will be no entry for [REDACTED] A [REDACTED], like there was in the data produced to class counsel. OFO determined that the listed TIC was erroneous and that it was actually < 72 Hours.

I understand that several of class counsel's inquiries about the data and data reporting remain pending.

Best,

Joshua

Joshua C. McCroskey

Trial Attorney

U.S. Department of Justice

Office of Immigration Litigation

P.O. Box 878, Ben Franklin Station

Washington, DC 20044

(202) 305-1540

joshua.c.mccroskey@usdoj.gov

4 attachments

 **CBP Children with TIC greater than 72 hours_MAR2026.xlsx**
127K

 **February 2026 ICE Flores Report Updated.xlsx**
240K

 **HHS Flores Data-March 2026.xlsx**
56K

 **March 2026 Flores ICE Report Updated.xlsx**
147K

EXHIBIT 3

DECLARATION OF LYNDSEY MARCELINO SCHALKWYK

I, Lyndsey Marcelino Schalkwyk, do hereby declare as follows:

1. I am a resident of Minnesota and at least 18 years of age. This declaration is based on my personal knowledge, except as to those matters based on information and belief, which I believe to be true. If called to testify, I would testify competently about the following facts.
2. I am a licensed attorney and counsel for Petitioners in *Elizabeth M.R., A.E.P.M., I.A.P.M. v. David Easterwood, et al.*, Civil Case No. 25-01405, in the District of Minnesota. This case involves a petition for a writ of habeas corpus for a mother and her two minor children ages 8 years old and 14 years old detained by Immigration and Customs Enforcement (“ICE”) between January 30, 2026, and February 15, 2026.
3. Through my work at my firm, Marcelino & Kim PC, I have filed multiple petitions for habeas corpus on behalf of individuals detained by immigration authorities in Minnesota. I am familiar with the challenges of locating and contacting clients in immigration detention facilities. The *M.R.* case, however, was one of the first times I encountered a situation where I was completely unable to locate or speak with my clients at any point during their ICE detention.

Efforts to Locate Family in ICE Custody

4. I was initially referred this case by Ms. M.R.’s immigration counsel, who reached out to me because they were aware that Ms. M.R. and her children attended an ICE Intensive Supervision Appearance Program (“ISAP”) appointment on January 30, 2026, but had since been unable to contact or locate the family despite their best efforts.
5. I made extensive efforts to locate this family but was similarly unable to ascertain their location. I first looked up Ms. M.R. on the ICE Detainee Locator, which is the usual mechanism to locate adults in ICE custody, but the results did not provide any information and said to call an

ICE number for more details. Although I attempted to call this number multiple times, nobody ever answered the phone.

6. I also called the St Paul ERO Field Office located at the Bishop Henry Whipple Federal Building in St. Paul, to check whether the family was there, but also received no answer. In the months that I represented clients who were processed at the Whipple Building, no one ever answered the phone when I called.

7. The family's immigration counsel and I also each contacted the Dilley family detention center in an attempt to contact the family. Upon information and belief, at one point, when the immigration paralegal called, someone at Dilley did answer the phone, seemed confused about where the family was, and confirmed that the family had never been processed at Dilley. He said they might be "held up" at a hotel but would not identify it or where to contact them.

8. Upon information and belief, in or around February 10, 2026, an ICE official told the family's immigration paralegal that Ms. M.R. would call at 2:30pm from a "random number." At 2:30pm, the immigration counsel received a call from a personal cell phone from a man who said he was in a room with Ms. M.R. and her children. He refused to disclose the family's location and said that she "would find out tomorrow." He permitted a very brief phone conversation with Ms. M.R. My understanding is that this call was not private, Ms. M.R. was not permitted to disclose her location, and the immigration paralegal did not speak to the children.

9. Despite being counsel of record for the family in federal court, I was never provided any opportunity to contact the family while they were detained. Even when I asked DHS for their location after the Court ordered the family to be returned to Minnesota, they would not provide me with their location.

10. I was in contact with Ms. M.R.'s sister, who lives in the United States and has a close relationship with Ms. M.R.. She also lost all contact with her sister, niece, and nephew, after their ISAP appointment and did not know where they were or how to speak to them.

Children's Medical Concerns

11. Both A.E.P.M. and I.E.P.M. had preexisting medical vulnerabilities that made their detention by ICE and our inability to locate or reach them particularly concerning.

12. A.E.P.M. recently had foot surgery and had a follow-up medical appointment scheduled for February 5, 2026. She missed this appointment while in detention.

13. I.E.P.M. had preexisting anxiety and mental health conditions that made him prone to panic attacks.

Habeas Petition and Release

14. On February 12, 2026, I filed a petition for habeas corpus on behalf of the family in the District of Minnesota. *See M.R. v. Easterwood*, ECF 1. On February 13, 2026, the Court ordered a response to the petition, enjoined Respondents from removing the family from the District of Minnesota until a final decision on the habeas petition, and ordered the government to immediately return the family to Minnesota if they had already been removed from the state. *Id.* ECF 3. At that time, I still did not know where the family was being detained and was unable to obtain this information from the Department of Justice attorney assigned to the case. On February 15, 2026, the government filed its response to the habeas petition but did not provide further clarity on the family's current location. *Id.* ECF 4.

15. On February 15, 2026, Ms. M.R. and her children were released in Minnesota in a public location on their own recognizance. I was not notified of their release by ICE. Upon information

and belief, the only person notified of their release was Ms. M.R.'s sister, who was instructed to come pick them up.

16. Because of the challenges described above, I did not learn about the specific conditions of the family's detention until I was able to speak with them after their release. In our subsequent conversations, I learned that the family was briefly held at Whipple and then flown to Texas and detained for two weeks in a hotel room. Upon information and belief, the family were provided food and clothes in the hotel but were not allowed outside the hotel room and were not permitted outgoing phone calls. Two ICE officials were watching them at all times, including when they slept. Ms. M.R. reported to me that I.E.P.M.'s pre-existing anxiety and mental health concerns were exacerbated by the stress of detention. Both children appeared traumatized by their experience, which was evident to me by their distress when they learned they would have to return to the Whipple building for ICE check-ins. I understand that both children continue to have difficulty being outside the home due to their trauma. They remain fearful that they are still being monitored, and, given the informal and public nature of their release, they live in constant fear that their release was not legitimate and that they are vulnerable to being re-detained.

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

Executed this 28 day of April, 2026, in Minneapolis, Minnesota



Lyndsey Marcelino Schalkwyk

EXHIBIT 4

**DECLARATION OF S. MICHAEL MUSA-OBREGON, MANAGING ATTORNEY,
MUSA-OBREGON LAW PC**

I, S. Michael Musa-Obregon, declare under penalty of perjury pursuant to 28 U.S.C. § 1746 that the following is true and correct. If called as a witness, I could and would testify as follows.

1. I am an attorney licensed to practice law in 1993 in NY. I am the managing attorney at Musa-Obregon Law PC. I am well-versed in handling immigration law, and as part of my employment, I engage in the direct representation of immigrants. I handle immigration cases involving detention, deportation, asylum, residency, citizenship, and business immigration law. Through habeas petitions, I have been able to achieve direct releases from federal courthouses for over 35 people. I also supervise attorneys who represent immigrants.

2. I graduated from University of Pennsylvania Law School in 1991 and as a student I clerked for the late U.S. District Judge Clifford Scott Greene. I launched my private practice in 1993. I have personally defended hundreds of immigration matters ranging from deportations to political asylum, complex family petitions, appeals and motions to reopen.

Musa-Obregon Law PC

3. The legal team at Musa-Obregon Law PC is committed to providing the highest quality legal representation to clients in all matters of immigration law, from visas to deportation defense. With 100 years of combined experience, we are very familiar with all aspects of these laws and work to successfully navigate the complex federal system to help our clients resolve their specific legal challenges. Our team continually updates its knowledge to stay abreast of the latest changes and interpretations in immigration law, ensuring that our representation is as effective and informed as possible.

4. Our multicultural staff provides services in several languages: English, Spanish, Polish, Portuguese, Russian, Ukrainian, German, Arabic, French, Italian, Urdu, Punjabi, and Hindi, and several Nigerian languages. Having a multilingual team helps minimize communication barriers,

enabling us to serve a broader range of clients effectively. Our cultural competency not only facilitates better communication but also enhances our ability to understand the diverse backgrounds and challenges our clients face, enabling us to provide more personalized and empathetic legal services.

Our Work Defending Children Facing Prolonged Hotel Detention

5. In one recent case, a mother and two children aged 12 and 14, whom I represent, were detained on February 12, 2026 during an ICE check-in appointment. I immediately filed a habeas petition in federal court in the Southern District of New York while the family was being detained there.

6. Although I represented that family, ICE moved them out of New York and did not make me aware of where ICE took them. ICE did not provide a method for me to find where they were detained because they were not in the ICE locator system for a very long time.

7. I checked the ICE detainee locator at <https://locator.ice.gov/odls/> to find them, as ICE generally publishes information about where anyone over 18 is on that website. This is the typical method used to check where someone is detained. However, the mother's location information never appeared in the locator.

8. Several days later, at the second habeas hearing with the government, the US Attorney told the Court that she might be on her way or was already at Dilley ICE detention Center in Texas. Thereafter, however, I could not obtain any independent verification of her whereabouts or how to contact her until almost two weeks later.

9. After 10 days with no information about where this family was being held, the family was able to make a call to one of their contacts – but not my office or my cell phone.

10. I later learned that ICE had detained them for nine days at a hotel without any way to contact me. But as explained below, her incomunicado status with my office did not end there.

11. On February 18, 2026, I learned from the children's grandmother that Ms. S. had told ICE staff and the detention facility staff that I was her immigration lawyer. I also learned that she was not allowed to call me because of an unnecessary, nonsensical bureaucratic requirement. Apparently, she was told that I was required to re-file a new G-28 with ICE in New York even though we had an active G-28 for my law firm for months with ICE in New York until the day of her detention.

12. The children's grandmother informed me, in sum and substance, that Ms. S. had not been allowed to call me, even after she left the hotel, because I was not on some list of people she could call, even though she had specifically informed ICE that I was her lawyer and my direct contact information and my telephone number.

13. This appeared to me to be either nonsensical since she was allowed to speak to her family without any apparent independent vetting or verification by ICE or the facility, but calling a lawyer was off-limits.

14. The lack of a logical justification for this superfluous requirement appeared to be a deliberate obstacle to access to counsel. A detainee in that facility can speak to any family member or friend without any vetting, but cannot speak to legal counsel unless counsel is registered with ICE?

15. What if she so sought a legal consultation with any lawyer? That would be off limits under this policy, apparently.

16. Regardless, ICE was indeed aware that she had a lawyer, since, on February 12, 2026, the very first day she was arrested, the government represented to the federal judge at a habeas hearing that it had been in touch with ICE regarding her filed habeas petition.

17. We had been in constant contact with ICE before the family's detention, via email, for months with DHS officers, about her appearing regularly at ICE check-ins. This new requirement

-which I did not hear about until many days had passed since her initial detention- made no sense to me, since we already had a G-28 on file with ICE NY; otherwise, they never would have engaged our office over the many months we were accompanying her and assisting her in coordinating her ICE check-ins.

18. The ICE officers absolutely knew we were her authorized representatives registered with ICE; this information is in their files.

19. This new requirement also made no sense for another reason: the new ICE office she was dealing with during her recent detention was apparently in Texas, why did ICE require a new G-28 in NY?

20. Regardless, we did refile another G-28 in NY.

21. Only then was she allowed to call me, but after being forced into an incommunicado status with our office for many days because she had reportedly not been allowed to make even one phone call directly to me to discuss her case or anything else.

22. Ms. S. was not even allowed to call me to tell me that I had to re-file a new G-28. I only learned that first because the children's grandmother, who was serving as a liaison with me, told me.

23. I did not hear from Ms. S. directly until February 24, 2026, 12 days after her transfer from NY.

24. I had no way of knowing where they had been held during those nine days at a hotel, and I had no way to contact them during those nine days.

25. Nor did I hear from her directly for 2 weeks after her arrest by ICE, after she was taken from NY.

26. Later on March 4th, 2026, I heard from the grandmother that they had been suffering a lot physically while in detention, that the children and the mother were sick with fever, diarrhea, and vomiting.

27. My experience shows that ICE held this family, who already had immigration representation, incommunicado and denied them access to their retained attorney almost two weeks after her detention.

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

Dated: April 30, 2026

/s/ S. Michael Musa- Obregon
S. Michael Obregon-Musa, Esq.

EXHIBIT 5

DECLARATION OF KIRA KELLEY

I, Kira Kelley, declare the following is true and accurate to the best of my knowledge and recollection:

1. I am an attorney based in the Minneapolis area. I am a part-time staff attorney at the Climate Defense Project and I operate a part-time solo practice that is exclusively pro bono, with a focus on indigent clients for whom counsel would otherwise be inaccessible. My legal practice is a mix of criminal and civil litigation at the trial and appellate levels, as well as a small but growing immigration practice. I am licensed to practice in Minnesota and New Hampshire state and federal courts, the nationwide executive immigration courts (“EOIR”), the Eighth Circuit Court of Appeals, and the Courts of the Sovereign Timbisha and Washoe Nations.

2. I have practiced law for 6 years and have practiced in Minnesota for 5 years. In 2023 I started practicing immigration law as part of my pro bono solo practice, by volunteering with Advocates for Human Rights (“AHR”). My clients in that capacity are mostly Special Immigrant Juveniles, and a few asylum seekers. I am a member of the National Lawyers Guild.

3. Starting in December of 2025 and in response to the detrimental impacts of “Operation Metro Surge” that I observed on the families in my neighborhood, I began filing habeas corpus petitions for detained noncitizens.

4. As of the date of this declaration, I have filed approximately seventy five habeas corpus petitions for detained noncitizens.

5. I am connected to a network of volunteer immigration and habeas attorneys in Minnesota who are also filing *pro bono* habeas corpus petitions for our noncitizen neighbors. In this capacity, I have provided consultations and review of several dozen additional habeas corpus petitions for detained noncitizens, which consultations include both providing legal arguments and drafting support, as well as assisting my colleagues with tasks such as locating clients and navigating the websites and processes that the Department of Homeland Security (“DHS”) operates related to their detention of noncitizens.

6. Based on the above personal experience, I am aware of several children who were taken into custody by DHS and confined in hotel rooms. I attempted to help the attorneys representing these children locate them. These children were difficult to locate because while they were confined in hotels, the location of the children and their parents did not show up on the ICE detainee locator and I was unable to assist the attorneys in finding their clients’ location.

7. In my experience, if an individual is held in a hotel or other temporary ICE detention location, the ICE detainee locator does not provide a facility location where the person is detained and the website instead says to “contact ICE for details” or “Search Results: 0.” The instructions on the detainee locator website for contacting ICE lead me to a phone number for the St. Paul field office. This office has only ever answered my call once, despite me having spent

hours attempting to make contact via that number since the beginning of 2026, listening to it ring endlessly.

8. Although I have experienced difficulties contacting and meeting with my clients in ICE detention generally, my concerns are especially heightened with children given their unique vulnerability. I have represented three minor noncitizens in habeas proceedings since December of 2025, and I have seen firsthand how detentions traumatize children and their caregivers. One of these clients, who is two years old, spent the night sleeping on the floor in the airport after having been flown from Minnesota to Texas in violation of a court order, although I did not learn this until after she was released into my custody in Minnesota. Another minor client of mine was a U.S. citizen, who I filed a habeas petition for after she was racially profiled by immigration officers and taken into custody, and who both myself and the United States Attorney for DHS were unable to locate at all for several days, even after her detention had ended. She was detained at the Bishop Henry Whipple Federal Building until her release.

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

Executed on this 30th day of April, 2026, in Hennepin County, Minnesota



Kira A. Kelley