



Statement of JECM Counsel

U.S. District Court Affirms Immigrant Children's Constitutional Rights

ALEXANDRIA, VA: On August 29, 2023, the U.S. District Court for the Eastern District of Virginia affirmed that immigrant children and families have a constitutional right to be together and be free from government custody in the class action case *J.E.C.M. et al. v. Dunn Marcos et al.* The Court granted summary judgment to the government defendants, only because they had largely implemented the protections Plaintiffs have been seeking for the past five years.

"It was an incredible experience to be part of this case and be able to represent so many kids like me. It showed me that when you help one person, you help many people. I hope that every person gets the opportunity to help others too," said lead plaintiff J.E.C.M.

In the summer of 2018, four young immigrants and their families brought this case against the Office of Refugee Resettlement (ORR) to stop ORR from sharing information about family members with Immigration and Customs Enforcement (ICE) – which is responsible for arrest and deportation of undocumented immigrants. In effect, ORR's policy treated the children it was obligated to protect as bait to be used by ICE to detain adult members of the children's families. The policy discouraged loving, capable adults from applying to take custody of children and, along with several other indefensible policies, meant that children languished in federal custody for months and in some egregious cases, years. Legal Aid Justice Center (LAJC), together with the intellectual property law firm of Sterne, Kessler, Goldstein, and Fox, brought this first-of-its-kind class action lawsuit to ensure that appropriate policies were in place so unaccompanied immigrant children would not be kept apart from their families.

"Today is a victory for the brave young people and their families who initially brought this lawsuit and continued to represent children like them, even after they were released to their loved ones. When one of us wins this fight, we all win." Becky Wolozin, lead counsel in the case at the National Center for Youth Law and formerly at Legal Aid Justice Center.

Also in the summer of 2018, the National Center for Youth Law also brought a nation-wide class action complaint on behalf of all children in ORR custody in the U.S. District Court for the Central District of California. That action, *Lucas R.*, also challenged ORR's reunification policies because they caused prolonged detention in government custody and kept children apart from their families.

These parallel cases have been wending their way through the courts over the past five years. During that time, ORR's policy of sharing information with ICE was rescinded, but Plaintiffs continued to challenge ORR's other unlawful reunification policies. Last year, the District Court for the Central District of California issued a preliminary injunction in *Lucas R.* ordering ORR to establish additional protections against unlawful prolonged detention and family separation, and in this decision the U.S. District Court for the Eastern District of Virginia holds that the protections

ordered in *Lucas R.* are appropriate. In the process, Judge Leonie Brinkema firmly stated that both the Plaintiff children and the family members who sought to be their sponsors “have a cognizable constitutional interest in family unity,” and that constitutional interest requires the kinds of protections the Plaintiffs sought.

“It takes a village to ensure that young immigrants are able to rejoin their families where they can grow and thrive into the resilient adults they will become. Today’s decision reflects the work of that village, including the young people who stood up for what was right and organizations across the country who stood with them and fought,” said Luz Lopez of Southern Poverty Law Center, which joined the case in 2019.

“Today the Court stood up for immigrant children and families and made sure that the government cannot arbitrarily keep families apart without any oversight or recourse,” said Sal Bezos of Sterne, Kessler, Goldstein and Fox.

Through this decision, the Court affirmed that immigrant children have a constitutional right to be with their families, and that the government does not make good parents. “This case is a validation that families belong together, and that the conception of family extends beyond just parents and children. It also confirms that children themselves have their own constitutional right to be with their families and free from government confinement,” said Angela Ciolfi, Executive Director of the Legal Aid Justice Center.”

The public decision is available here.

Legal Aid Justice Center partners with communities and clients to fight for racial, social, and economic justice. Together we are dismantling systems that create and perpetuate poverty. Learn more at www.justice4all.org.

Sterne, Kessler, Goldstein and Fox is based in Washington, D.C. and renowned for more than four decades for dedication to the protection, transfer, and enforcement of intellectual property rights. The firm has an award-winning pro bono practice. For more information visit www.sternekeessler.com.

The **National Center for Youth Law** centers youth through research, community collaboration, impact litigation, and policy advocacy that fundamentally transforms our nation's approach to education, health, immigration, foster care, and youth justice. Our vision is a world in which every child thrives and has a full and fair opportunity to achieve the future they envision for themselves. For more information, visit www.youthlaw.org.

The **Southern Poverty Law Center**, based in Alabama with offices in Florida, Georgia, Louisiana and Mississippi, is a nonprofit civil rights organization dedicated to fighting hate and bigotry, and to seeking justice for the most vulnerable members of society. For more information, visit www.splcenter.org.