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## **Court order blocks new asylum policy affecting unaccompanied immigrant children**

GREENBELT, Maryland— A Maryland-based federal court granted a temporary restraining order Aug. 2 to protect the rights of thousands of unaccompanied immigrant children seeking asylum. The order by U.S. District Judge George J. Hazel blocks the government’s implementation of a policy that would significantly limit vital protections for children under the Trafficking Victims Protection Reauthorization Act (TVPRA).

Four young asylum seekers contended in a [lawsuit filed in U.S. District Court](#), Southern Maryland division, that a May 31 policy by U.S. Citizenship and Immigration Services (USCIS) unlawfully limits their ability to seek asylum under the TVPRA, the Administrative Procedure Act, and the 5th Amendment to the Constitution. The plaintiffs asked the court to halt the policy immediately and showed that a failure to do so would result in immediate harm to the plaintiffs and others like them around the country.

The temporary restraining order blocks USCIS from implementing the order for 14 days from issuance. It also orders the government to retract “any adverse decision already rendered in an individual case” under the USCIS memorandum and to reinstate the asylum seekers’ cases under the previous system.

The four arrived in the United States as children without a parent or legal guardian to seek safety from persecution, severe violence, and discrimination in their home countries.

The USCIS policy, which was adopted without advance notice or opportunity for public comment, requires asylum officers to re-determine whether an asylum applicant who had already been found to be an “unaccompanied” child continued to meet the statutory definition of that term on the date of filing for asylum. The policy applies to all USCIS decisions issued on or after June 30, 2019. This means that child asylum applicants who submitted their filing after they had turned 18, or after reunifying with a parent or legal guardian, face the prospect of having USCIS refuse to decide their asylum applications, even those filed long ago.

The new policy would force affected child asylum applicants to raise their claims only in an adversarial immigration court hearing. These children would also have to file their application within one year of arriving. The TVPRA exempts children who arrive in the United States without a parent or legal guardian from the one-year deadline to file asylum, allowing them more time to find an attorney and make their case.

Catholic Legal Immigration Network, Inc. (CLINIC), Kids In Need of Defense (KIND), Public Counsel, and Goodwin Procter LLP filed the lawsuit and request for a temporary restraining order on the plaintiffs’ behalf.

“Congress decided in 2008 to give the most vulnerable asylum seekers—unaccompanied children—a fair chance to present their asylum claims given their age and past trauma,” said Michelle Mendez, Defending Vulnerable Populations Director at CLINIC. “Congress intended for unaccompanied children to start the asylum process before a USCIS asylum adjudicator, not in an adversarial immigration court proceeding. The court took an important step to stand up to the government’s cruel efforts to make it more difficult for children to live in safety in the United States.”

“We are pleased that the court has halted this policy, which retroactively imposed a one-year bar on filing for asylum for many vulnerable children. As the court recognized, the government conceded that our clients are likely to succeed on their constitutional due process claim. The court also found that our clients are likely to succeed in showing that USCIS’s new policy violates the Administrative Procedure Act,” said Kevin J. DeJong, attorney at Goodwin Procter LLP.

“Many young people have had their path to safety blocked by USCIS’s unlawful policy,” said KIND Senior Director for Legal Strategy Scott Shuchart. “We are grateful for the court’s decision and our clients look forward to USCIS exercising its jurisdiction to properly consider the cases it has now been ordered to address.”

“The court’s order protects thousands of children who otherwise would have been forced to testify about their persecution in court or may have been precluded from bringing their claims altogether. The ruling allows our young Honduran client to proceed with his asylum interview next week, a right he has under the law. If not for this TRO, USCIS would have rejected his asylum claim outright,” said Mary Tanagho Ross, appellate staff attorney at Public Counsel.

The defendants are the Department of Homeland Security and its acting secretary, and U.S. Citizenship and Immigration Services and its acting director.

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