

U.S.

Judge Increases Pressure on U.S. to Release Migrant Families

By **JULIA PRESTON** AUG. 22, 2015

A federal judge in California has given the Obama administration two months to change its detention practices to ensure the rapid release of children and their parents caught crossing the border illegally.

In a harshly critical opinion last month, the judge, Dolly M. Gee of Federal District Court for the Central District of California, found that the administration had violated the terms of a 1997 court-ordered settlement governing the treatment of unaccompanied children — minors who tried to enter illegally without a parent. The judge determined that the settlement, in a case known as Flores, covered all children in immigration detention, including those held with a parent.

After considering final arguments from both sides, Judge Gee issued an order late Friday to put her ruling into effect. She ordered the administration to release children “without unnecessary delay” to a parent or other relative in the United States and, in a significant new mandate, to release the parent as well unless that person posed a flight risk or a threat to national security. In the past, the settlement has been interpreted to require the release of children from secure detention within five days.

Judge Gee also prohibited the administration from holding children in secure facilities that are not licensed to care for minors. She ordered the Border Patrol to upgrade the “deplorable” conditions in its front-line stations to ensure a “safe and sanitary” environment for children. She said the new measures must be in place by Oct. 23.

The judge’s order is the most serious legal setback to a vast expansion of detention of migrant families the Department of Homeland Security began last year after an influx of illegal border crossers in South Texas. Officials opened two large secure family detention centers in Texas, in addition to an existing one in Berks County, Pa. Although the two Texas centers offer fully staffed medical clinics, schools, gyms and other amenities, they are run by private prison contractors, not by agencies with state licenses to care for children, as the Flores agreement requires.

Homeland Security officials said they disagreed with Judge Gee’s overall findings, They argued, however, that the fine print of her order gave them leeway to continue holding mothers and children at the three detention centers, as long as officials were continuously working to move the migrants through their immigration proceedings and to reduce the time in detention for most families to no more than a few weeks.

“While we continue to disagree with the court’s ultimate conclusion,” said Marsha Catron, a spokeswoman for the Department of Homeland Security, Judge Gee’s final order includes provisions to “permit the government to process families apprehended at the border at family residential facilities consistent with congressionally provided authority.”

Ms. Catron said Homeland Security officials would “continue to screen family members’ claims as expeditiously as possible, while ensuring that their due process rights are protected.” She said the Justice Department was reviewing the decision to consider an appeal.

The administration has faced a barrage of criticism from immigrant

advocates and lawyers over the detention of children. A report this past week by Human Rights First, a national rights organization, found that children at the Berks County center showed “symptoms of depression, behavioral regression and anxiety” and “increased aggression toward both parents and other children,” even after only a few weeks behind walls. Their parents also “appear to be suffering from depression, including feelings of helplessness with regard to the care and health of their children.”

In another recent report, the American Bar Association reminded Homeland Security officials that detention of migrant families “has been rejected previously by both courts and policy makers,” and concluded that it “impinges on the families’ due process right to access to counsel.”

The association recommended that the families be immediately released. More than 150 federal Democratic lawmakers signed a letter calling on Homeland Security Secretary Jeh Johnson to comply with the Flores settlement.

The administration had asked the judge to reconsider her ruling, arguing that recent policy changes greatly reduced detention times for most mothers and children. Officials said their goal was to hold the families for an average of only 20 days, just enough time to identify them, give them medical checks and determine whether they had valid asylum claims to pursue. Most of the families are fleeing predatory gangs or other violent abuse in three Central American countries: El Salvador, Guatemala and Honduras.

Judge Gee broadly scorned the administration’s arguments in Friday’s order, saying they had “utterly failed” to persuade her to reconsider. She said officials’ warnings that the swift release of families could spur another influx of Central American minors were “speculative at best and, at worse, fear mongering.”

Lawyers who initiated the legal challenge hailed the order as a major step toward ending family detention.

“I just think Secretary Johnson just has a blind eye when it comes to mothers and children,” said Peter Schey, president of the Center for Human Rights and Constitutional Law in Los Angeles, which brought the lawsuit in the case.

But Judge Gee left the administration room to continue to hold families for longer than five days. If the administration can show there is a large influx of migrants, she said, holding women and children for up to 20 days “may fall within the parameters” of the Flores settlement.

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