

Detained Children, Sponsors Get Cert. In Policy Challenge

By **Nadia Dreid**

Law360 (April 26, 2019, 6:18 PM EDT) -- Immigrant children and the families seeking to give them homes can move forward with their suit challenging Trump administration policies they say allow children to languish in detention, after a Virginia federal judge granted them class certification Friday.

U.S. District Judge Leonie Brinkema told counsel that she "didn't need to hear a whole lot of argument" before granting certification to the two classes Friday morning at a federal courthouse in Alexandria.

After running through each of the four preliminary requirements for class certification, Judge Brinkema found that the plaintiffs' motion passed muster on all fronts.

"I'm just going to tell you what we're going to do in this case," Judge Brinkema said,

The first class will encompass unaccompanied immigrant children who have been, are or will be detained in Virginia for more than 60 days, and the second will be made up of certain sponsors who have filled out paperwork or expressed to an Office of Refugee Resettlement caseworker their intention to become sponsors.

But Judge Brinkema didn't close the door to the possibility to subclasses "down the road."

The court dismissed the government's argument that because decisions about detention and placement of children were made on an individual basis, they cases lacked commonality. The children and would-be sponsors all had the same core complaint about the government's policies, she said.

"That these young children are being held too long before being reunited with their families or placed with sponsors," Judge Brinkema said, echoing the class' argument. "There are common, critical questions of law."

Saira Draper, who represents the class on behalf of the Southern Poverty Law Center, teared up briefly as she told Law360 on Friday that the legal team was pleased with the court's decision and ready to get to the meat of the case.

"There are a lot of issues here, like the government using kids as bait to lure in sponsors, then proceed with immigration actions against them," Draper said.

The lawsuit challenges Office of Refugee Resettlement policies that the class has argued makes it too difficult for children to get out of detention and back with their families or in a home with a sponsor.

Sponsors are also afraid that the information the government has asked to collect — fingerprinting and other biometric information — could be used to form immigration proceedings against them, the class has said.

Nearly all documents related to the case, which deals largely with minors, are sealed to the public.

The U.S. Department of Health and Human Services, which the resettlement office operates out of, recently rolled back the fingerprinting requirements, but the SPLC has said that it isn't enough and children are still staying in detention for too long.

The U.S. attorney's office did not immediately respond to a request for comment Friday.

The proposed class is represented by Simon Sandoval Moshenberg and Rebecca Ruth Wolozin of the Legal Aid Justice Center, Mary Bauer, Saira Draper, Luz Virginia Lopez and Laura G. Rivera of the Southern Poverty Law Center, and John C. Rozendaal and Salvador M. Bezos of Sterne Kessler Goldstein & Fox PLLC.

The government is represented by Catherine M. Yang of the U.S. Attorney's Office for the Eastern District of Virginia.

The case is J.E.C.M. et al. v. Lloyd et al., case number 1:18-cv-00903, in the U.S. District Court for the Eastern District of Virginia.

--Editing by Peter Rozovsky.