

Feds Again Urge Court To Deny Lawyers For Immigrant Kids

Share us on: By **Kelly Knaub**

Law360, New York (August 30, 2016, 6:51 PM ET) -- The [U.S. Department of Justice](#) urged a federal court Monday to deny a bid for a quick win by a proposed class seeking to secure legal representation for minors facing deportation, saying there is no precedent that individuals in proceedings where physical liberty is not at stake have a right to taxpayer-funded counsel.

The federal government told Washington state's Western District that the plaintiffs do not face imprisonment and that the U.S. Constitution does not mandate a categorical right to appointed counsel for all minors in deportation proceedings.

The DOJ was responding to a motion for summary judgment filed earlier this month by attorneys for the unnamed minor plaintiffs that urged the court to end the "shocking practice" of having children represent themselves against trained prosecutors.

"A constitutional right to taxpayer-funded counsel in civil removal proceedings where physical liberty is not at issue is wholly unprecedented," the federal government said.

The DOJ also argued that the plaintiffs produced insufficient evidence to back up their claim that their private interests are weighty; that they cannot show the government's existing procedural safeguards, taken together, fail to sufficiently prevent a risk of erroneous deprivation of any cognizable due process rights; that the plaintiffs' arguments concerning the per se mental capacity of minors and the statistical value of attorneys are misplaced and inadequately supported; and that the plaintiffs fail to show that their interests outweigh the burdens they seek to impose on the government.

The suit was filed in July 2014 in the wake of thousands of unauthorized underage migrants traveling

to the southern U.S. border. It seeks a declaration that the government must provide the children with legal representation in their immigration proceedings.

In May, U.S. District Judge Thomas S. Zilly denied the DOJ's bid to reconsider his refusal to dismiss the claims of several plaintiffs, saying the agency was continuing "to confuse 'entry' and 'admission.'"

"We remain disappointed that the Obama administration continues to litigate against us rather than agreeing to ensure representation for vulnerable children facing deportation," Ahilan Arulanantham, an attorney for the children, told Law360.

A DOJ representative did not respond to a request for comment on Tuesday.

The children are represented by Ahilan Arulanantham of the [American Civil Liberties Union](#), by Matt Adams and Glenda Aldana Madrid of the Northwest Immigrant Rights Project, by Theodore J. Angelis, Heidi Garcia and Todd Nunn of [K&L Gates LLP](#), by Cecillia Wang and Stephen Kang of the ACLU Immigrants' Rights Project, by Carmen Iguina of the ACLU of Southern California, by public counsel Kristen Jackson and Talia Inlender, by La Rond Baker of the ACLU of Washington Foundation and by Emily Creighton, Kristin Macleod-Ball and Melissa Crow of the [American Immigration Council](#).

The government is represented by Nicole Murley, Sarah Wilson, Erez Reuveni, William Silvis, William Peachey, Leon Fresco and Benjamin Mizer of the U.S. Department of Justice.

The case is F.L.B. et al. v. Lynch et al., case number [2:14-cv-01026](#), in the U.S. District Court for the Western District of Washington.

--Additional reporting by Matthew Bultman and Allissa Wickham. Editing by Jill Coffey.

Update: This story has been updated to include a comment from the children's attorney.