



CILA



LITIGATION FOR UNACCOMPANIED CHILDREN: UPDATES AND FOUNDATIONAL CASES

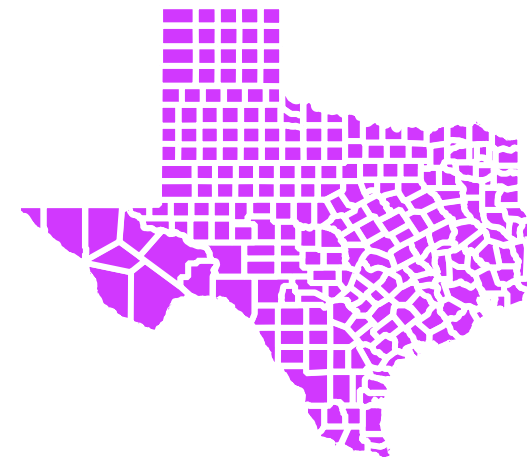
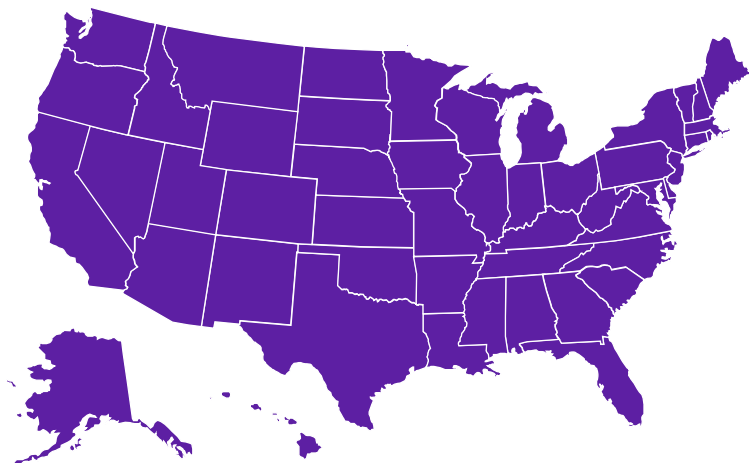
National Immigration Litigation Alliance
in collaboration with Children's Immigration Law Academy
July 2022





CILA's Services

Nationwide & in Texas



Resources



Technical Assistance



Trainings



Collaboration through Working Groups



Pro Bono Matters for Children Facing Deportation



Pro Bono Initiatives



Support at Emergency Shelters



Texas Specific Trainings & Resources



Collaboration through Working Groups



Social Work Program



National Immigration Litigation Alliance

Immigrant justice through the courts

Impact Litigation	Strategic Assistance	Co-Counseling
<p>Ending A-File FOIA Processing Delays</p> <p>Ending USCIS' Blank Spaces Policy</p> <p>Securing Oath Ceremonies During Pandemic</p> <p>Exposing CBP Policies for Expelling Mothers and Newborns/Children</p> <p>Securing Damages for Separated Families</p>	<p>One-on-one timely strategic assistance through our membership program (emails, telephone, video)</p> <p>Pleading review for members</p> <p>Practice advisories</p> <p>Presentations</p>	<p>Accepted on a case-by-case basis</p> <p>Types of cases include PFRs, affirmative APA suits, FOIA suits, damages, habeas petitions & more!</p> <p>Co-counsel agreement clearly sets out roles and responsibilities</p> <p>Attorney testimonials on our website</p>



CILA NILA Partnership



**Trainings –
Live and Recorded**



**Resources –
Practice
Advisories &
Templates**



**Technical Assistance &
Legal Writing**

CILA-NILA Partnership



Provide trainings, resources and technical assistance related to appellate and litigation practice



Some emphasis on matters originating within Fifth Circuit



Posted trainings include:

- *Ready to Win–Moving Beyond Trying Cases at the IJ Level*
- *Introduction to Federal Court Practice Parts I and II*
- *Advanced Immigration Legal Research*
- *Legal Writing*
- *Litigating SIJS Delay Cases: Mandamus and APA*
- *Attorneys Fees Under the Equal Access to Justice Act*
- *Winning at the BIA*
- *Niz-Chavez, Pereira, and Notices to Appear*
- *Nuts and Bolts of Habeas Corpus Petitions Challenging Immigration Detention*
- *Administrative Procedures Act (APA) Actions after SIJS Denials*
- *Petitions for Review and Judicial Stays of Removal to the 5th Circuit 101*
- *Filing Administrative Claims for Wrongful Conduct*

Judicial review of discretionary relief

Patel v. Garland, 142 S. Ct. 1614 (2022)

- Interprets INA § 242(a)(2)(B)(i), 8 U.S.C. § 1252(a)(2)(B)(i)
- Holds courts of appeals barred from reviewing factual findings underlying 5 specified forms of relief
- Does not resolve whether district courts have jurisdiction over denials of adjustment of status

Remain in Mexico/Migrant Protection Protocols

Biden v. Texas, 142 S. Ct. 2528 (2022)

- Assessed lawfulness of the recession of MPP in June and Oct. 2021
- Held that 8 U.S.C. § 1252(f)(1) barred district court injunction, but did not deprive the courts of subject matter jurisdiction
- Found that recession of MPP did not violate 8 U.S.C. § 1252(b)(2)(C) because the statute provides discretionary—not mandatory—authority
- Held that second MPP termination also is a final agency action under the Administrative Procedure Act

Asylum and withholding of removal

Bertrand v. Garland, 36 F.4th 627 (5th Cir. 2022)

- Affirms denial of asylum, withholding of removal, and CAT protection
- Finds substantial evidence supported determination that Haitian government was not unwilling or unable to protect
- Holds that “unable to control” and “complete helplessness” standards for persecution claims are identical

Asylum and withholding of removal

Lopez-Perez v. Garland, 35 F.4th 953 (5th Cir. 2022)

- Affirms denial of asylum, withholding of removal, and CAT protection
- Finds that, if reasons for admin appeal are sufficiently identified in Notice of Appeal, issues are exhausted even if no brief is filed; applies *Kokar v. Gonzales*, 478 F.3d 803 (7th Cir. 2007), standard
- Declines to address several issues because remand would be futile based on “circularly defined” PSG

Asylum and withholding of removal

Cardona-Franco v. Garland, 35 F.4th 359 (5th Cir. 2022)

- Affirms denial of asylum, withholding of removal, and motion to reconsider
- Rejects evidence in motion that purportedly could have been raised earlier as unexhausted
- Rejects IJ bias claim and challenge to credibility finding

Detention after aging out of ORR custody

Ramirez v. ICE, 568 F. Supp. 3d 10 (D.D.C. 2021)

- Case challenged treatment of unaccompanied minors who age out of ORR custody and are transferred to ICE;
- Court previously found that failure to consider placement in least restrictive setting, considering danger and flight risk, violated APA and TVPRA
- Ruling requires five-year compliance with, inter alia, consideration of less restrictive settings, officer training and policy updates, and documentation of custody decisions

Rearrests after release from ORR custody

Saravia v. Barr, No. 3:17-cv-03615-VC (N.D. Cal.)

- Challenges treatment of unaccompanied children released from ORR and then subject to re-detention based on gang allegations
- Resulted in final settlement approved by the court in Jan. 2021
- Settlement requires notice and prompt hearing with procedural protections following re-arrest; limits use of unsubstantiated gang allegations to deny certain benefits



ANY
QUESTIONS
?





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Handout for today's webinar will be sent in follow up email!

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