



CILA



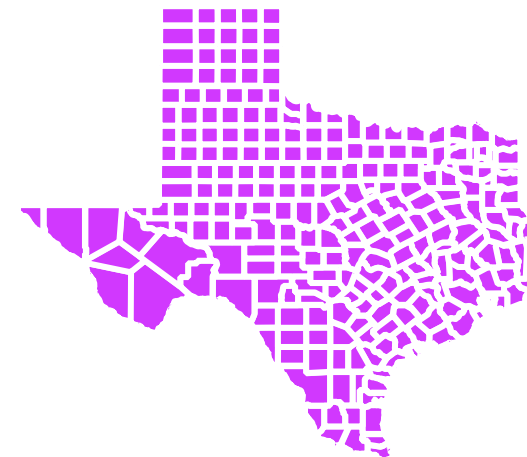
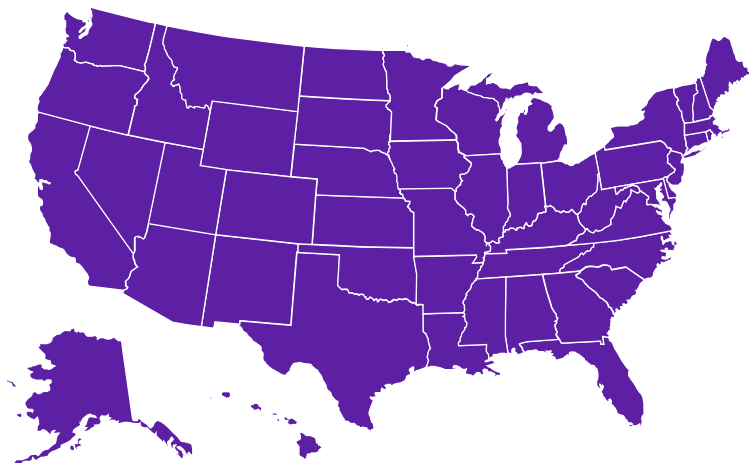
LITIGATION FOR UNACCOMPANIED CHILDREN: UPDATES AND FOUNDATIONAL CASES

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



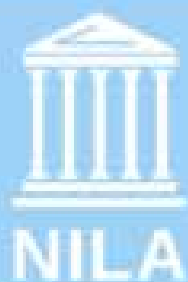
Texas Specific Trainings & Resources



Collaboration through Working Groups



Social Work Program



National Immigration Litigation Alliance

Immigrant justice through the courts

Impact Litigation	Strategic Assistance	Co-Counseling
<p>Putative Class Action Challenging <i>Matter of Z-R-Z-C</i></p> <p>Ending USCIS' Blank Spaces Policy</p> <p>Ending A-File FOIA Processing Delays</p> <p>Providing Bond Hearings for Entrants without Inspection Who Pass Credible Fear</p> <p>Challenging I-730 Delays</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*

ORR detention: custody, placement, release, and representation

Lucas R. v. Becerra, No. CV 18-5741-DMG (C.D. Cal.)

- Preliminary injunction set to go into effect on October 29, 2022
- Addresses three classes of minors detained in ORR custody:
 - Minors ORR refuses to release to custodians who may be unfit;
 - Minors placed in secure, medium-secure, or residential treatment facilities without notice and opportunity to respond to basis for placement;
 - Minors from contiguous countries impeded from accessing legal assistance related to, inter alia, custody, release, and placement

Venue for Petitions for Review

Herrera-Alcala v. Garland, 39 F.4th 233 (4th Cir. 2022)

- Considers venue for PFRs under 8 U.S.C. § 1252(b)(2)
- Case involved IJ at an Immigration Adjudication Center
- Finds plain language requires venue where IJ is located when proceedings are completed
- Rejects arguments that venue should be where individual appears for the hearing or location of administrative control court

Asylum, withholding of removal, and CAT

Singh v. Garland, 48 F.4th 1059 (9th Cir. 2022)

- BIA erred as to past persecution under either de novo or substantial evidence review
- Severe injury not required to meet serious harm prong of past persecution analysis
- Important factors include age at time of attack(s), death threats, being forced to flee one's home, violence to family member, treatment of similar claims

Asylum, withholding of removal, and CAT

Ndudzi v. Garland, 2022 WL 9185369 (5th Cir. 2022)
(previously 41 F.4th 686)

- Addresses purported inconsistencies between CFI and immigration court testimony
- Even if CFI notes could be properly admitted, here did not support the BIA's conclusions
- Depublished after OIL motion – consider whether seeking publication or depublication could be worthwhile after circuit court decision?

Notices to appear

Matter of Nchifor, 28 I&N Dec. 585 (BIA 2022)

- Requirement that NTA includes time/place is non-jurisdictional
- Non-jurisdictional requirements can be forfeited
- Individual forfeited claim by not raising it before IJ

Notices to appear

Matter of Fernandes, 28 I&N Dec. 605 (BIA 2022)

- Statutory requirement that NTA includes time/place is non-jurisdictional
- Objection to insufficient NTA generally timely if made before close of pleadings
- Objection need not include showing of prejudice
- Termination need not be the remedy for insufficient NTA

Notices to appear and in absentia orders

Campos-Chaves, 43 F.4th 447 (5th Cir. 2022)

- Limits court's holding about rescission of in absentia orders after insufficient NTA from *Rodriguez v. Garland*
- Individual forfeits right to *Rodriguez* remand if receives (or does not dispute receiving) hearing notice after the insufficient NTA
- Rehearing petition pending!



ANY
QUESTIONS
?





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