

DECLARATION OF MICHELLE GARZA PAREJA

I, Michelle Garza Pareja, declare under penalty of perjury as prescribed in 28 U.S.C. § 1746:

1. The facts contained in this declaration are known personally to me and, if called as a witness, I could and would testify competently thereto under oath. I submit this sworn declaration in support of Plaintiffs' Motion for Temporary Restraining Order.

2. I serve as the Chief Legal Programs Officer for Refugee and Immigrant Center for Education and Legal Services ("RAICES"), an organizational plaintiff in this action. I have been licensed in the State of Texas since 2010 and have worked at RAICES since that time, first as a staff attorney, then program director, then Associate Executive Director, and currently as Chief Legal Programs Officer. I manage all administrative and programmatic aspects of the legal programs and its staff of over 50 attorneys.

3. RAICES is a 501(c)(3) nonprofit organization headquartered in San Antonio, Texas.

4. Founded in 1986 as the Refugee Aid Project by community activists in South Texas, RAICES has grown to be the largest immigration legal services provider in Texas, with offices in Austin, Corpus Christi, Dallas, Fort Worth, Houston, and San Antonio. RAICES's mission is to promote justice by providing free and low-cost legal services to underserved migrant children, families, and refugees in Texas. RAICES has three main programs: Family Detention Services, the Children's Program, and Community Immigration Services. In 2017, RAICES closed approximately 51,000 cases at no cost to the client.

5. The Northern Triangle countries—Honduras, Guatemala, and El Salvador—are three of the top four countries of origin for the clients whom RAICES serves. Between January

1, 2018 and July 15, 2019, roughly two to three times the number of RAICES's clients came from Honduras and Guatemala as compared to Mexico (9,090 and 8,576 compared to 3,679).

6. Outside of Mexican nationals, the vast majority of RAICES's clients seeking asylum crossed the southern border after traveling through a third country.

7. The Interim Rule challenged in the Complaint, *see Asylum Eligibility and Procedural Modifications*, 84 Fed. Reg. 33,829 (July 16, 2019), would irreparably harm RAICES in multiple ways absent enjoinder of the Interim Rule, including by frustrating RAICES's mission to serve as many migrant clients as possible. RAICES would be unable to represent the same number of clients that it does currently, both because fewer clients would be eligible for relief and because RAICES would spend more resources on each individual case. The Interim Rule would also force RAICES to divert scarce resources away from other important programs to compensate for the additional time, procedures, and staff required to continue serving clients under the policy.

8. At the Karnes County Residential Center in Texas ("Karnes"), RAICES's Family Detention Services program has a commitment to universal representation through all aspects of the immigration process during detention. The program conducts intake sessions for each detainee and attempts to accompany most detainees to their credible fear interviews. Additionally, the program represents detainees in appealing negative decisions from their credible fear interviews. Due to several operational changes at Karnes over the past several months, many detainees are not released and instead forced to proceed to merits hearings on their asylum claims while detained. RAICES staff and volunteers represent the majority of these clients on a pro bono basis at their asylum merits hearings.

9. Family Detention Services would need to radically change its entire program because of the Interim Rule. The effects of the rule would be similar to, but if anything more dramatic than, the effects of the asylum rule announced in November 2018.

10. The Interim Rule would fundamentally affect Family Detention Services' intake procedures at each of the detention centers. Currently, the intake process is relatively short. A form records how, when, and where each client entered the United States; biographical information; how long the client was with U.S. Customs and Border Patrol; and when the client was transferred to the detention facility.

11. Under the Interim Rule, however, RAICES staff would need to conduct in-depth questioning of each client at the intake stage to determine eligibility for asylum under the Interim Rule, or eligibility for withholding of removal or relief under the Convention Against Torture ("CAT") in the alternative. In particular, RAICES would need to determine whether the client crossed the southern border after traveling through a third country, whether the client sought protection in that third country, whether a decision was made on that application prior to the client's arrival in the United States, and whether he or she is likely to meet the higher legal standards applicable to withholding of removal and CAT claims. This intake process would be more extensive and time-consuming for staff than the form-based intake RAICES traditionally used.

12. The Interim Rule also would require Family Detention Services to create an entirely new process for assisting asylum seekers subject to the Interim Rule with their credible fear interviews.

13. Currently, Family Detention Services assists most detainees at Karnes with their credible fear interviews.

14. RAICES staff typically represent detainees at unique or especially difficult initial interviews, however beginning in June 2018 we have strived to represent at every interview, either through RAICES staff or volunteers including pro bono attorneys and law students.

15. The Interim Rule would force Family Detention Services to create a dual-track system to prepare their clients for interviews: one for clients not subject to the Interim Rule (e.g., those who entered outside of the southern border, those who did not travel through a third country, those from Mexico, and those who entered prior to the effective date for the Interim Rule), and another entirely new system for asylum seekers subject to the Interim Rule. This new system would be much more time- and resource-intensive.

16. Under U.S. Citizenship and Immigration Services (“USCIS”) guidance for the Interim Rule, asylum seekers subject to the Interim Rule effectively would need to meet the higher “reasonable fear” standard rather than the traditional “credible fear” standard to obtain relief. To prevail in a reasonable fear interview, an individual must show effectively at least a 51% chance—i.e., that they “more likely than not”—will be persecuted or tortured in their country of origin. In contrast, in a credible fear interview, an individual must show an approximately 10% chance—i.e., that they have a “well-founded fear”—of persecution or torture in their country of origin.

17. It is, therefore, much more difficult for migrants to receive a positive determination in a reasonable fear interview.

18. This shift to reasonable fear interviews would be a significant one for Family Detention Services. The program’s staff would spend double or triple the time interviewing and preparing each client to meet the higher reasonable fear standard. Due to the higher stakes, more staff would need to attend interviews, rather than relying on volunteers. The staff themselves

would need to spend more time preparing for each interview, as there is a higher likelihood that they would need to make legal arguments during the interview, and conduct legal research prior to the interview. For the pro bono attorneys that still could attend, Family Detention Services would need to create new training resources on how to make legal arguments that were rarely necessary during previous credible fear interviews.

19. As a result of the Interim Rule, Family Detention Services would no longer be able to fulfill its goal of assisting each client to prepare for an interview. The program would need to prioritize representation at fear interviews for asylum seekers subject to the Interim Rule. Family Detention Services might not be able to provide any assistance at credible fear interviews for asylum seekers who entered through a port of entry or who entered prior to the effective date of the policy.

20. Family Detention Services also would struggle under the weight of increased appeals under the Interim Rule. Currently, negative determinations from credible fear interviews are rare. In 2018, Family Detention Services appealed 177 negative fear determinations (less than 1% of all interviews) to an Immigration Judge. These appeals are time-consuming for staff, because they must prepare the client to testify, draft affidavits, gather evidence and country conditions documents, research legal arguments, prepare court filings, and represent at court hearings which are often scheduled with only a few days' notice.

21. With the higher reasonable fear standard, however, more clients with meritorious claims would receive negative determinations to be appealed. If many more clients must go before an Immigration Judge, Family Detention Services could not continue to represent them all. The program must narrow its case acceptance criteria as the volume of appeals increases.

This would further undermine Family Detention Services' commitment to universal representation.

22. Nor could Family Detention Services rely on pro bono attorneys to represent clients in immigration court; unlike with telephonic credible fear interviews, few pro bono attorneys are available to represent clients in person at immigration court, especially in rural Texas.

23. The Interim Rule also create new burdens for RAICES's Children's Program.

24. Unaccompanied minors bypass the credible fear interview process and are placed directly in removal proceedings. Under the Trafficking Victims Protection Reauthorization Act, removal proceedings for unaccompanied minors have the opportunity to apply for asylum first at the Asylum Office, rather than in immigration court. The process is designed to be non-adversarial to protect these vulnerable children.

25. Under the Interim Rule, however, unaccompanied minors who enter through the southern border after traveling through a third country would no longer be eligible for asylum. The Asylum Office would have no jurisdiction over the case; an Immigration Judge would hear the case for withholding of removal and protection under CAT.

26. What has been a non-adversarial process using minimal resources would become a lengthy and costly process for the Children's Program staff under the Interim Rule. Staff would have to prepare formal briefings and sophisticated legal arguments for the Immigration Judge, both of which are uncommon for proceedings before an Asylum Officer.

27. The adversarial process in immigration court is also a traumatic one for the children. Rather than tell their story to an Asylum Officer in an office, children would have to testify in court and be cross-examined by a U.S. Department of Homeland Security attorney.

Children's Program staff would expend tremendous time and resources preparing the children not only for the contents of their testimony, but also for the emotional toll that testimony would take. All of this is much less likely to occur absent the Interim Rule.

28. The Interim Rule would add new obstacles for RAICES's Community Immigration Services program as well.

29. Community Immigration Services provides legal services and representation to detained adults, and nondetained adults and families. Many of the issues described above would apply equally to Community Immigration Services' work with detained adults.

30. Dedicated staff members within RAICES Community Immigration Services also represent clients after they have been released from detention. The program's lawyers represent asylum seekers before USCIS and the immigration courts, but also provide pro se services including assistance in completing asylum applications and translation of documents.

31. Under the Interim Rule, Community Immigration Services would spend at least double the traditional time on each family's applications. If the family could not apply for asylum, spouses and children would not be considered derivatives on the primary applicant's application. That is, each individual would have to submit a separate application, rather than one application per family. It would take significantly more time and resources for Community Immigration Services lawyers to assist families with their applications than before the policy. RAICES anticipates that Community Immigration Services would need to assist with approximately at least twice as many applications.

32. Community Immigration Services staff may have to shift roles to other RAICES programs. If fewer clients are released from detention under the higher reasonable fear standard, there would be fewer clients in the community for Community Immigration Services lawyers to

serve. Family Detention Services and the Children's Program, conversely, would be understaffed due to the increased burdens created by the Interim Rule. RAICES would need to retrain Community Immigration Services staff to perform unfamiliar duties for other programs.

33. In sum, the Interim Rule would irreparably harm RAICES, including by frustrating its fundamental organizational mission to serve as many detained migrants as possible. The Interim Rule would significantly frustrate RAICES's purpose of providing free and low-cost legal services to underserved migrant children, families, and refugees in Texas. Under the Interim Rule, RAICES would need to divert scarce resources—including staff time—to: (1) creating new intake procedures for detained families; (2) preparing asylum seekers subject to the Interim Rule for more onerous reasonable fear interviews; (3) preparing children of asylum seekers subject to the Interim Rule for reasonable fear interviews, which is generally unnecessary under the credible fear standard; (4) appealing more negative determinations to immigration court and beyond; (5) preparing unaccompanied minors to testify and be cross-examined in immigration court, rather than at the non-adversarial Asylum Office; (6) assisting families to prepare multiple applications for relief, instead of one application with derivative family members; (7) creating new resources and policies to implement these changes; (8) training staff on these new policies; and (9) retraining staff from certain programs to move into new roles to implement these policies.

34. If the Interim Rule were to go into effect, RAICES would be able to serve fewer clients. For Family Detention Services, the increased time preparing asylum seekers subject to the Interim Rule for reasonable fear interviews and appealing their negative determinations to the Immigration Court would make it impossible to serve the number of clients that the program

currently serves. The program would need to reduce the services it provides to all detained clients, including those who crossed at a port of entry.

35. As a result, RAICES would not be able to keep its commitment to universal representation at Karnes. This would be a significant blow to RAICES's mission.

36. The Children's Program also would serve fewer clients under the Interim Rule. Because children would need to testify and be cross-examined in immigration court rather than undergo a non-adversarial process at the Asylum Office, the Children's Program staff would need to expend more time and resources on each case, in turn reducing the number of children they can represent. The Children's Program's reduced capacity would frustrate its entire mission—to represent unaccompanied minors in immigration proceedings.

37. Community Immigration Services also would face severe difficulties under the Interim Rule. Staff would have to spend double the time filling out applications for non-derivative family members. And some staff would likely have to be re-assigned and re-trained to serve other roles, given that fewer clients would be released from detention.

38. The Interim Rule's lack of notice and comment procedures also irreparably compromised RAICES's ability to inform the Government of the substantial harms—both to the organization and its clients—that the policy would create. Commenting on rules and regulations is an integral part of RAICES's mission to improve the lives of migrants in Texas. In 2018, RAICES has commented on four proposed rules and regulations. Had RAICES been given the opportunity to comment on the Interim Rule, it would have done so.


39. The relief requested in the Complaint would properly address the injuries to RAICES as described above. If Plaintiffs prevail in this action, RAICES will be able to devote its staff time and resources to all its clients, not just a select few.

40. RAICES has no plain, adequate, or complete remedy at law. It would suffer immediate and irreparable injury under the Interim Rule, if not enjoined.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Dated: July 16, 2019

Dallas, Texas



Michelle Garza Pareja