

DEFENDANTS' EXHIBIT 1

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK
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3 R.G.H., et al.,
4 Plaintiffs-Petitioners,
5 v.

6 JEFFERSON BEAUREGARD SESSIONS,
7 Defendant-Respondent.

Order to Show Cause

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New York, N.Y.
July 27, 2018
4:10 p.m.

10 Before:

11 HON. JED S. RAKOFF

District Judge

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15 APPEARANCES

16 GREENBURG TRAUIG
17 Attorneys for Plaintiffs-Petitioners
18 BY: CAROLINE HELLER
KEDAR S. BHATIA

19 SAFE PASSAGE PROJECT
20 Attorneys for Plaintiffs-Petitioners
21 BY: REX CHEN
GUILLERMO STAMPUR

22 GEOFFREY S. BERMAN
23 United States Attorney for the
24 Southern District of New York
Attorneys for Defendant
25 BRANDON M. WATERMAN
Assistant United States Attorney

1 (Case called)

2 THE COURT: Good afternoon everyone. Thank you for
3 your papers. This appears to me to be identical in all
4 relevant respects to a matter that came before me earlier this
5 week, 18 CV 6654, in which the Legal Aid Society, representing
6 nine children, raised essentially the same issues raised in the
7 papers here and sought essentially the same relief.

8 On that occasion, after hearing from the government
9 and after consultation with Judge Sabraw, who is overseeing the
10 vast majority of these issues involving reunification in the
11 federal court in California, I transferred that case to Judge
12 Sabraw. On that occasion Judge Sabraw had a hearing in the
13 matter coming up in a few hours and was kind enough to allow
14 the Legal Aid lawyers to appear telephonically.

15 I have just been on the phone with Judge Sabraw, who
16 indicated that if I were to transfer this new matter to him,
17 coincidentally he is having a hearing on all aspects of the
18 reunification process in approximately five minutes, and he
19 would be very pleased to have counsel for the petitioners here
20 participate in that conference if I transfer the case.

21 In the expectation that I will probably do that in
22 about two minutes, his number is 619-557-6262. I told him that
23 if I did transfer it and if you did want to appear there, there
24 would be lawyers from Greenberg Traurig and from Safe Passage
25 Project who would be calling. He is ready to receive your call

1 if that is the way things turn out.

2 The reason I transferred the other matter to Judge
3 Sabraw is because this whole reunification process has many,
4 many moving parts, and it doesn't make sense to have different
5 judges in different districts trying to deal piecemeal with the
6 issue. There should be one judge looking at it overall. Judge
7 Furman, for example, just a week earlier had transferred
8 another matter involving reunification to Judge Sabraw, and he
9 is exercising on a daily basis oversight of all aspects of the
10 reunification process.

11 Let me hear from petitioners' counsel as to why, if
12 you do oppose, I should not just transfer this forthwith to
13 Judge Sabraw, you can talk to him and make your arguments to
14 him as soon as you can call him?

15 MS. HELLER: Thank you, your Honor. Caroline Heller
16 for the plaintiff-petitioners. The arguments that your Honor
17 presents do make sense. We would not necessarily object to
18 having the petition transferred and having an opportunity to
19 argue our case before Judge Sabraw. However, there is one
20 outstanding factor.

21 The Assistant U.S. Attorneys disagrees with us. The
22 Assistant United States Attorney who is here today even asked
23 why are you not filing this in the Southern District of
24 California. Our response was because this is an emergency, the
25 children are in New York. But if the Assistant United States

1 Attorney would agree that these children won't be transferred
2 pending our application before Judge Sabraw, we could all come
3 to an agreement that that would be fine.

4 Our concern here, your Honor, is that while this case
5 is being transferred to the Southern District of California,
6 the current request for a temporary restraining order is not
7 before Judge Sabraw.

8 THE COURT: It will be. The way it will work is this.
9 The last time I had three hours to get it to him. This time I
10 have five minutes. But thanks to modern communication, that is
11 not very difficult. If I issue the order that I anticipate I
12 will issue, I will immediately email to his chambers all your
13 papers. I will email my written order, which will only be a
14 couple of sentences, transferring the case to him forthwith.
15 Therefore, it will be his case.

16 As I say, he is perfectly happy to hear you this
17 afternoon. You are quite able to say to him the children
18 should not be transferred, period, or they certainly shouldn't
19 be transferred until you have ruled on our petition, and so
20 forth. So I don't think you will be prejudiced.

21 I'm not quite sure why the Assistant U.S. Attorney put
22 the question to you why you didn't file in California. If the
23 children are here, you have every legal right to file here,
24 which you have done. But it makes perfect sense to bring this
25 before Judge Sabraw, who has the overall coordinating function

1 in this very difficult matter.

2 I assume the government can assure me that no transfer
3 is going to occur between now and when Judge Sabraw hears you
4 in a few minutes. Let me hear from the government.

5 MR. WATERMAN: Your Honor, for the reasons you
6 articulated on Tuesday as well as this afternoon, we do believe
7 this matter should be transferred forthwith to the Southern
8 District of California.

9 I don't believe that there is any imminent threat of
10 these individuals being moved. As I understand it, I believe
11 the attorneys had asked for or filed a cease and desist letter
12 and moving them was put on hold temporarily. As I understand
13 it, there is no current movement in light of counsel's actions
14 in the past day or two or communications with the government.

15 THE COURT: So I will transfer it. I am going to keep
16 this short because I think it is important that the
17 petitioners' counsel get right on the phone with Judge Sabraw.
18 Give me no more than five minutes. I will make sure that Judge
19 Sabraw knows that the case has been transferred. I will email
20 him your papers.

21 I will prepare my written order and have it docketed.
22 If you want to come down to my chambers, you can get a copy of
23 that as well. Then you should call Judge Sabraw so you can
24 participate in his ongoing hearing, which has probably started
25 about five minutes ago, that embraces all aspects of this.

1 I will say to you, as I said to the lawyers on
2 Tuesday, if for any reason when you call they say who are you
3 or anything like that, let me know, and I'll call and make sure
4 that you get through, although there was no problem last
5 Tuesday and Judge Sabraw was ready to hear the lawyers from New
6 York.

7 MS. HELLER: Your Honor, may I clarify the telephone
8 number with you?

9 THE COURT: Yes.

10 MS. HELLER: 619-557-6262?

11 THE COURT: Correct.

12 MS. HELLER: Thank you, your Honor.

13 THE COURT: Give me five minutes, and then you can
14 call.

15 MS. HELLER: Should we go down to your chambers in
16 five minutes to get copies of the papers?

17 THE COURT: Sure.

18 THE CLERK: That's 1340, one floor down.

19 (Adjourned)

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