

IMMIGRATION

The Trump Administration Is STILL Trying To Keep Immigrant Kids In Lockup

Coronavirus has made its way to the decades-old Flores litigation, which established minimal safety standards for unaccompanied immigrant minors in federal custody.

By LORELEI LAIRD

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(Photo by Katherine McCaffrey, via Toni Messina)

I know it's difficult to give your full attention to immigration issues right now, what with suddenly needing to make [homemade face masks](#) and attend Zoom meetings while your children scream in the background. But if you have energy for only one immigration issue right now, I humbly suggest that it should be this one: The Trump administration is trying to kill unaccompanied immigrant minors by keeping them locked up in federally funded coronavirus petri dishes.

custody. On March 26, the plaintiffs in that case filed for a temporary restraining order and preliminary injunction, arguing that the federal government needed to either release unaccompanied minors or show cause for retaining custody. As of that date, the government itself was reporting that eight adults and four minors involved in the Department of Health and Human Services care system had tested positive.

Judge Dolly Gee of the Central District of California, who has held two presidential administrations' feet to the fire throughout the years she's had this case, [issued the TRO](#) March 28. It requires the government to show cause by tomorrow, April 10, why she shouldn't enjoin them to promptly release kids who have suitable custodians. This was based on a provision of [the 1997 Flores settlement](#) that says "the [government] shall release a minor from its custody without unnecessary delay." Sounds reasonable, right?

Not to the federal government! In a [40-page supplemental response](#) signed by DOJ lawyer Sarah Fabian — who you may remember as the lawyer who [argued that immigrant children are not entitled to soap or beds](#) — the government makes much of the difference between "unnecessary delay" and "unexplained delay," which is language that Gee used in part of her decision. The baby-snatchers argue that this alters the terms of the *Flores* settlement, which they argue never actually requires them to explain their failures to anybody. (This sudden interest in fidelity to the terms of the settlement may come as a surprise to the plaintiffs, who have been suing the government over violations for more than 20 years.)

I can think of no reason why Judge Gee would revisit her decision based on this kind of hair-splitting. But that's okay, because the real audience for this filing is not Gee and probably not the 9th Circuit — it's the conservative majority on the Supreme Court, which has rubber-stamped so many obviously illegal moves by the Trump administration that even retired judges are starting to [voice](#) their [disgust](#). Those justices are obviously immune to shame, so I don't expect a different outcome this time. Call your Congressmembers.

Lorelei Laird is a freelance writer specializing in the law, and the only person you know who still has an "I Believe Anita Hill" bumper sticker. Find her at wordofthelaird.com.