

***SARAVIA V. WILKINSON* – UPDATED NOTICE OF RIGHTS**

If you are a non-citizen minor who came to the United States as an unaccompanied child, was released from government custody, and then re-arrested by immigration authorities under suspicion of gang membership, you have rights under a class action settlement.

A federal court has approved a settlement in a class action lawsuit called *Saravia v. Wilkinson*, Case No. 3:17-cv-03615 (N.D. Cal.). This lawsuit is about the rights of noncitizen minors who were once detained in U.S. government custody by the Office of Refugee Resettlement (“ORR”), released to parents or other sponsors in the United States, and then re-arrested by the government based on allegations of gang membership or affiliation.

You received an earlier notice informing you that the federal court was considering whether to approve this Settlement, along with a copy of the Settlement itself. The court has now approved the Settlement, and this updated notice informs you of your rights. You are not being sued, and this is not an advertisement. If you think this Settlement relates to you, please read.

What is the lawsuit about?

Saravia is a federal case brought on behalf of a class of noncitizen minors who entered the United States as unaccompanied minors, were detained by ORR, were released to a parent or other sponsor, and were later rearrested by immigration officials based on allegations of gang affiliation. A case like this is brought on behalf of a whole group of people who have similar legal claims.

Saravia alleges that the rearrest and detention of, and denial of immigration benefits to, these minors violates the U.S. Constitution, the Trafficking Victims Protection Reauthorization Act (“TVPRA”), and other laws. In November 2017, a federal Judge issued an order requiring that the government provide Class Members with a hearing before an immigration judge within seven days of their rearrest (called a “Saravia Hearing”). See *Saravia v. Sessions*, 280 F. Supp. 3d 1168, 1197-98 (N.D. Cal. 2017).

Who is included?

Two groups of people have rights under this Settlement. You may be a “Class Member,” and you may also be a “Subclass Member.”

You may be a Class Member if you:

- Are a noncitizen minor;
- Came to the United States as an unaccompanied minor;
- Were previously detained in Office of Refugee Resettlement (“ORR”) custody and then released to a parent or other sponsor;
- Were rearrested by the Department of Homeland Security (“DHS”) based, in whole or in part, on allegations of gang affiliation; and

- Were not subject to a final order of removal.

You may also be a Subclass Member if you:

- Are or were a Class Member as described above; and
- Applied for asylum, Special Immigrant Status (“SIJ”), T or U nonimmigrant status, or a waiver of inadmissibility or application for adjustment of status that is related to an application for asylum, SIJ status, or T or U nonimmigrant status, before the age of 21; and
- Your application was denied by United States Citizenship and Immigrant Services (“USCIS”) when any information that you are or may have been affiliated with a gang is the basis for the denial.

What rights does the settlement provide?

This is only a summary of the Settlement. You were sent a copy of the full Settlement in the previous mailing. If you want to know more, you should read the Settlement or talk to your immigration lawyer.

The Settlement affects the U.S. government’s authority to arrest or detain the Class Members. Among other things, the Settlement Agreement requires the U.S. government to:

- Adopt policies for how ICE arrests minors who are suspected of being gang members or affiliates. If ICE arrests a UAC, ICE must contact other ICE officers and lawyers for guidance concerning the legal requirements that apply to the arrest or detention of Class Members. If the Class Member’s circumstances have not changed since their last release from ORR, the Class Member will be released to the prior sponsor they were released to, or to immediate family members who have no ascertainable criminal history and/or were not targets of the operation.
- Ensure that ICE officers are trained on the procedures and policies for re-arresting Class Members.

If a Class Member is arrested, the Settlement ensures that he or she will get a hearing before an immigration judge where they can argue that he or she should not be detained. The Settlement requires that the hearing will follow these rules, among others:

- The hearing must take place within ten days of the rearrest, unless the Class Member wants more time to get ready for the hearing or find a lawyer. The Class Member has the right to hire a lawyer for that hearing, or to ask for time to find a lawyer.
- The government will give the Class Member notice and information explaining the nature of the proceedings. This notice must be given to the Class Member and his or her counsel within 48 hours of the rearrest.
- The Class Member will also have certain rights to choose where the hearing will take place, depending on whether the Class Member is in ICE or ORR custody.
- At this hearing, the government has the burden to show how the circumstances have changed since the Class Member was released to his or her sponsor, such that the Class Member is a danger to the community or a flight risk.

- If a Class Member wins their hearing, the Class Member must be released to their previous sponsor, or if in ICE’s custody a parent or legal guardian, within three days, except where the sponsor is unable or unfit to reassume custody.
- If the previous sponsor is unable or unfit to reassume custody, ORR will evaluate whether the child can be released to a new sponsor.
- Any Class Member who is not released within three (3) days will be put in a shelter if there is one available to take the child.

The Settlement also sets procedures for Subclass Members who applied for certain immigration benefits before USCIS, and the government has accused them of being gang members or affiliates. The benefits at issue are Special Immigrant Juvenile Status, T-visas, U-visas, and asylum. The Settlement does not involve other immigration benefits, and does not involve benefits that you apply for in immigration court.

The Settlement requires the government to:

- Adopt policies and procedures for Subclass Members who apply for Special Immigration Juvenile Status, which affects USCIS’s ability to rely on allegations of gang affiliation or membership to deny immigration benefits.
- Give Subclass Members notice and evidence, or a summary of evidence, if the government wants to deny immigration benefits based on allegations of gang affiliation.
- Give Subclass Members the chance to respond with their own arguments and evidence.
- Give any Subclass Member who was previously denied an immigration benefit based on allegations of gang affiliation the chance to apply for a new decision.

The Settlement Agreement does not provide any monetary payments to Class Members, but also does not prevent Class Members from filing other lawsuits seeking money for harms they may have suffered due to the facts in the lawsuit.

Where can I get more information?

This notice summarizes the proposed Settlement, and you should talk to your immigration lawyer if you want to know more. The Settlement Agreement is also available at these websites:

<https://www.aclunc.org/our-work/legal-docket/saravia-v-sessions-due-process-immigrant-youth>

<https://www.ice.gov/legal-notice>

<https://www.acf.hhs.gov/orr/resource/unaccompanied-childrens-services>

You can also contact Class Counsel at this address:

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