

Trump Move To Deny Status For Young NY Migrants Struck Down

By **Pete Brush**

Law360, New York (March 16, 2019, 11:36 AM EDT) -- A federal judge on Friday found that the Trump administration made an unlawful policy reversal when it began denying protected status out of hand for thousands of 18- to 21-year-old immigrants determined by New York family court to be at risk, and struck down the policy.

In a technical, 62-page takedown U.S. District Judge John G. Koeltl awarded summary judgment to a class of plaintiffs including T.D., who suffered abuse before coming to the United States from Haiti. The court said the policy violates federal law and asked plaintiffs' counsel to fashion an order to include injunctive relief.

"The agency's policy is contrary to the plain meaning of the [Special Immigrant Juvenile] statute, lacks a reasoned explanation, is premised on erroneous interpretations of state law, and was not enacted with adequate notice," the judge wrote.

The new stance by U.S. Customs and Immigration Services under President Donald Trump rests on the logic that these youths are no longer minors subject to family court jurisdiction. Therefore, according to the policy, family court judges' findings have no bearing on their applications for Special Immigrant Juvenile status, even though those courts routinely handle their cases and often recommend protection from deportation.

Immigrant plaintiffs in the 18- to 21-year-old age range said in a June proposed class action that the administration changed the policy on a whim soon after Trump's election and began rejecting applicants in arbitrary fashion.

At oral arguments related to the dispute in February, Judge Koeltl had hinted at a favorable outcome for the plaintiffs. The judge repeatedly expressed dismay over the policy, saying it "effectively" amounts to a "dead letter" for anyone in that age range whose application relies on the word of a New York family court judge.

Judge Koeltl's decision also addressed the government's argument that the shift was not a policy change at all, but rather a new and nuanced reading of existing law.

"The record belies the agency's assertion that there is not a new policy," he wrote. USCIS "regularly approved applications by New York SIJ petitioners" from the family court before February

2018, and "after that date the agency has virtually stopped approving such applications," he wrote.

On Saturday attorney Robert Malione of Latham & Watkins LLP called the judge's decision, which also allows the plaintiffs to proceed anonymously, a "complete victory."

"This decision immediately changes the lives of 3,000 young immigrants in New York, and will have sweeping effects for thousands more across the country. It is the right result, plain and simple," he said.

The U.S. Attorney's Office for the Southern District of New York, which is representing the administration, declined comment.

The plaintiffs are represented by Latham & Watkins LLP and The Legal Aid Society.

The administration is represented by the U.S. Attorney's Office for the Southern District of New York.

The case is RFM et al. v. Nielsen, case number 1:18-cv-05068, in the U.S. District Court for the Southern District of New York.

--Editing by Kat Laskowski.