

GOVERNMENTAL AFFAIRS
OFFICE

AMERICAN BAR ASSOCIATION

Governmental Affairs Office

740 Fifteenth Street, NW
Washington, DC 20005-1022
(202) 662-1760
FAX: (202) 662-1762

DIRECTOR

Robert D. Evans
(202) 662-1765
rdevans@staff.abanet.org

DEPUTY DIRECTOR

Denise A. Cardman
(202) 662-1761
cardmand@staff.abanet.org

SENIOR LEGISLATIVE COUNSEL

R. Larson Frisby
(202) 662-1098
frisbyr@staff.abanet.org

Lillian B. Gaskin
(202) 662-1768
gaskinl@staff.abanet.org

LEGISLATIVE COUNSEL

Kristi Gaines
(202) 662-1763
gainesk@staff.abanet.org

Kenneth J. Goldsmith
(202) 662-1789
goldsmithk@staff.abanet.org

Kerry M. Lawrence
(202) 662-1766
lawrenck@staff.abanet.org

Ellen McBarnette
(202) 662-1767
mcbarnee@staff.abanet.org

E. Bruce Nicholson
(202) 662-1769
nicholsonb@staff.abanet.org

DIRECTOR GRASSROOTS
OPERATIONS/LEGISLATIVE COUNSEL

Julie M. Strandlie
(202) 662-1764
strandlj@staff.abanet.org

INTELLECTUAL PROPERTY
LAW CONSULTANT

Hayden Gregory
(202) 662-1772
gregoryh@staff.abanet.org

STATE LEGISLATIVE COUNSEL

Rita C. Aguilar
(202) 662-1780
aguilarr@staff.abanet.org

EXECUTIVE ASSISTANT

Julie Pasatiempo
(202) 662-1776
jpasatiempo@staff.abanet.org

STAFF DIRECTOR FOR
INFORMATION SERVICES

Sharon Greene
(202) 662-1014
greenes@staff.abanet.org

EDITOR WASHINGTON LETTER

Rhonda J. McMillion
(202) 662-1017

October 6, 2006

Walter LeRoy
Acting Chief, Detention Standards Compliance Unit
Office of Detention and Removal Operations
US Immigration and Customs Enforcement
801 I St., NW, Suite 900
Washington, DC 20536

RE: Separation of Detained Salvadoran Families in South Texas

Dear Mr. LeRoy,

It has come to our attention, through information provided by the South Texas Pro Bono Asylum Representation Project (ProBAR) in Harlingen, Texas, that Salvadoran parents and children, including mothers with babies who are still nursing, are being temporarily separated in order to prevent their transfer out of the jurisdiction of apprehension for a seven-day period pursuant to the injunction in *Orantes v. Meese*.¹ According to ProBAR, ICE routinely refers Salvadoran minors, who enter the U.S. accompanied by their parents at the South Texas border, to the Office of Refugee Resettlement to be detained for seven days, while their parents are detained at the Port Isabel (PIDC) or Willacy County adult detention centers. Once this period has elapsed, the family units are reunited and transferred to the T. Don Hutto Correctional Center (Hutto facility), a family facility near Austin, TX.

The *Orantes* injunction went into effect after the court found that immigration authorities had engaged in the systematic coercion of Salvadorans to abandon their asylum claims and return to El Salvador. The injunction's anti-transfer provision was intended to promote access to legal representation for Salvadoran detainees, by ending the former Immigration & Naturalization Service's practice of transferring class members to isolated detention centers, where they are unlikely to be able to secure counsel.

While transferring Salvadoran families to the Hutto facility upon apprehension at the border would result in ICE's violation of the *Orantes* injunction, the very troubling and unnecessary practice of separating

¹ 685 F.Supp. 1488 (C.D. Cal. 1988), *aff'd sub nom Orantes-Hernandez v. Thornburgh*, 919 F.2d 549 (9th Cir. 1990).

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nursing mothers from their babies should not be, and is not, ICE's only viable alternative. Rather, we strongly urge ICE to take immediate steps to modify the Port Isabel and Willacy County facilities to accommodate Salvadoran families who are initially apprehended in those jurisdictions. We understand from ProBAR that families had, at one time, been housed at or near PIDC. In addition to preventing the traumatic separation of children from parents upon apprehension, housing families at PIDC and at Willacy County will also offset expenses that ICE incurs to transport minors to and from the children's facilities, and to transfer and transport these families 300 miles to Austin.

As you are aware, as immigration detention continues to grow at a rapid pace, the need to address this problem will become more and more acute. We therefore urge you to promptly implement the practical, humane solution described above. Housing Salvadoran families together in South Texas will facilitate ICE's continued compliance with the anti-transfer provision in the *Orantes* injunction, and also ensure that parents and children, including nursing mothers and infants, are treated with the basic human dignity they deserve while they proceed through our legal system. As an additional measure, we also encourage you to raise this issue with your counsel in *Orantes*, so that an appropriate amendment to the injunction might be proposed to the court. Thank you for your time and attention to this matter, and we look forward to hearing from you soon.

Sincerely,



Robert D. Evans