

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND, SOUTHERN DIVISION**

**J.O.P. (by and through Next Friend G.C.P.),
M.A.L.C., M.E.R.E., and K.A.R.C.,** on behalf
of themselves as individuals and on behalf of
others similarly situated,

Plaintiffs,

v.

**U.S. DEPARTMENT OF HOMELAND
SECURITY et al.**

Defendants.

Civil Action No. 8:19-CV-01944-GJH

PLAINTIFFS' MOTION TO ENFORCE THE PRELIMINARY INJUNCTION

Plaintiffs J.O.P., M.A.L.C., M.E.R.E., and K.A.R.C. (together, the "Plaintiffs") respectfully move this Court for an order enforcing the Court's preliminary injunction dated October 15, 2019 (the "Order") and requiring Defendants to stop rejecting jurisdiction over asylum applications based on USCIS's May 31, 2019 Memorandum (the "2019 Redetermination Policy").

Under the enjoined 2019 Redetermination Policy, USCIS instructed its asylum officers to defer to an immigration judge's decision as to whether USCIS had initial jurisdiction over an asylum application. The previous policy set forth in the 2013 Kim Memorandum—which USCIS should be following per the Court's Order—does not permit this abdication of USCIS's jurisdiction to an immigration judge. Rather, it directs USCIS to process asylum applications as long as the applicant had been determined to be a UAC before she filed her application, and even if the applicant had turned 18 or been reunited with a parent before she filed. The only exception

where USCIS can decline initial jurisdiction of an asylum applicant with a previous UAC determination are narrow circumstances where another DHS entity or the U.S. Department of Health and Human Services (“HHS”) had expressly taken an “affirmative act” before the filing of the asylum application.

Despite the Court’s Orders, USCIS has rejected jurisdiction over at least one asylum application for an applicant who had a UAC determination in place at the time he filed his application, relying solely on an immigration judge’s ruling that he was no longer a UAC at the time he filed for asylum—thereby continuing to follow the enjoined 2019 Redetermination Policy rather than the 2013 Kim Memo that the Court’s Orders have restored pending resolution of this litigation. In order to avoid further violations of the Court’s preliminary injunction, Plaintiffs respectfully request that this Court require Defendants to comply with the Court’s Order and, specifically, require Defendants to process asylum applications under the 2013 Kim Memo without deferring to an immigration judge.

In support of this Motion, Plaintiffs rely on their Memorandum of Law and supporting declarations and exhibits, filed contemporaneously with this Motion.

Dated: November 22, 2019

Respectfully submitted,

/s/ Brian T. Burgess

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