

INTRODUCTION OF SPEAKERS

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CURRENT TRENDS IN IMMIGRATION

- **Crisis in Central America's "northern triangle" (Guatemala, Honduras, and El Salvador)**
- **Unaccompanied Minors**
- **Family Detention**



DHHS: Department of Health and Human Services

- ❑ Responsible for the detention of unaccompanied alien children once they are apprehended by DHS
- ❑ **Office of Refugee Resettlement (ORR)**
 - ❑ **Division Of Unaccompanied Children's Services (DUCS)** – responsible for the detention of UACs in removal proceedings, as well as the process of releasing them to a sponsor
 - ❑ **Unaccompanied Refugee Minors (URM)** – responsible for providing housing/assistance to unaccompanied refugee minors and some qualifying UACs



**Children's integration
into their new
communities**

City of Durham Policy

On January 5, 2015, the Durham City Council passed resolution supporting these migrant children, joining Orange Co., Chapel Hill, and Carrboro:

- *Recognizing the humanitarian crisis in Honduras, El Salvador, and Guatemala*
- *Recognizing that the children were “in urgent need of protective adult care” and legal services*
- *Thanking the local court system for working to meet the needs of these children*



NOTICE OF HEARING IN REMOVAL PROCEEDINGS
IMMIGRATION COURT
525 W. VAN BUREN, SUITE 500
CHICAGO, IL 60607

RE: ...

FILE: ...

DATE: Jul 18, 2013

TO:

CLARKSVILLE, IN 47129

Please take notice that the above captioned case has been scheduled for a MASTER hearing before the Immigration Court on Jan 29, 2014 at 09:00 A.M. at:

525 W. VAN BUREN, SUITE 500, COURTROOM 8
CHICAGO, IL 60607

~~You may be represented in these proceedings, at no expense to the~~
Government, by an attorney or other individual who is authorized and qualified to represent persons before an Immigration Court. Your hearing date has not been scheduled earlier than 10 days from the date of service of the Notice to Appear in order to permit you the opportunity to obtain an attorney or representative. If you wish to be represented, your attorney or representative must appear with you at the hearing prepared to proceed. You can request an earlier hearing in writing.

Failure to appear at your hearing except for exceptional circumstances may result in one or more of the following actions: (1) You may be taken into custody by the Department of Homeland Security and held for further action, OR (2) Your hearing may be held in your absence under section 240(b)(5) of the Immigration and Nationality Act. An order of removal will be entered against you if the Department of Homeland Security established by clear, unequivocal and convincing evidence that a) you or your attorney has been provided this notice and b) you are removable.

IF YOUR ADDRESS IS NOT LISTED ON THE NOTICE TO APPEAR, OR IF IT IS NOT CORRECT, WITHIN FIVE DAYS OF THIS NOTICE YOU MUST PROVIDE TO THE IMMIGRATION COURT CHICAGO, IL THE ATTACHED FORM BOIR-33 WITH YOUR ADDRESS AND/OR TELEPHONE NUMBER AT WHICH YOU CAN BE CONTACTED REGARDING THESE PROCEEDINGS. EVERYTIME YOU CHANGE YOUR ADDRESS AND/OR TELEPHONE NUMBER, YOU MUST INFORM THE COURT OF YOUR NEW ADDRESS AND/OR TELEPHONE NUMBER WITHIN 5 DAYS OF THE CHANGE ON THE ATTACHED FORM BOIR-33. ADDITIONAL FORMS BOIR-33 CAN BE OBTAINED FROM THE COURT WHERE YOU ARE SCHEDULED TO APPEAR. IN THE EVENT YOU ARE UNABLE TO OBTAIN A FORM BOIR-33, YOU MAY PROVIDE THE COURT IN WRITING WITH YOUR NEW ADDRESS AND/OR TELEPHONE NUMBER BUT YOU MUST CLEARLY MARK THE ENVELOPE "CHANGE OF ADDRESS." CORRESPONDENCE FROM THE COURT, INCLUDING HEARING NOTICES, WILL BE SENT TO THE MOST RECENT ADDRESS YOU HAVE PROVIDED, AND WILL BE CONSIDERED SUFFICIENT NOTICE TO YOU AND THESE PROCEEDINGS CAN GO FORWARD IN YOUR ABSENCE.

A list of free legal service providers has been given to you. For information regarding the status of your case, call toll free 1-800-898-7180 or 240-314-3508. For information on Immigration Court procedures, please

Humanitarian and Family-Based Categories of Immigration Status/Relief from Removal

- *****Special Immigrant Juvenile Status (SIJS)**
- ****Asylum**
- Other potential ways to gain immigration status:
 - T Visas
 - U Visas
 - Family-based relief
 - Other

WHAT DIFFERENCE DOES A LAWYER MAKE?

A CHILD WITHOUT
AN ATTORNEY IN
IMMIGRATION
COURT MUST
FACE THE
FOLLOWING
ALONE:

- ❑ An **adversarial system** that includes the government's lawyer and the Immigration Judge
- ❑ Pleading to the **allegations and charges** set out in the Notice to Appear (the charging document)
- ❑ Making **requests for relief** under U.S. immigration law
- ❑ Filing appropriate forms and supporting documents **in English** by certain deadlines
- ❑ Meeting the **burden of proof** in an adversarial hearing
- ❑ Trying to understand the nature of the proceedings, as well as the consequences of the Immigration Judge's Order

***What can we do
to help?***



Sec. of Homeland Security Jeh Johnson:

Our message is clear to those who try to illegally cross our borders: you will be sent back home. We have already added resources to expedite the removal, without a hearing before an immigration judge, of adults who come from these three countries without children. We have worked with the governments of these countries to repatriate the adults quicker. (Indeed, while in Guatemala City two days ago, I personally witnessed a flight of repatriated adults returning home.) Within the last several months, we have dramatically reduced the removal time of many of these migrants. Within the law, we are sending this group back, and we are sending them back quicker.

Then there are adults who brought their children with them. Again, our message to this group is simple: we will send you back. We are building additional space to detain these groups and hold them until their expedited removal orders are effectuated. Last week we opened a detention facility in Artesia, New Mexico for this purpose, and we are building more detention space quickly. Adults who brought their children here expecting to make it to the nearest bus station in the U.S. were surprised that they were detained at Artesia. They will be sent back quickly, with the sad recognition that the large sum of money they paid a criminal smuggling organization to get them to the U.S will go to waste.

CARA Family Detention Pro Bono Project

AILA Doc No. 14100656 | Dated March 18, 2015

"You can call it a 'Family Residential Center' but it is a prison...That's not what these women and children deserve." [CLINIC](#), [AILA](#), [RAICES](#), and the [American Immigration Council](#)—have joined forces to create the CARA Family Detention Pro Bono Project. Together with our volunteers, we will fight for the rights of the hundreds of women and children now being held in "family residential centers" and put an end to family detention!

FEDERAL AGENCIES INVOLVED WITH CHILDREN'S IMMIGRATION CASES



Overview of relevant Agencies within:

- U.S. Department of Homeland Security (“DHS”),
- U.S. Department of Health and Human Services (“DHHS”) and
- U.S. Department of Justice (“DOJ”)

Department of Homeland Security (“DHS”):

- **U.S. Customs and Border Patrol (“CBP”):** Apprehends aliens at/near the U.S. border
 - **U.S. Immigration and Customs Enforcement (“ICE”):** Apprehends aliens in the interior; manages detained & non-detained aliens without lawful status; represents the government in seeking orders of removal in immigration court
 - **U.S. Citizenship and Immigration Services (“USCIS”):** Administers benefits/visas for non-citizens within the U.S.
 - *USCIS’s Administrative Appeals Office (“AAO”): The final administrative authority within USCIS for many kinds of appeals, including denials of Special Immigrant Juvenile Status*

DHHS: Office of Refugee Resettlement (“ORR”):

Maintains shelters and/or finds foster care placement for unaccompanied immigrant children (sometimes called “Unaccompanied Alien Children” or “UACs”) until their release to relatives (“sponsors”).



Department of Justice (“DOJ”):

- **Executive Office for Immigration Review (“EOIR”)**: Immigration Courts fall under EOIR. Immigration Judges (“IJ”) adjudicate certain claims; may grant status or issue removal orders.
- **Board of Immigration Appeals (“BIA”)**: Reviews decisions of EOIR; appeals from the BIA lie with the Circuit Courts of Appeal.



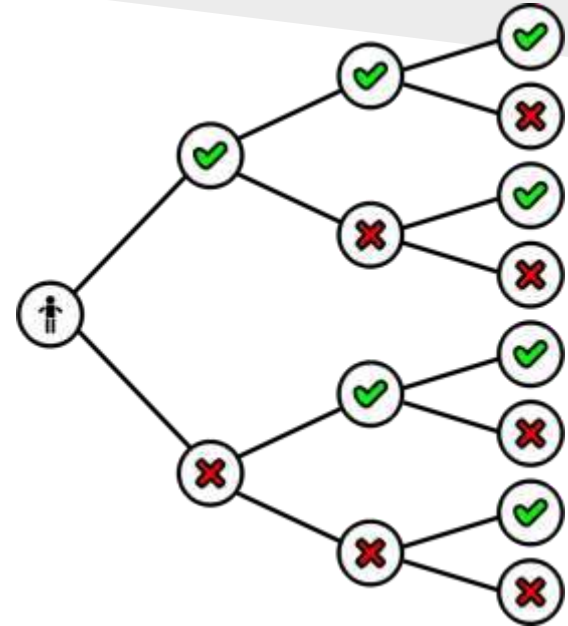
Immigration Court Process

- Issuance of “Notice to Appear” and Notice of Hearing
- Pleadings
- Seek a form of immigration relief
- Adjudication of case



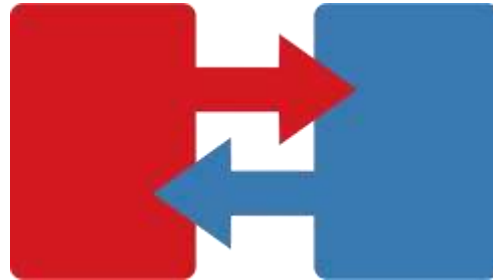
Methods of Case Disposition

- Relief is granted by Immigration Judge (IJ)
- Order of removal
- Case is administratively closed
- Respondent takes Voluntary Departure
- Case is terminated (dismissed)



Special Immigrant Juvenile Status ("SIJS")

- A form of humanitarian protection for immigrant children who have been abused, abandoned, and/or neglected
- Created by Congress in 1990, modified several times through bipartisan legislation
- Unique Federal-State legal structure



Special Immigrant Juvenile Status

(“SIJS”): In plain words:

A child in the U.S. who does not have lawful immigration status, who can demonstrate to the federal immigration agency USCIS that:

- s/he has been abused, abandoned or neglected by a parent (and therefore cannot reunify with that parent), *and*
- an adult or agency in the U.S. has been awarded custody of him/her, OR s/he is dependent on a state court, *and*
- his/her best interests are not served by returning him/her to country of origin

can request permission to remain in the U.S.

Role of the state court order

A court order from a state court empowered to make determinations on the care and custody of minor children is *one required element* with which the young person makes the required showings (described on the previous slide) and requests status as a Special Immigrant Juvenile from the immigration agency (USCIS).

State Court Order: Specific Findings of Fact

Two specific factual findings are necessary to enable the Minor Child or his representative to petition the U.S. Citizenship and Immigration Services (“USCIS”) for a classification of Special Immigrant Juvenile Status (“SIJS”).

First factual finding USCIS will look for

The **first** required finding is that that “reunification with *one or both* of the [Minor Child’s] parents is not viable due to abuse, neglect, abandonment, or a similar basis found under [North Carolina] law.”
8 U.S.C. § 1101(a)(27)(J)(i).



Second factual finding USCIS will look for

- The **second** required finding is that it is not in the best interest of the Minor Child to be returned to his/her previous country of last habitual residence. 8 U.S.C. § 1101(a)(27)(J)(ii).



How is SIJ status granted, by who?

USCIS adjudicates petition for SIJS and either grants or denies Special Immigrant Juvenile Status (see 8 C.F.R. § 204.11)

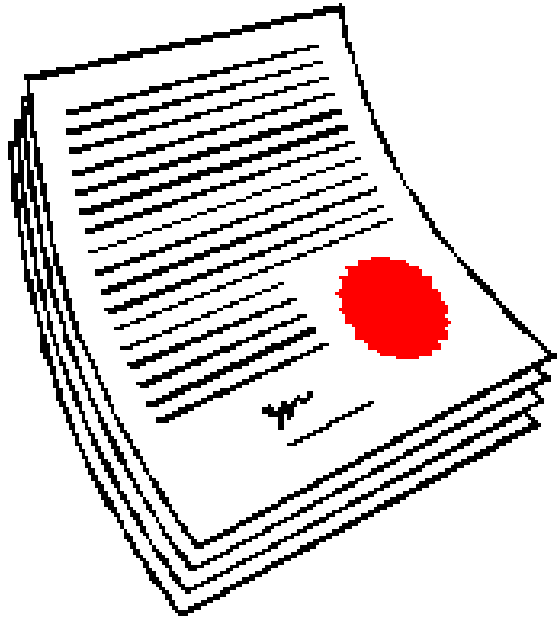
- 204.11(b): Explains that a **petition for special immigrant juvenile status** for the child must be filed with USCIS, using Form I-360
- 204.11(d): Outlines the **documents which must be submitted to USCIS in support of the petition**, which include:
 - documentary evidence of the alien's age (birth certificate, passport, etc.), and
 - a state court order including the findings described previously
- 204.11(e): **Explains that USCIS will issue a decision on the petition.** The petitioner will be notified of the decision, and, if the petition is denied, of the reasons for the denial and of the petitioner's right to appeal the denial.



NC STATE LAW

- **Public Policy**
- **Courts/Proceedings where Child Custody determinations may be made**
- **Subject Matter Jurisdiction (UCCJEA)**
- **Venue**
- **Personal Jurisdiction & Service of Process**
- **Definitions of Terms relevant to SIJS Findings**

Recap: What role does a NC state court order play in the SIJS process?



Any qualifying court’s order placing the Minor Child in the custody of “an individual or entity” will be taken into consideration by USCIS in that agency’s determination as to whether the Minor Child qualifies for Special Immigrant Juvenile Status.

Outcome for the child

- Results: the child may petition USCIS for a SIJS classification, which, if granted by USCIS, opens the possibility for the child to remain in the United States notwithstanding his or her prior legal status.

8 U.S.C. § 1255(a), (h).



Typical SIJS Case Process

1. UAC discharged from ORR to sponsor
2. Pleadings with EOIR, seek time to pursue SIJS
3. Draft, Verify, and File Custody Complaint
4. Send for Service via Private Process Server abroad
5. Hearing (Temporary or Permanent Order)
6. Submit Custody Order to USCIS
7. If SIJS is awarded, terminate EOIR Proceedings
8. File for Adjustment of Status (Green Card)

Outcome for the child (cont.)

If the child completes the immigration process and obtains lawful status, it would have an extremely positive impact on the child's well-being, including physical and emotional safety, education, medical care, and almost every aspect of the child's life.



OPEN FLOOR:

**ADDITIONAL QUESTIONS AND
ANSWERS**

Contact Information for Speakers

Questions? Call or e-mail us anytime!

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