

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
CIVIL MINUTES—GENERAL

Case No. **CV 18-5741-DMG (PLAx)** Date September 10, 2018

Title ***Lucas R., et al. v. Alex Azar, et al.*** Page 1 of 2

Present: The Honorable **DOLLY M. GEE, UNITED STATES DISTRICT JUDGE**

KANE TIEN

Deputy Clerk

NOT REPORTED

Court Reporter

Attorneys Present for Plaintiff(s)
None Present

Attorneys Present for Defendant(s)
None Present

Proceedings: IN CHAMBERS - ORDER RE PLAINTIFF GABRIELA N.'S MOTION FOR PRELIMINARY INJUNCTION [48]

On August 17, 2018, Plaintiff Gabriela N. filed a motion for preliminary injunction, wherein she seeks an order requiring the Office of Refugee Resettlement (“ORR”) to immediately release her to Isaac N., her next friend and grandfather.¹ [Doc. # 48.] The motion for preliminary injunctive relief has since been fully briefed. [Doc. ## 71, 75.] The Court deems this matter appropriate for decision without oral argument. Fed. R. Civ. P. 78(b); C.D. Cal. L.R. 7-15.

Gabriela N. asserts that the following confer jurisdiction upon this Court: (1) Paragraph 37 of the *Flores* Agreement, (2) the Administrative Procedure Act (“APA”), and (3) 28 U.S.C. section 2241.² *See* Reply re Gabriela N.’s MPI at 15–19 [Doc. # 75]. Yet, Paragraph 37 does not authorize the relief Gabriela N. seeks and the APA is not an independent jurisdictional basis for her motion. *See* Order re Lucas R.’s MPI at 4–6, 8–9 [Doc. # 79]. Further, insofar as Gabriela N. invokes the federal habeas statute, her immediate custodian is Niky Hymel, the ORR Federal Field Specialist responsible for supervising the facility in which Gabriela N. has been confined. *See* De La Cruz Decl. at ¶ 3 [Doc. # 73-1]; Order re Lucas R.’s MPI at 6–9 [Doc. # 79]. Because this official is located in the Southern District of Texas, *see* De La Cruz Decl. at ¶ 3 [Doc. # 73-1]; 28 U.S.C. § 124(b)(2), this Court lacks jurisdiction over Gabriela N.’s habeas claims. *See* Order re Lucas R.’s MPI at 6–9 [Doc. # 79].

¹ Although Gabriela N.’s Notice of Motion requests “a preliminary injunction against Defendants’ continuing to detain Plaintiff Gabriela N. in lieu of release to her next friend and grandfather, Isaac N.,” Notice of Gabriela N.’s MPI at 3 [Doc. # 48], her proposed order seeks placement with Isaac, *see* Proposed Order re Gabriela N.’s MPI at 3 [Doc. # 48-34]. This distinction is immaterial, as ORR’s decision not to release a minor constitutes a “placement” determination. *See* Order re Lucas R.’s MPI at 4–5 [Doc. # 79].

² Gabriela N. further argues that the TVPRA and 28 U.S.C. section 1331 authorize this Court to release her from custody. *See* Reply re Gabriela N.’s MPI at 17–19 [Doc. # 75]. For the reasons discussed in the Order re Lucas R.’s MPI, the Court rejects that contention. *See* Order re Lucas R.’s MPI at 3 n.3 [Doc. # 79].

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Accordingly, the Court **DENIES, without prejudice**, Gabriela N.'s motion for preliminary injunction, due to lack of jurisdiction. This Order in no way precludes Gabriela N. from seeking appropriate relief in the United States District Court for the Southern District of Texas against ORR Federal Field Specialist Niky Hymel.

IT IS SO ORDERED.