

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

M.G.U, <i>et al.</i>	)	
	)	
	)	
Plaintiff,	)	No. 1:18-cv-01458 (PLF)
	)	
v.	)	
	)	
Kirstjen Nielsen, <i>et al.</i> ,	)	
	)	
Defendants.	)	
	)	
	)	
_____	)	

**DEFENDANTS’ RESPONSE TO  
EXPEDITED DISCOVERY IDENTIFIED  
IN JULY 9, 2018 MEMORANDUM OPINION AND ORDER**

Pursuant to the Court’s Memorandum Opinion and Order dated July 9, 2018, Defendants respond as follows to those items of Plaintiffs’ discovery requests to which the Court has directed a response on or before 12:00 p.m. on July 11, 2018.

**I. Interrogatories**

**INTERROGATORY NO. 1:** What is the date on which you anticipate reuniting each Plaintiff with his or her child(ren), if at all?

**RESPONSE:** Defendants respond as follows with respect to each Plaintiff as set forth below:

M.G.U.: M.G.U. and her children were reunified on July 11, 2018.

A.P.F.: Per the order in *Ms. L., et al., v. U.S. Immigration and Customs Enforcement, et al.*, Case No. 18-cv-428 (S.D. Cal.), Defendants currently anticipate they will reunify A.P.F. and his child on or before that Court’s deadline of July 26, 2018.

E.F.: E.F. is subject to a final order of removal, but is awaiting review of her negative credible fear decision by an immigration judge. On June 28, 2018, E.F. requested not to be reunified with her son prior to removal.

**INTERROGATORY NO. 2:** What events or conditions are currently known to you that you believe must occur before Plaintiffs are reunited with Plaintiffs’ Children?

**RESPONSE:** Defendants respond as follows with respect to each Plaintiff as set forth below:

M.G.U.: M.G.U. and her children were reunified on July 11, 2018.

A.P.F.: In accordance with the instructions of the court in *Ms. L*, including those issued in the status conference held July 10, 2018, HHS expects to verify the parent-child relationship, to the extent there is any concern regarding such parentage. Given the recent instructions from the court in *Ms. L*, HHS expects to reach out to the shelter housing the child of A.P.F. to determine if there are any doubts regarding the relationship, and take future steps accordingly. HHS also will assess the background of the parent by reviewing a summary of criminal background check information provided by DHS to determine if there is any criminal history that would be an impediment to reunification, as well as the case management record to determine indicia of child abuse or neglect.

If A.P.F. is found eligible for reunification based on the verification checks described above, then the tentative plan would be for ICE to transfer A.P.F. to the Karnes Family Residential Center (KFRC), in Karnes, Texas, and for HHS to transfer his daughter to KFRC. These tentative plans are subject to operational changes and developments in the implementation of the Court's order in *Ms. L. v. ICE*, No. 18-428 (S.D. Cal. filed Feb. 28, 2018).

E.F.: E.F. is subject to a final order of removal, but is awaiting review of her negative credible fear decision by an immigration judge. On June 28, 2018, E.F. requested not to be reunified with her son prior to removal.

**INTERROGATORY NO. 5:** What actions have you taken to decide whether or how to reunite Plaintiffs with their children, including the date of each action.

**RESPONSE:** Defendants respond as follows with respect to each Plaintiff as set forth below:

M.G.U.: M.G.U. and her children were reunified on July 11, 2018.

A.P.F.: The decision to reunite A.P.F. with his daughter was made after reviewing the June 26, 2018, court order in *Ms. L. v. ICE*, No. Case No. 18-428, Feb. 28 (S.D. Cal.). Since the issuance of that order, ICE and HHS have been developing plans for the implementation of that order for all class members. However, no specific steps have been taken at this time with regard to A.P.F.

E.F.: E.F. is subject to a final order of removal, but is awaiting review of her negative credible fear decision by an immigration judge. On June 28, 2018, E.F. requested not to be reunified with her son prior to removal.

**INTERROGATORY NO. 6:** Identify the date on which each photograph or image produced in response to Request for Production No. 1 was taken.

**RESPONSE:** Defendants responds as follows based on the A-number and birthdate associated with each child reflected in the referenced photographs.

For the child of A.P.F. on or around June 8, 2018, when the child entered an ORR shelter. For the child of E.F., on or around May 17, 2018, when the child entered an ORR shelter.

## **II. Requests for Production**

**REQUEST FOR PRODUCTION NO. 1:** Produce the most recent photograph or image that you have of each of Plaintiffs' Children.

**RESPONSE:** Responsive photographs of the children of A.P.F. and E.F. are attached.

**REQUEST FOR PRODUCTION NO. 4:** Produce all Documents you plan to introduce into evidence at any hearing on Plaintiffs' Application for a Preliminary Injunction, filed on June 20, 2018 (ECF No. 13) in the Action.

**RESPONSE:** Responsive documents are attached to Defendants' opposition to the motion for preliminary injunction. Defendants are providing concurrently herewith a copy of the Parent/Child Reunification Request for E.F.

## **III. Requests for Admission**

**REQUEST FOR ADMISSION NO. 1:** Admit that Defendants arrested each Plaintiff together with a child or children at or near the U.S.-Mexico border.

**RESPONSE:** Defendants deny this request as written, and respond by admitting that U.S. Custom and Border Protection Officers took Plaintiff M.G.U. with three of her children into custody at the San Ysidro Port of Entry, and by admitting that U.S. Border Patrol Agents arrested Plaintiff A.P.F. with one child and Plaintiff E.F. with one child at or near the U.S.-Mexico border.

**REQUEST FOR ADMISSION NO. 2:** Admit that after Defendants arrested Plaintiffs, Defendants forcibly separated Plaintiffs from their children.

**RESPONSE:** Defendants deny this request and further respond by admitting that Plaintiff M.G.U. and three of her children were initially detained and taken into custody at the San Ysidro Port of Entry by U.S. Customs and Border Protection Officers within the Office of Field Operations. Custody of Plaintiff M.G.U. and her three children was later transferred to an ICE family detention center. Defendants admit that M.G.U. was separated from her children after ICE's discovery of her criminal conviction necessitated her transfer from a family residential center to a more structured detention facility, and her children were transferred to ORR. Defendants further respond by admitting that Plaintiff A.P.F. and Plaintiff E.F. were apprehended by U.S. Border Patrol, arrested, and criminally prosecuted under 8 U.S.C. § 1325

(a), at which point they were no longer detained with their children. Defendants deny any and all remaining allegations in this request for admission.

**REQUEST FOR ADMISSION NO. 5:** Admit that Plaintiff M.G.U. was not criminally prosecuted under 8 U.S.C. § 1325(a) in connection with her entry into the United States in May 2018.

**RESPONSE:** Defendants admit this request in regards to Plaintiff M.G.U.'s entry into the United States in May 2018. Defendants further respond by stating that applying for admission at an authorized Port of Entry is not a violation of 8 U.S.C. § 1325(a).

DATE: July 11, 2018

Respectfully submitted,  
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WILLIAM C. PEACHEY  
Director  
WILLIAM C. SILVIS  
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CERTIFICATE OF SERVICE

I hereby certify that on July 11, 2018, I served the foregoing to Plaintiffs' counsel Jerome Wesevich and Steven Herzog by email at [jwesevich@trla.org](mailto:jwesevich@trla.org) and [sherzog@paulweiss.com](mailto:sherzog@paulweiss.com).

/s/ Sarah B. Fabian  
SARAH B. FABIAN  
U.S. Department of Justice  
District Court Section  
Office of Immigration Litigation

*Attorney for Respondents*

**VERIFICATION**

I declare, under the penalty of perjury, that the information provided in the foregoing Answers to Plaintiffs' Interrogatories Nos. 1 (as to M.G.U. and A.P.F), 2 (as to M.G.U. and A.P.F), 5 (as to M.G.U. and A.P.F) and 6 are true and correct to the best of my knowledge, information and belief.

Signed and sworn to this 11 day of July, 2018.

/s/ Jim De La Cruz

Name: James De La Cruz

Title: Senior Field Program Specialist Supervisor