



U.S. border officials expelled dozens of migrant children in violation of court order

BY CAMILO MONTOYA-GALVEZ
UPDATED ON: DECEMBER 13, 2020 / 3:44 PM / CBS NEWS



U.S. border officials have expelled at least 66 unaccompanied migrant children without a court hearing or asylum interview since a federal judge ordered them to stop the practice, the Trump administration conceded on Saturday.

In a [filing](#) in federal court in Washington, Justice Department lawyers acknowledged the expulsions represented a "contravention" of a ruling issued by U.S. District Court Judge Emmet Sullivan in November

that prohibits the Trump administration from using a pandemic-era emergency border policy to expel minors who are apprehended without their parents or legal guardians.

"Defendants regret that class members were expelled contrary to the Court's injunction and are committed to full compliance with the Court's injunction going forward," Justice Department attorneys wrote.

Sign up for Breaking News Alerts

Sign Up

By signing up, you agree to the CBS [Terms of Use](#) and acknowledge the data practices in our [Privacy Policy](#).

Receive updates, offers & other information from the CBS family of companies & our partners. Opt out through the unsubscribe link in any marketing email.

On November 18, Sullivan found that the public health law the Trump administration has been invoking since March does not allow immigration authorities to expel border-crossers with little or no due process. He also rejected the argument that the public health authority, which dates back to the late 19th century, overrides several legal safeguards Congress established for migrant children.

Through his ruling, Sullivan designated all unaccompanied migrant children taken into U.S. custody as class members in the court case.

Several federal laws require border officials to quickly transfer unaccompanied migrant children to shelters and other housing facilities administered by the Office of Refugee Resettlement, which is mandated to connect the minors with lawyers and child advocates while they pursue an asylum claim or other forms of relief from deportation. Arguing that these requirements could be suspended during a public health emergency, the Trump administration [expelled](#) thousands of unaccompanied migrant children to Mexico and Central America.

Immigration ›

- Supreme Court: It's too early to review Trump's census plan
- Shelter officials oppose Trump's effort to expel migrant children
- U.S. officials expelled 66 migrant kids in violation of court order
- DHS restores DACA and begins accepting first-time applications

MORE >

Saturday's legal filing by the government included declarations from two top Customs and Border Protection (CBP) officials. U.S. Border Patrol chief Rodney Scott said his agents have expelled 26 unaccompanied migrant children since Sullivan's order. William Ferrara, the head of the Office of Field Operations, a CBP branch that oversees border ports of entry and airports, said his officials expelled eight unaccompanied minors after the court ruling.

The children expelled after Sullivan issued his decision were between 12 and 17 years old, according to the declarations. One of them turned out to be a U.S. citizen who was ultimately allowed to enter the country after being expelled, Ferrara said in his declaration.

"The widespread failure to comply with the injunction is deeply concerning and we hope the illegally expelled children will not be harmed before they can be found, if they can be found," Lee Gelernt, the American Civil Liberties Union lawyer challenging the expulsions, told CBS News.

A CBP spokesperson declined to comment, citing pending litigation.



A Central American migrant child stands next to a sign that reads in Spanish "Mandatory Face Masks For All Services At La 72 House" displayed outside a migrant shelter in the town of Tenosique, Tabasco state, Mexico, on Sunday, Oct. 4, 2020.

Justice Department lawyers have sought to suspend Sullivan's order, arguing that it will lead to a surge in border crossings that could spur COVID-19 outbreaks inside holding facilities and shelters. According to Scott, Border Patrol agents have apprehended more than 3,700 unaccompanied minors along both land borders since Sullivan's order.

The declarations submitted on Saturday represent the second time the Trump administration has admitted to expelling unaccompanied migrant children in violation of November's court order. Earlier in December, U.S. Immigration and Customs Enforcement (ICE) said it expelled 32 unaccompanied migrant minors through a flight to Guatemala on the day Sullivan published his decision.

ICE has said the flight, which BuzzFeed News [first reported](#), departed before its leadership was made aware of Sullivan's order earlier in the day.

"At the time the flight arrived in Guatemala City and the unaccompanied minors were transferred, neither the ICE personnel on the flight, nor those on the ground in Guatemala City, were aware of the injunction," ICE official Jeffrey Lynch said in a legal declaration dated December 2.

Lynch said U.S. Department of Homeland Security leadership made the decision not to return the expelled minors back to the U.S. on the return flight.

Scott and Ferrara, the CBP officials, said the most recent expulsions occurred despite the issuance of guidance that instructed agents to adhere to Sullivan's directions.

Ferrara said some of the children expelled by his officers appeared to have "made a wrong turn and had no intention of entering the United States" or were unable "to establish identity and alienage." Scott said the expulsions stemmed from some supervisors and agents being unaware of guidance issued by headquarters, noting the pandemic has hindered in-person training.

Both CBP leaders said they have taken corrective actions to address the expulsions, including reissuing guidance and instituting additional supervisory reviews when agents apprehend migrant minors. Scott said "formal discipline" is being considered for some supervisors.

Scott and Ferrara both expressed regret and said their offices have reached out to Mexican and Canadian authorities to alert them of the children who were illegally expelled.

First published on December 13, 2020 / 2:07 PM

© 2020 CBS Interactive Inc. All Rights Reserved.

Camilo Montoya-Galvez

Camilo Montoya-Galvez is the immigration reporter at CBS News. Based in Washington, he covers immigration policy and politics.



Twitter

The Transparent Face Mask That Has Taken The World By A Storm

PAID CRYSTAL SHIELD

These Cars Are So Loaded It's Hard to Believe They're So Cheap

PAID LUXURY SUVS | SEARCH ADS

Families In Colorado With Over \$10K in Credit Card Debt Are Getting A Second Chance

PAID NATIONAL DEBT RELIEF

KN95 Masks - 80% off While stocks last!

PAID SQ MEDICAL SUPPLIES

The Israeli-made face mask Everyone Is Talking About in the US

Anti-viral Masks Coated in Zinc Oxide Nano-Particles.

PAID THE JERUSALEM POST

Super Thick Cashmere Wool Leggings. Make Your Legs Look Slender and Keep Warm in Winter.

PAID SWEETIECATHY

The genius trick every Amazon shopper should know

PAID CAPITAL ONE SHOPPING

KN95 & FFP2 Masks on clearance - 80% off While stocks last with Free Delivery!

PAID SQ MEDICAL SUPPLIES

New Neck Pain Relief Device Takes America by Storm

PAID RELAXULTIMA NECK MASSAGER

Top 6 Cards If You Have Excellent Credit

PAID NERDWALLET