

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

P.J.E.S., A MINOR CHILD, by and through
his father and NEXT FRIEND, Mario Escobar
Francisco, on behalf of himself and others
similarly situated,

Plaintiff,

v.

ALEJANDRO MAYORKAS, Secretary of
Homeland Security, et al.,

Defendants.

Civil Docket No. 1:20-cv-02245-EGS-GMH

JOINT STIPULATION TO DISMISS

Plaintiff and Defendants, by and through undersigned counsel, jointly stipulate to dismiss this action without prejudice.

1. On November 18, 2020, this Court entered a preliminary injunction in this case, enjoining the expulsion of class members pursuant to the Centers for Disease Control and Prevention (“CDC”) Order issued on October 13, 2020. *See* Order, ECF Nos. 79, 80. The government appealed that injunction and sought a stay of the injunction pending appeal. On January 29, 2021, the United States Court of Appeals for the District of Columbia Circuit granted a stay pending appeal of this Court’s decision and issued an expedited briefing schedule. Order, *P.J.E.S. v. Mayorkas, et al.*, No. 20-5357 (D.C. Cir. Jan. 29, 2021), Doc. No. 1882899.

2. This Court’s order staying proceedings in this case describes the subsequent history of CDC’s attempts to rescind the “Title 42 Policy”; litigation concerning the lawfulness of the Policy and CDC’s rescission efforts; and the D.C. Circuit appeal and remand order in this case. *See* Memorandum Opinion and Order, ECF No. 152 at 1-10 (Jan. 25, 2023).

3. Since the date of this Court’s stay order, Defendants’ implementation of the “Title 42 Policy” has ended. CDC’s operative Title 42 order was to be terminated upon “the expiration

of the Secretary of [Health and Human Services'] declaration that COVID-19 constitutes a public health emergency.” 86 Fed. Reg. 42,828, 42,830 (Aug. 5, 2021).

4. On May 11, 2023, CDC’s public health emergency declaration concerning COVID-19 expired. *See* <https://www.cdc.gov/coronavirus/2019-ncov/your-health/end-of-phe.html>. By its own terms, the Title 42 Policy terminated on that date.

5. On May 18, 2023, the Supreme Court vacated the judgment of the D.C. Circuit in *Arizona v. Mayorkas* (also known as *Huisha-Huisha v. Mayorkas* in the lower courts), involving several states’ motion to intervene in *Huisha-Huisha*. The Supreme Court’s order vacated the Circuit’s denial of the States’ motion to intervene, and remanded with instructions to dismiss the motion as moot. *See* Order, *Arizona v. Mayorkas*, No. 22-592 (May 18, 2023).

6. On remand, the D.C. Circuit vacated the *Huisha-Huisha* permanent injunction and Rule 54 judgment and remanded with instructions to dismiss the case as moot. Order, *Huisha-Huisha v. Mayorkas*, No. 22-5325 (Sept. 7, 2023). The D.C. Circuit’s mandate in *Huisha-Huisha* issued on October 31, 2023.

7. In addition, the Western District of Louisiana’s preliminary injunction against CDC’s attempts to rescind the Title 42 Policy has now been vacated. *See* Judgment, *Louisiana v. CDC*, 22-cv-00885 (June 14, 2023), ECF No. 190.

8. Defendants have resumed immigration processing of those noncitizens apprehended in the United States without travel documents, including unaccompanied children, under its Title 8 authorities.

9. In light of these developments, the parties jointly stipulate to dismiss this case without prejudice. The preliminary injunction in this case is not necessary at this time because the “Title 42 Policy” is not being applied to unaccompanied children, or any other individuals.

10. This Court need not direct notice to the class because this dismissal is without prejudice, the dismissal would not preclude class members from filing any future claims concerning 42 U.S.C. § 265 or the “Title 42 Policy” should circumstances change, and because no unaccompanied children are currently subject to the Title 42 Policy.

Dated: November 6, 2023

Respectfully submitted,

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