

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION**

**RHONDA FLEMING and
MIRIAM CRYSTAL HERRERA,
Plaintiffs,**

v.

**WARDEN T. RULE, WILLIAM K.
MARSHALL, III, PAMELA J. BONDI,
UNITED STATES OF AMERICA,
Defendants.**

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Civil Action No. 4:25-cv-0157-D

**(Consolidated with
Civil Action No. 4:25-cv-0438-D)**

**PLAINTIFFS’ AFFIRMATIVE MOTION
FOR PARTIAL SUMMARY JUDGMENT**

Pursuant to Federal Rule of Civil Procedure 56, Plaintiffs Rhonda Fleming and Miriam Crystal Herrera (“Plaintiffs”) respectfully move for partial summary judgment against Defendants Warden T. Rule, William K. Marshall, III, Pamela J. Bondi, and the United States of America (collectively, “Defendants”) on Plaintiffs’ claim under the Administrative Procedure Act challenging 28 C.F.R. § 115.42(c)–(g).

SUMMARY

In accordance with Local Rule 56.3, Plaintiffs move for partial summary judgment on their APA claim seeking vacatur of 28 C.F.R. § 115.42(c)–(g) (the “Challenged Regulation”). The undisputed record establishes that the Challenged Regulation exceeds the authority Congress conferred under the Prison Rape Elimination Act, is contrary to constitutional and statutory protections for inmate safety and bodily privacy, and has produced the precise harms PREA was enacted to prevent. In the past, Defendants have stated that they have no objection to the challenged provisions being vacated, held unlawful, and set aside as to Plaintiffs only. More recently,

however, Defendants have argued that Plaintiffs lack standing to pursue their APA claim. Summary judgment and universal vacatur are warranted.

APPENDIX

In accordance with Local Rule 56.6, Plaintiffs submit an Appendix with supporting evidence. Under Local Rule 56.5(c), Plaintiffs' supporting Brief will cite to specific pages in the Appendix, as "APP__."

PRAYER FOR RELIEF

Plaintiffs are entitled to judgment as a matter of law on their APA claim. Plaintiffs therefore respectfully request that the Court grant their motion for partial summary judgment, enter judgment in favor of Plaintiffs, and vacate 28 C.F.R. § 115.42(c)–(g).

Respectfully submitted,

/s/ Cortney C. Thomas

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CERTIFICATE OF SERVICE

Pursuant to Fed. R. Civ. P. 5(d)(1)(B), as amended, no certificate of service is necessary because this document is being filed with the Court's electronic-filing system.