

1 TIMOTHY COURCHAINED

2 United States Attorney

3 District of Arizona

4 THEO NICKERSON

5 Assistant United States Attorney

6 Connecticut State Bar No. 429356

7 Two Renaissance Square

8 40 North Central Avenue, Suite 1800

9 Phoenix, Arizona 85004-4449

Telephone: 602-514-7500

Facsimile: 602-514-7760

Email: Theo.Nickerson2@usdoj.gov

Attorneys for Respondents

10 **IN THE UNITED STATES DISTRICT COURT**

11 **FOR THE DISTRICT OF ARIZONA**

12 O.E.O.,

No. 2:25-cv-02283-PHX-DWL (MTM)

13 Petitioner,

STATUS UPDATE

14 v.

AND

STATEMENT OF MOOTNESS

15 Fred Figueroa, et al.,

16 Respondents.

17 **STATUS UPDATE**

18
19 On January 3, 2026, Petitioner, O.E.O., was transferred to ORR custody to allow
20 the Office of Refugee Resettlement to conduct an age redetermination. *See* Exhibit A
21 (Declaration of Toby Biswas, Assistant Deputy Director for Policy for the Unaccompanied
22 Alien Children Bureau (“UACB”), and the Division of Policy Coordination &
23 Intergovernmental Affairs, and the Division of Policy Administration & Legal Affairs
24 within the Office of Refugee Resettlement (“ORR”), an entity within the Administration
25 for Children and Families (“ACF”), U.S. Department of Health and Human Services
26 (“HHS”) ¶ 19. Specifically, O.E.O. was placed in an ORR-funded care provider facility at
27 Compass Connections in El Paso, Texas, while ORR reviewed the totality of O.E.O.’s case
28 records in order to conduct the age determination. *Id.* at ¶ 20.

1 On February 12, 2026, ORR issued a memorandum indicating that O.E.O. is a
2 minor. Exhibit A ¶ 21. On February 13, 2026, Respondents notified the Court that ORR
3 made a new age determination which indicated that O.E.O. was a minor. Doc. 87.

4 Since issuing the new age determination concluding that O.E.O. is a minor, ORR
5 has worked diligently with O.E.O. to identify a suitable potential sponsor in order to release
6 O.E.O. from ORR custody. ORR has identified O.E.O.'s uncle as a potential sponsors and
7 has begun the vetting process of O.E.O.'s uncle.

8 On January 11, 2026, O.E.O. identified his uncle as his potential sponsor. Exhibit
9 A ¶ 23. The case manager contacted the child's uncle the same day to confirm his interest
10 in sponsoring O.E.O. *Id.* On January 20, 2026, ORR initiated its sponsorship vetting
11 process by contacting the child's uncle to discuss the application process, required
12 supporting documents, including background checks, and to inform the potential sponsor
13 of the responsibilities associated with sponsoring a child. *Id.* ¶ 24. On January 26, 2026,
14 after the sponsor confirmed his household members would be willing to comply with the
15 sponsor vetting requirements, ORR sent the sponsor the Sponsor Application. *Id.* ¶ 25.
16 ORR's sponsor vetting and reunification process with him continues at this time. *Id.*

17 After following up with the sponsor on January 29, 2026, to confirm receipt of the
18 application, ORR received a partially completed Sponsor Application from the sponsor on
19 February 2, 2026. Exhibit A ¶ 26. At this time, ORR followed up with the sponsor a second
20 time to notify him that he needed to complete the remaining sections of the Sponsor
21 Application Package, which included the Authorization for Release of Information (ARI)
22 needed to initiate background checks. *Id.* On February 5, 2026, the sponsor was again
23 notified that the application was incomplete as there was a gap in the sponsor's reported
24 address history covering the period of February 2024 through December 2024. *Id.* ¶ 27.
25 The sponsor was also informed of the outstanding supporting documentation and notified
26 that the proof of income documents he submitted did not meet the policy requirements. *Id.*

27 On February 9, and February 10, 2026, ORR contacted the potential sponsor to
28 remind him of the corrections needed to the ARI and the outstanding supporting

1 documents, which included proof of relationship documents. Exhibit A ¶ 28. On February
2 13, 2026, ORR contacted the potential sponsor to request he sign the ARI and provide
3 completed ARI forms signed by his adult household members and alternate caregiver. *Id.*
4 ¶ 29. At this time, ORR again reminded the potential sponsor of the outstanding supporting
5 documents. *Id.* ORR initiated further checks based on information provided by the sponsor.
6 *Id.* ¶ 30. These include, among other things, public records checks, sex offender registry
7 checks, and FBI National Criminal History Checks, which is a fingerprint-based
8 background check. *Id.* ORR scheduled an appointment for February 24, 2026, for the
9 sponsor to complete his fingerprinting provided the details of the appointment to the
10 sponsor. *Id.*

11 Also on February 23, 2026, ORR contacted the sponsor to remind him that the adult
12 household member (HHM)/alternative caregiver (ACG) must complete an Authorization
13 for Release of Information (ARI), so that ORR can schedule a fingerprint appointment for
14 the HHM/ACG. Exhibit A ¶ 31. The sponsor was reluctant to provide additional
15 information or documentation for HHM/ACG. *Id.* The Sponsor requested that HHM/ACG
16 be removed from the sponsorship process and stated that, as the sponsor, he should not be
17 required to provide information for anyone else. *Id.* ORR reiterated its requirement to vet
18 sponsors and all household members over the age of 18. *Id.* After ORR receives the ARI
19 for the HHM/ACG, it will schedule a fingerprint appointment for the HHM/ACG. *Id.* ¶ 32.

20 ORR continues to work with the sponsor in finalizing his Sponsorship Application.
21 Exhibit A ¶ 33. After the application is complete, ORR will conduct a home study. *Id.* ¶
22 34. ORR continues to work towards completing the sponsor vetting process and making a
23 determination regarding whether the sponsor is capable of providing for the physical and
24 mental well-being of the child and whether his release would result in a danger to them or
25 the community. *Id.* ¶ 35.

26
27
28

1 proceedings, the plaintiff “must have suffered, or be threatened with, an actual injury
2 traceable to the defendant and likely to be redressed by a favorable judicial decision.” *Lewis*
3 *v. Continental Bank Corp.*, 494 U.S. 472, 477 (1990) (emphasis added). If the Court were
4 to decide any of the counts of relief that Petitioner contends still remain in this action, that
5 would not redress any harm where the Government has already transferred O.E.O. out of
6 adult detention, made a new determination he is a minor, and is in the process of releasing
7 him to a sponsor. The Court lacks Article III jurisdiction to issue any order or legal opinion
8 as to the remaining claims where any such order would no longer be able to redress
9 Petitioner’s claims or afford any effective relief. *Reimers*, 863 F.2d at 632.

10 Furthermore, the Court lacks Article III jurisdiction to issue the declaratory relief
11 Plaintiff requests in their status update where there is no present ongoing controversy
12 representing adverse legal interests between the parties. Indeed, “[a] case or controversy
13 exists justifying declaratory relief only when ‘the challenged ... activity ... is not contingent,
14 has not evaporated or disappeared, and, by its continuing and brooding presence, casts what
15 may well be a substantial adverse effect on the interests of the ... parties.’” *Bayer v. Neiman*
16 *Marcus Grp., Inc.*, 861 F.3d 853, 867 (9th Cir. 2017); *Seven Words LLC v. Network Sols.*,
17 260 F.3d 1089, 1098–99 (9th Cir. 2001) (quoting *Headwaters, Inc. v. Bureau of Land*
18 *Mgmt.*, 893 F.2d 1012, 1015 (9th Cir. 1989)). “The test for mootness applied to a claim for
19 declaratory relief “is whether the facts alleged, under all the circumstances, show that there
20 is a substantial controversy, between parties having adverse legal interests, of sufficient
21 immediacy and reality to warrant the issuance of a declaratory judgment.” *Bayer*, 861 F.3d
22 at 867 (internal citations omitted). The Court should decline to order any further
23 declaratory relief where there exists no ongoing case or controversy. This case is now moot
24 and should be dismissed.

1 Respectfully submitted this 24th day of February, 2026.

2 TIMOTHY COURCHaine
3 United States Attorney
4 District of Arizona

5 s/ Theo Nickerson
6 THEO NICKERSON
7 Assistant United States Attorney
8 *Attorneys for Respondents*
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28