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

O.E.O.,
Petitioner,

vs.

Fred Figueroa, et al.,
Respondents.

Case No. CV-25-02283-PHX-DWL
(MTM)

**PETITIONER'S REPLY TO
SUPPLEMENTAL BRIEFING
REGARDING THE APPLICATION
OF THE VOLUNTARY CESSATION
DOCTRINE**

Date: TBD
Time: TBD
Dept: TBD
Judge: Hon. Dominic W. Lanza
Date Action Filed: June 30, 2025

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TABLE OF CONTENTS

Page

ARGUMENT 1

 I. Respondents’ Own Briefing and Statements Confirm the Voluntary Cessation
 Doctrine Applies. 1

 II. Respondents’ Past Behavior and Statements Show Their Unlawful Behavior is
 Likely To Recur. 3

CONCLUSION 5

ARGUMENT

On June 26, 2026, this Court issued an order stating that O.E.O. “may file a supplemental brief” in response to Respondents’ Supplemental Briefing Regarding the Application of the Voluntary Cessation Doctrine (hereinafter, Dkt. 104, Resp’t Supp. Briefing). Respondents’ Supplemental Briefing fails show that the voluntary cessation doctrine does not apply and fails to meet their “formidable burden of showing that it is absolutely clear” that their “wrongful behavior could not reasonably be expected to recur.” *Friends of the Earth, Inc., v. Laidlaw Envtl. Servs. (TOC), Inc.*, 528 U.S. 167, 174 (2000). Respondents’ arguments and “assurances” are untethered to those relevant legal standards, and conveniently ignore their past behavior and statements, which clearly show their unlawful behavior is likely to recur. O.E.O. is still entitled to his requested relief, and to dismiss “the case at an advanced stage” after over a year of litigating to secure his release and protect his rights would “prove more wasteful than frugal” for the reasons below. *Id.* at 191. For the reasons argued below, this Court should find O.E.O.’s case is not moot.

I. Respondents’ Own Briefing and Statements Confirm the Voluntary Cessation Doctrine Applies.

“[A] defendant cannot automatically moot a case simply by ending its unlawful conduct once sued.” *City of Mesquite v. Aladdin’s Castle, Inc.*, 455 U.S. 283, 289 (1982). The voluntary cessation exception to mootness applies where the voluntary cessation arose “because of the litigation.” *Ms. L. v. U.S. Immigration and Customs Enforcement*, 302 F.Supp.3d 1149, 1157 (S.D. Cal. 2018) (emphasis in original). As argued in Petitioner’s Reply in Support of Preliminary Injunction, and notably, as is supported by Respondents own statements throughout this litigation, O.E.O.’s reunification with his family was clearly only secured *because* of the litigation. *See* Dkt. 102, Reply ISO PI at 5–6; Dkt. 75, Respondents’ Motion for Voluntary Remand and To Stay Discovery (Resp’t. Mot. for Voluntary Remand”) at 4. Respondents’ Supplemental

1 Briefing does not refute this or provide any argument that their remedial actions are not
2 in response to the current litigation. *See* Dkt. 104, Resp’t Supp. Briefing at 2. Therefore,
3 Defendants have not met their burden and. the voluntary cessation exception to mootness
4 applies here.

5 Even more notably, Respondents’ prior representations to this Court confirm that
6 their actions were taken *because* of the litigation. On January 21, 2026, Respondents
7 filed a Motion for Voluntary Remand and to Stay Discovery because Respondents
8 “identified ‘substantial and legitimate concerns’” with their prior age determination, but
9 still not conceding fault. Dkt. 75, Resp’t Mot. for Voluntary Remand at 4. In that
10 Motion, Respondents explicitly acknowledged that O.E.O.’s transfer and reconsideration
11 of their prior age determination was *because* of the litigation:

12 *Due to issues raised in the litigation, ICE asked ORR to re-take custody of*
13 *Petitioner for the purpose of conducting a new age determination and ORR agreed*
14 *to do so. By agreeing to re-take custody of Petitioner, ORR has agreed to conduct*
15 *a new age determination in light of ICE’s request and the issues raised in this*
16 *litigation. ORR’s new age determination would supersede its prior determination,*
which is the subject of this litigation.

17 *Id.* (emphasis added). These statements alone are sufficient to make a finding the
18 voluntary cessation doctrine applies. Respondents’ behavior after the above admissions
19 only further confirms they have only acted *because* of this litigation. That same Motion
20 represented to the Court that a new age determination would be “issued within three
21 weeks.” *Id.* But it took an order from this court to ensure that happened within three
22 weeks given Respondents’ past behavior. *See* Dkt. 80, ORDER; *see also* 01.22.2026 Tr.
23 38:4–17 (ordering Respondents to complete the age determination within three weeks
24 given Respondents gave Petitioner “the runaround” on many occasions “about deadlines
25 and representations that have then not been followed through on.”). After completing the
26 age determination in February of 2026, Respondents still refused to release O.E.O. to his
27 family. It was not until Respondents had the pressure of responding to Petitioner’s

1 preliminary injunction that they finally released O.E.O. to his uncle after *seventeen* long
 2 months of detention. *See generally* Dkt. 99, Mot. for Preliminary Injunction; *see also*
 3 Dkt. 101, Response to Mot. for Preliminary Injunction at 3 (O.E.O. “was released from
 4 O.R.R. custody on May 2, 2026.”). Respondents’ Supplemental Briefing does not refute
 5 in any way that O.E.O.’s release happened *because* of this litigation. Given the factual
 6 and procedural history of this case and Respondents’ own admission that their actions
 7 were *because* of this litigation, this Court should find the exception to mootness applies.

8 **II. Respondents’ Past Behavior and Statements Show Their Unlawful Behavior** 9 **is Likely To Recur.**

10 As Respondents acknowledge, “a defendant claiming that its voluntary compliance
 11 moots a case bears the formidable burden of showing that it is absolutely clear the
 12 allegedly wrongful behavior could not reasonably be expected to recur.” *Friends of the*
 13 *Earth, Inc., v. Laidlaw Envtl. Servs. (TOC), Inc.*, 528 U.S. 167, 174 (2000); ECF 104,
 14 Resp’t Supp. Briefing at 1. In *Friends of the Earth, Inc.* the Supreme Court clarified that
 15 mootness is not “simply ‘standing set in a time frame,’” because if that were so, there
 16 would be no exception to mootness for unlawful behavior that is “capable of repetition,
 17 yet evading review.” *Id.* at 190–91 (cleaned up). Respondents’ argument that O.E.O.’s
 18 case is moot simply by virtue of his release falls into the exact trap the Supreme Court
 19 warned against—it would allow Respondents to repeat their unlawful behavior of
 20 denying O.E.O. his TVPRA rights, and evade judicial review. *Id.* at 191 (“When...a
 21 mentally disabled patient files a lawsuit challenging her confinement in a segregated
 22 institution, her post complaint transfer to a community-based program will not moot the
 23 action...” (cleaned up). Further, Respondents’ “assurances” that the behavior is not
 24 likely to recur are neither convincing nor comforting when considered against
 25 Respondents’ past behavior, prior briefing, and language in their February 12, 2026
 26 Memorandum of Age Determination, and fall short of their “formidable burden.” *See*
 27 ECF 102, Reply ISO PI at 5–6 (explaining how O.E.O.’s transfers and ultimate release

1 only occurred from mounting pressure of this litigation); *see also* Tab A, Feb. 12, 2026
2 Memorandum of Age Determination (reserving possibility of reweighing the evidence of
3 O.E.O.’s minority in the future); *supra* at I. (highlighting language admitting actions were
4 taken because of litigation).

5 Respondents’ supplemental briefing argues that their “conduct challenged in this
6 lawsuit cannot be reasonably expected to recur” because (1) that would require that the
7 “*second* super[s]eding age redetermination would somehow be reversed back to the
8 original determination that Petitioner was an adult,”; and (2) unaccompanied children are
9 afforded specific rights under the TVPRA that would preclude O.E.O.’s re-detention in
10 an ICE facility. *See* Dkt. 104, Resp’t Supp. Briefing at 1–2 (emphasis added). First, the
11 February 12, 2026 Memorandum of Age Determination is Respondents’ *third* age
12 determination—Respondent ORR’s conduct has thus already recurred before it was fixed
13 on its third attempt. *See* Dkt. 10, Exhibits in Support of Complaint and Petition at Tab A,
14 B (May 1, 2025 and May 21, 2025 Memo of Age Re-Determinations). Respondents also
15 argue that this third age determination “has taken place based on significant analysis by
16 the agency” and it is “highly unlikely and certainly not reasonably expected” that it
17 “would somehow be reversed back.” This directly contradicts Respondent ORR’s
18 February 12, 2026 Memorandum of Age Determination, which explicitly states ORR
19 “reserves the right to engage in a new review” of the “existing...evidence.” Tab A,
20 February 12, 2026 Memorandum of Age Determination.

21 Second, Respondents’ mere acknowledgement of O.E.O.’s TVPRA rights and that
22 8 U.S.C. § 1232(b)(3) mandates that ICE return unaccompanied children to ORR custody
23 immediately upon apprehension does nothing to guarantee Respondents won’t again
24 violate that provision of the TVRPA. Respondent ICE refused to conduct their own age
25 determination, in violation of the law, and detained O.E.O. in their custody for over seven
26 months, despite having evidence of his minority through his entire detention. *See* Dkt.
27

1 10, Tab X, ICE Demand Letter; *see also* Dkt. 59, ORDER (granting expedited, limited
2 discovery based on ICE’s failure to conduct a prompt age determination under 8 U.S.C. §
3 1232(b)(4)). Respondents cannot argue that their unlawful behavior of erroneous and
4 unlawful age redeterminations, which have already recurred in this very case, is not likely
5 to recur simply by pointing to the very rights and obligations Respondents have
6 repeatedly flouted. It is the very violation of that provision of the TVPRA that gave rise
7 to this litigation in the first place.

8 Further, in the habeas context, courts in this circuit have repeatedly found that a
9 petitioner’s fear of re-detention is “ripe” where, as here, the government has refused to
10 acknowledge its conduct, much less “refused to provide any assurance that [petitioner
11 would] not be re-arrested.” *Ortega v. Bonnar*, 415 F. Supp. 3d 963, 969 (N.D. Cal.
12 2019); *see also Cruz v. Lyons*, No. 5:25-CV-02879-MCS-MBK, 2025 WL 3443146, at *2
13 (C.D. Cal. Dec. 1, 2025) (“A habeas petition is not moot where preliminary relief is not
14 made permanent”). To date, neither Respondent agency has acknowledged, much less
15 disavowed, their unlawful conduct and therefore, O.E.O. remains subject to re-detention
16 and the violation of his TVPRA rights absent a final order from this Court. *See* Dkt. 104,
17 Resp’t Supp. Briefing (making no acknowledgement or disavowal of their conduct). In
18 fact, the only affirmative statement as to fault on the record states the opposite: “Neither
19 ORR nor ICE concede that their prior decisions were wrong.” Dkt. 75, Resp’t Mot. for
20 Voluntary Remand at 4. Absent a clear statement from Respondent ORR and ICE that
21 they will not conduct another age-redetermination for O.E.O., that they will not re-detain
22 him in either ORR or ICE custody, or that they will not again violate his other rights
23 under the TVPRA, this case remains ripe.

24 CONCLUSION

25 For the foregoing reasons, the Court should reject Respondents’ assertions that
26 O.E.O.’s case is moot and instead allow this litigation to continue towards finality.
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DATED: July 9, 2026

Respectfully submitted
By: /s/ Carson Adrianna Scott
Carson Adrianna Scott
Immigrant Defenders Law Center
Pro Bono Attorney for Petitioner

TAB A



ADMINISTRATION FOR
CHILDREN & FAMILIES

Office of Refugee Resettlement | 330 C Street, S.W., Washington, DC 20201
www.acf.hhs.gov/orr

MEMORANDUM OF AGE DETERMINATION

Date: February 12, 2026

TO: DHS ICE ERO Field Office Juvenile Coordinator (FOJC), El Paso, Texas

FROM: Anna Lee Lopez
Section Chief, HHS ACF ORR UACB DCA

SUBJECT: Age Determination of an Unaccompanied Alien Child (UAC)

RE:

This memorandum documents the Office of Refugee Resettlement's (ORR) formal age determination regarding the above-referenced individual. ORR conducted this age determination pursuant to 8 U.S.C. § 1232(b)(4) and 45 C.F.R. §§ 410.1700–410.1704, and consistent with the ORR Unaccompanied Alien Children Bureau (UACB) Policy Guide § 1.6. ORR considered multiple forms of evidence, including non-exclusive use of radiographs. ORR considered all pertinent information, as described and discussed below. This determination was conducted using a totality-of-the-evidence approach and in a manner that is holistic, child-sensitive, research-based, and culturally sensitive.

As discussed below, ORR determines that the above-referenced individual is 16 years old.

Evidence Reviewed:

- Department of Homeland Security (DHS) Notice to Appear (NTA) (#1) issued November 14, 2024, with DOB [REDACTED] 2009.
- Department of Homeland Security (DHS) Notice to Appear (NTA) (#2) issued February 28, 2025, with DOB [REDACTED] 2009.

- Documents produced to opposing counsel in response to Petitioner’s First Set of Requests for Production and Interrogatories, dated November 26, 2025
- Birth Certificates (Tazkiras) and Identity Documents submitted for the case:
 - Untranslated Tazkira from the National Statistics and Information Authority (“NSIS”), for O [REDACTED] A# [REDACTED] This document was provided by his mother and is a handwritten document in blue ink with a color photo of O [REDACTED]
 - It is the same document O [REDACTED] attorney provided as the “correct Tazkira” for O [REDACTED]
 - It is the same document submitted for translation by Compass Connections El Paso.
 - It is the same document submitted with a translation by O [REDACTED] attorney of record with listed translation discrepancies (documented on email).
 - National Identity Card (Tazkira) Serial No [REDACTED] (Father listed as M [REDACTED] [REDACTED] missing the “I” and Native Language Pashto), and Passport No [REDACTED] with DOB [REDACTED] for C [REDACTED] O [REDACTED] father.
 - National Identity Card (Tazkira), ID Number: [REDACTED] and DOB [REDACTED], and National Identity Card, ID Number [REDACTED] for S [REDACTED] (missing the “I”), O [REDACTED] mother.
 - National Identity Card, DOB [REDACTED] 1999 for O [REDACTED] sister Omideh [REDACTED]
 - National Identity Card (Tazkira), ID Number: [REDACTED] and National Identity Card, ID Number: [REDACTED] and DOB [REDACTED] 2000 for O [REDACTED] brother S [REDACTED]
 - National Identity Card, ID Number: [REDACTED] and DOB [REDACTED] 2003 for O [REDACTED] sister Benafsha [REDACTED]
 - National Identity Card, ID Number [REDACTED] and DOB [REDACTED] 2014, for O [REDACTED] sister A [REDACTED]
- Statements from the individual, parent(s), and sponsor

○ Per the UAC Case Review in UAC Portal:

- On November 16, 2024, Crittenton Shelter contacted O [REDACTED] mother who stated that O [REDACTED] date of birth is [REDACTED] 2009.
- On June 9, 2025, [REDACTED] O [REDACTED] uncle, wrote a signed declaration, stating that he knows O [REDACTED] to be 15 years old (at the time of writing the declaration), and specifically that his birth date is [REDACTED] 2009.
- On January 20, 2026, a DSA FFS conducted sponsor vetting activities during which time sponsor [REDACTED] who identified himself as minor O [REDACTED] paternal uncle reported O [REDACTED] DOB birth as [REDACTED] 2003, saying minor is 21 years old but then retracted his statement.

○ Letters provided by the family members:

- On May 7, 2025, [REDACTED] O [REDACTED] sister, wrote a signed declaration, stating that she knows O [REDACTED] to be 15 years old, with DOB of [REDACTED] 2009.
- On May 7, 2025, [REDACTED] O [REDACTED] brother, wrote a signed declaration, stating that he knows O [REDACTED] to be 15 years old, with DOB of [REDACTED] 2009.
- On May 7, 2025, [REDACTED] O [REDACTED] sister, wrote a signed declaration, stating that she knows O [REDACTED] to be 15 years old, with DOB of [REDACTED] 2009.
- On May 7, 2025, [REDACTED] O [REDACTED] uncle, wrote a signed declaration, stating that he knows O [REDACTED] to be 15 years old, with DOB of [REDACTED] 2009.

- Dental age assessment (oral examination and radiographs) completed on May 8, 2025, by Dr. Zaw Thu:

- Results indicating O [REDACTED] age between 20 and 21 years old with about 95% certainty.

- Second assessment based on third molar development (radiographs) completed on May 19, 2025, by Dr. David Senn:

- Results indicating O [REDACTED] age between 16.22 to 22.47 years old with a 77.55% probability that O [REDACTED] had reached 18 years old and his estimating mean age is 19.35 years.
- Medical records from Dr. Zarghuna Faiz are in the form of a handwritten statement that O [REDACTED] was born in his home on [REDACTED] 2009, at 10 a.m., which is a statement by an individual determined to have personal knowledge of O [REDACTED] age.
- A certified letter by the [REDACTED] High School stating that O [REDACTED] was enrolled on February 28, 2017, at [REDACTED] years old and that he attended through the seventh grade at [REDACTED] years old, when he stopped attending because he was “disqualified,” in 2025.

Summary:

ORR's First Age Determination

O [REDACTED] initially entered ORR custody and was placed at Crittenton Shelter on November 15, 2024, with a Department of Homeland Security (DHS) Notice to Appear (NTA) (1) issued on November 14, 2024, that reflected O [REDACTED] date of birth of [REDACTED] 2009.

Subsequently, on November 16, 2024, DHS provided a Passport issued by Kabul Central Passport Department ID Number: [REDACTED] and National Identity Card, ID Number: [REDACTED] both with listing O [REDACTED] date of birth as [REDACTED] 2003. In other words, according to these documents, the above-referenced individual was 21 years old at that time. On November 18, 2024, the Passport and National Identity Card provided by DHS were submitted for authentication to the Afghanistan Affairs Unit (AAU). The response received on February 03, 2025 read as follows:

"We have reviewed the passport and digital ID you sent to verify their authenticity. They appear to be genuine and have cross-referenced all the details with other passports including the passport number, ID number, civil document numbers, patterns, watermarks, and other specifications and everything aligns with what we would expect from a valid passport- meaning real passports- still I noticed that the color seems a bit faded and may appear altered and could be due to the quality of the camera used to take the photo which might explain the faded and confusing appearance. On the other hand, it is challenging to fully accept these documents as genuine without having the hard copies for extra examination. We recommend that the peer agencies in possession of the passport and ID

use an MRZ reader which easily can verify and authenticate passports and IDs. Also, it would be useful to compare these suspected passports with any other Afghan passports they may have on hand. If we had those passports at our possession, it would be much easier to determine authenticity, but with looking only into photos, it is hard to come up with a conclusion."

On December 11, 2024, a birth certificate was submitted by [REDACTED] O [REDACTED] mother, asserting O [REDACTED] identity and date of birth as [REDACTED] 2009.

Per UAC Portal documentation reviewed, new documents were submitted to the AAU via the ORR Documents Verification Inbox on March 21, 2025, with a response received on April 30, 2025, indicating the following:

"AAU advised that the minor's passport and national ID appear genuine. The Tazkira, specifically the DOB section, appear to be digitally manipulated and fraudulent."

The documentation is unclear regarding which exact documents were referenced since the email includes four attachments submitted to the AAU for authentication with this additional request. The documentation indicates that O [REDACTED] mother, [REDACTED], only submitted a Tazkira, and not a new passport and national ID as indicated by the AAU's emailed response received via Smartsheet on April 30, 2025. There does not appear to be a follow-up email to the AAU for clarification of the discrepancy.

An Age Determination completed by the Federal Field Specialist (FFS) assigned to the case on May 01, 2025 concluded that O [REDACTED] was an adult, therefore he was transferred into DHS Immigration and Customs Enforcement (ICE) custody. Shortly after, O [REDACTED] mother provided new documentation related to O [REDACTED] age determination. O [REDACTED] was then transferred back to ORR custody at Crittenton Shelter on May 2, 2025.

ORR's Second Age Determination:

Per a prior Age Determination Memo, on May 2, 2025, ORR tried to verify the authenticity of the school and medical records submitted by O [REDACTED] mother; however, on May 19, 2025, the AAU reported being unable to authenticate the documents, stating the following:

"AAU has reviewed the additional documents and I will include their response below. The BLUF is that the additional documents can not be authenticated and only support their original finding that the individual is not a minor."

"Neither the hospital nor the school records are ~~not~~ [sic] genuine documents. The hospital form is a prescription pad, with the birth note written in place of where a prescription may normally be written. The cultural advisers noted that the school record "is unofficial and seems to have been prepared by someone without authority" and that they are self-made and "not genuine." There's no attestation from the Ministry of Education, nor verification by the Ministry of Foreign Affairs. Further, this document looks nothing like the education docs I have seen here at post.

Beyond document formalities, the school record suggests he began school at age ~~X~~ very unusual for Afghanistan.

Further suggesting the 2003 DOB is legitimate, the cultural advisers say, is that the child would have been unlikely to get the support in obtaining his civil documents at the age he would have been with the 2009 DOB, and the story told about how the eTazkira was obtained does not hold up against procedure for obtaining one, which is more rigorous than paper Tazkiras. The official documents say one thing, and the easily falsified paper Tazkira says something else.

It's difficult to assess legitimacy of documents we do not have in hand, but the school and medical records have no persuasive value and ultimately raise more questions about the case than we originally had."

On May 8, 2025, the first Dental Forensic Exam was completed by Dr. Zaw Thu, DDS of Valencia Family Dental Care using the method of modified Demirjian's classification system which evaluates the developmental stages of third molar tooth X-rays. ORR received the results on May 19, 2026 indicating that Omid's age "could be between 20 and 21 years old [...] about 95% certainty". On May 19, 2025, Dr. David Senn also completed a dental assessment based on third molar development (radiographs). The results indicated that O ~~X~~ age was between 16.22 to 22.47 years old with a 77.55% probability of O ~~X~~ having attained 18 years of age with an estimated mean age of 19.35 years.

A second Age Determination Memo was completed and submitted by the assigned FFS on May 21, 2025, and O [REDACTED] was discharged on May 22, 2025, to DHS custody.

Based on this information, ORR completed its second Age Determination Memo on May 21, 2025, concluding O [REDACTED] E [REDACTED] O [REDACTED] was not a minor. O [REDACTED] was transferred to the custody of DHS on May 22, 2025 based on this finding.

Recent Events:

On January 3, 2026, DHS transferred O [REDACTED] E [REDACTED] O [REDACTED] back to ORR Custody based on concerns raised in litigation about his age. ORR placed him at Compass Connections El Paso in El Paso, TX.

In support of O [REDACTED] transfer to ORR custody, The Department of Homeland Security (DHS) provided ORR with O [REDACTED] Notice to Appear (NTA) (2) that was issued on February 28, 2025. The NTA listed his DOB as [REDACTED] 2009. DHS requested that ORR take custody of O [REDACTED] for the purpose of determining his age.

On January 20, 2026, a Division of Sponsor Administration FFS ("DSA FFS") conducted sponsor vetting activities, during which time sponsor [REDACTED] who identified himself as minor O [REDACTED] paternal uncle reported O [REDACTED] DOB birth as [REDACTED] 2003, saying the minor is 21 years old. The FFS documented:

[...] 1/20/2026: DSA-FFS contacted sponsor [REDACTED] who identified himself as minor O [REDACTED] paternal uncle. Sponsor reported he and minor's father are brothers. Sponsor was able to provide minor's full name and his DOB birth as [REDACTED] 2003, saying minor is 21 years old. When DSA-FFS asked sponsor if he was sure about minor's DOB sponsor said yes, because that is what minor's documentation say and that is the information sponsor has on his phone. DSA-FFS further asked about his and minor's relationship, sponsor said he and minor lived in the same home in Afghanistan and he saw minor grow up, however, sponsor does not remember child's birth, he only knows his DOB is the one in minor's documents, again verbally confirming minor's DOB is [REDACTED] 2003. Sponsor also stated he has a bad memory and it is hard for him to remember when minor was born and he sometimes even forgets his own DOB and his children's DOB. DSA-FFS

asked sponsor his age and if he had any medical issues that affect his memory and sponsor confirmed he had no medical issues or memory issues and that he is 30 years old [...].

ORR was unable to obtain a written statement from the potential sponsor, [REDACTED] O [REDACTED] uncle, who on January 20, 2026, stated to an FFS that O [REDACTED] date of birth of [REDACTED] 2003, and subsequently retracted the verbal statement to ORR.

ORR sent a request to the Afghan Affairs Unit in order to verify the authenticity of O [REDACTED] and his immediate family member's biographical information.. The request included O [REDACTED] Tazkira provided by his mother and confirmed by his attorney as O [REDACTED] accurate identity document. Additional document verifications included the National Identity Card (Tazkira), Passports, and National Identity Cards submitted by his immediate family. A response was received on February 02, 2026, from the ORR Documents Verification Inbox as follows:

"DoS is no longer able to support assessment of Afghan identity documents due to personnel cuts in the Afghanistan Affairs Units."

Additionally, ORR was unable to obtain original identity documents for O [REDACTED] that can be used to scan using their Machine-Readable Zone (MRZ) for optical character recognition as previously recommended by the AAU.

Unsuccessful efforts were made by ORR to contact [REDACTED] Hospital ([REDACTED] or WhatsApp [REDACTED]) to confirm the validity of the handwritten statement/medical records from Dr. Zarghuna Faiz asserting that O [REDACTED] was born in his O [REDACTED] home on [REDACTED] [REDACTED] 2009, at 10 a.m. A National Identity Card was provided for Zarghoona Faiz with a notable alternate spelling of her first name on the translated handwritten statement.

When O [REDACTED] was initially admitted into ORR Custody on November 15, 2024, a certified letter by the [REDACTED] High School was provided stating that O [REDACTED] was enrolled on February 28, 2017, at [REDACTED] years old and that he attended through the seventh grade at [REDACTED] years old, when he stopped attending because he was "disqualified," in the year 2025. It is unclear how O [REDACTED] was "disqualified in 2025". ORR was unable to contact the Ministry of Education (Kabul) (+93 (0) 20 214 3351) to confirm enrollment or validity of the certified letter provided.

On February 03, 2026, ORR requested a Biometric Identification Transnational Migration Alert Program (BITMAP) from DHS Enforcement and Removal Office (ERO) Field Office Juvenile

Coordinator (FOJC) in El Paso, TX in an additional effort to determine O [REDACTED] true age. A follow up request was submitted on February 04, 2026. ORR did not receive a response regarding this request.

Guidance was requested from the medical Subject Matter Experts (SMEs) of ORR's Division of Health for Unaccompanied Alien Children (DoH) regarding the two existing Dental Forensics Exams completed for O [REDACTED] during his prior placement at ORR. The DoH advised that neither medical age assessments nor dental maturity assessments should be the sole determining factor when determining the age of an individual, as is consistent with ORR Policy Guide § 1.6.2 and 45 C.F.R. § 410.1703.

On February 02, 2026, a request was made to the ORR Language Services Inbox for translation of O [REDACTED] Untranslated Tazkira from the National Statistics and Information Authority ("NSIS"), that was provided to Compass Connections El Paso on January 6, 2026 by O [REDACTED] mother, [REDACTED]. The document is a handwritten document in blue ink with a color photo of O [REDACTED]. It is the same document O [REDACTED] attorney provided as the "correct Tazkira" for O [REDACTED]. On February 05, 2026, the translation was received with a documented Identification Name of "[REDACTED]". When the discrepancy was presented to O [REDACTED] on February 10, 2026, he reported that his name "O [REDACTED] means [REDACTED] and an altered version of his name is [REDACTED] which means [REDACTED]. On February 11, 2026, O [REDACTED] mother reported not being familiar with the name [REDACTED].

On February 10, 2026, O [REDACTED] attorney of record also provided a certified English translation of O [REDACTED] reported Original Tazkira. Per the translation and email from the attorney, "...The Tazkira itself was issued by the Afghanistan Civil Registration Authority in Solar Hijri year 1396 (corresponding to 2017–2018 in the Gregorian calendar), at which time O [REDACTED] was 8 years old." On February 11, 2026, the attorney provided a corrected version of the certified English translation of O [REDACTED] reported Original Tazkira citing a typo in the date of birth section which should correctly read that "He was born on [REDACTED] 2009]...".

A United States District Judge for the District of Arizona ordered that O [REDACTED] age determination be completed by February 12, 2026.

Conclusion:

Based upon a careful review of the totality of evidence and in consideration of the regulatory requirement that “[a]mbiguous, debatable, or borderline forensic examination results are resolved in favor of finding the individual is a child . . .”, we are unable to reasonably conclude that O [REDACTED] E [REDACTED] O [REDACTED] is an adult.

However, should ORR obtain new evidence, or if ORR is able to authenticate existing or new evidence, the Office reserves the right to engage in a new review.

Very Respectfully,

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