

1 **ROXANA V. MURO**
California State Bar No. 344966
2 **LAW OFFICES OF ROXANA V. MURO**
510 W. 6th Street, Suite 506
3 Los Angeles, CA 90014
4 Tel.: (213) 622-4700
5 Fax: (213) 622-4701
6 Email: roxanamuro@rvmimmigrationlaw.com

7 Attorney for Petitioner Mateo Juan Andres

8 **UNITED STATES DISTRICT COURT**
9 **CENTRAL DISTRICT OF CALIFORNIA**

10 MATEO JUAN ANDRES) Case No. 2:25-cv-07946
11 SALVADOR,)
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Petitioner,)
v.)
Kristi NOEM, et al.,)
Respondents.)
Honorable Monica Ramirez Almadani
United States District Judge

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1 **I. INTRODUCTION**

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3 Petitioner Mateo Juan Andres respectfully submits this reply in response to
4 the Government’s opposition. First, the Government does not address the
5 Petitioner’s central argument, that because he was classified as an
6 “unaccompanied alien child” (hereinafter “UAC”) under 6 U.S.C. § 279(g) at the
7 time of his initial detention, he was never subject to 8 U.S.C. § 1225(b)(2)(A),
8 but instead to the protections of 8 U.S.C. § 1232(b). The Petitioner’s record
9 demonstrates that federal authorities complied with § 1232(b) by notifying Health
10 and Human Services (hereinafter, “HHS”) and transferring Petitioner to Office of
11 Refugee Resettlement (hereinafter “ORR”) custody. Consequently, any present
12 detention is authorized only under 8 U.S.C. § 1226(a), which entitles Petitioner to
13 a custody redetermination hearing. See *Flores v. Sessions*, 862 F.3d 863, 866 (9th
14 Cir. 2017); *J.O.P. v. DHS*, 8:19-cv-01944 (D. Md.)

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16 The Government’s brief ignores this statutory framework and controlling
17 precedent and thus fails to rebut Petitioner’s entitlement to relief.

18
19 Second, although Petitioner is now twenty-one years of age, binding
20 precedent, including *Flores v. Sessions* and *J.O.P. v. DHS*, confirm that UAC
21 protections continue to apply even after the age of majority. In *J.O.P. v. U.S.*
22 *Department of Homeland Security*, 8:19-cv-01944 (D. Md.), the district court
23 held that individuals classified as “unaccompanied alien children” at the time of
24 entry remain entitled to the statutory protections afforded to UACs, even after
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1 reaching the age of majority. Specifically, *J.O.P.* recognized that the statutory
2 framework preserves UAC status for purposes of custody, placement, and asylum
3 eligibility, thereby ensuring that the unique protections Congress enacted are not
4 extinguished upon a child's eighteenth birthday. Thus, consistent with *J.O.P.*,
5 Petitioner continues to fall within the UAC statutory regime, and the
6 Government's attempt to reclassify him under 8 U.S.C. § 1225(b)(2)(A) is
7 contrary to law.
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11 Finally, the Government's reliance on *Matter of Q Li* is incorrect, as it does
12 not apply to Petitioner's case. *Matter of Q Li* involved noncitizens apprehended
13 at the border and classified as applicants for admission under 8 U.S.C. § 1225(b).
14 Petitioner, however, was not processed under § 1225(b)(2)(A). Instead, he was
15 classified as an unaccompanied alien child and processed under the separate
16 statutory framework created by the the William Wilberforce Trafficking Victims
17 Protection Reauthorization Act of 2008 ("hereinafter, "TVPRA"). See 8 U.S.C. §
18 1232(b). Unlike the respondent in *Q Li*, Petitioner, from the beginning, was
19 placed in ORR custody pursuant to statute, not treated as an "arriving alien." His
20 current detention authority arises solely under 8 U.S.C. § 1226(a). For that
21 reason, *Q Li* does not apply here, where Congress has made clear that UACs are
22 governed by a distinct protective scheme.
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1 **II. ARGUMENT**

2 **A. Petitioner’s Initial Classification and Processing as a UAC Under the**
3 **TVBRA Continue to Govern His Custody and Bond Eligibility,**
4 **Regardless of His Age at Present.**

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6 1. UACs Are Not Subject to Expedited Removal Under 8 U.S.C. §
7 1225(b)(1)(A)(i).

8 Petitioner was 17 years old when he entered the United States and was
9 classified as an unaccompanied alien child (“UAC”) under section § 279(g) of the
10 Immigration and Nationality Act (hereinafter, “INA”). By statute, UACs are not
11 subject to expedited removal under INA § 235(b), 8 U.S.C. § 1225(b). Instead,
12 under INA § 208(b)(3)(C) and 8 USC § 1232(b), Petitioner was entitled to an
13 initial asylum adjudication by USCIS before any further removal proceedings
14 could be conducted, and he had to be released from Department custody within 72
15 hours. *See* 8 U.S.C § 208(b)(3)(C) (“An asylum officer (as defined in section
16 1225(b)(1)(E) of this title) shall have initial jurisdiction over any asylum
17 application filed by an unaccompanied alien child (as defined in section 279(g) of
18 title 6), regardless of whether filed in accordance with this section or section
19 1225(b) of this title.”). Under 8 USC § 1232(b), unaccompanied alien children
20 must be released from Department custody within 72 hours and placed with either
21 the Secretary of Health and Human Services or an appropriate guardian. That is
22 exactly what occurred in Petitioner’s case. Federal authorities notified HHS,
23 transferred Petitioner to ORR custody, and released him to a qualified sponsor on
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1 December 16, 2021, in compliance with 8 USC § 1232(b). Ex. B, pp. 9–11.

2 Under INA § 208(b)(3)(C) and 8 USC § 1232(b), Petitioner could not have
3
4 been subject to expedited removal proceedings or the mandatory detention
5 provision at § 1225(b) because he was an unaccompanied alien child when he
6 entered the United States and therefore cannot now be subjected to the mandatory
7 detention provisions of § 1225(b). His detention authority arises only under INA §
8 236, 8 U.S.C. §1226(a), which entitles him to a custody redetermination hearing.
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10 *See also Lopez v. Sessions*, 18 Civ. 4189 (RWS) (S.D. N.Y. Jun 12, 2018)
11 (persuasive authority) (explaining that unaccompanied alien children are never
12 subject to expedited removal proceedings under INA § 235(b), per the controlling
13 Settlement for the detention and release of unaccompanied alien children as set
14 forth in *Flores v. Sessions*, 862 F.3d 863, 866 (9th Cir. 2017), because “**persons**
15 **under the age of eighteen at the time of entering the United States are subject**
16 **to a separate regime, maintained by the ORR, within the HHS. Specifically,**
17 **pursuant to 6 U.S.C. § 279(b)(1), ORR makes all placement decisions involving**
18 UACs to ensure they are not released on their own recognizance.” 6 U.S.C. §
19 279(b)(1)(C),(D),(b)(2) (emphasis added).
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25 The TVPRA, 8 U.S.C. § 1232(b), requires that UACs in in HHS custody be
26 promptly placed “in the least restrictive setting that is in the best interest of the
27 child,” unless they are determined to pose a danger to themselves, to the
28 community, or are charged with crimes. *Id.* Moreover, Section 1261 amended the

1 TVPRA with reference to UACs who reach the age of eighteen after entering the
2 US, and while "in [HHS] custody." 8 U.S.C. § 1232(c)(2)(B). ("If a minor . . .
3 reaches 18 years of age and is transferred to the custody of the Secretary of
4 Homeland Security, the Secretary *shall* consider placement in the least restrictive
5 setting available after taking into account the alien's danger to self, danger to the
6 community, and risk of flight.") (emphasis added); *see also J.O.P. v. U.S. Dept. of*
7 *Homeland Security, et. al.*, 8:19-cv-01944 (SD Mary. 2020) (holding that those
8 classified as "unaccompanied alien children" upon entry are still subject to the
9 unaccompanied alien child provisions even after attaining 18 years of age and may
10 still file an initial asylum application with USCIS even if they have turned 18 years
11 old prior to filing the asylum application). The Government contends that this
12 provision applies only to minors who reach the age of majority while in custody.
13 However, the TVPRA expressly contemplated minors turning eighteen and reflects
14 Congress's intent to extend the statutory framework to such individuals regardless
15 of whether they are in or out of custody.
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22 When Petitioner entered the United States, he was not treated as an applicant
23 for admission under § 1225(b). He was processed as a UAC, consistent with the
24 statute. Ex. B, pgs. 9-11. Federal authorities followed the procedures outlined in 8
25 USC § 1232(b), promptly notifying HHS and transferring Petitioner to OOR
26 custody, confirmed by Petitioner's ORR Notification, HHS Placement
27 Authorization, and HHS Verification of Release. Ex. B, pgs. 9-11.
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1 Moreover, Respondents' citation to *Matter of Q Li* does not control here. In
2 *Q Li*, 29 I&N Dec. at 70, the Board held that any alien detained within two years of
3 entering the U.S. without inspection could be subject to the mandatory detention
4 provisions of §1225(b)(2) because they could have been validly subjected to
5 expedited removal proceedings under §1225(b)(2) had the Department chosen to
6 do so. That holding does not apply here. Petitioner entered as UAC and, by statute,
7 UACs cannot be placed in expedited removal or subjected to the mandatory
8 detention scheme of § 1225(b)(2)(A).
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14 Therefore, Petitioner's current detention authority arises solely under §
15 1226(a) and is therefore entitled to a custody redetermination hearing under §
16 1226(a).
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18 2. The Government's Description of Termination is Inaccurate.

19 The Government asserts that Petitioner's initial removal proceedings were
20 "cancelled alongside his pursuit of relief relating to minors." Gov't Br. at 2. This
21 characterization is unclear. It is not evident whether the Government intends to
22 suggest that Petitioner's relief under the TVPRA was cancelled, or merely that his
23 removal proceedings in court were terminated. In either case, the statement does
24 not accurately reflect the procedural history.
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28 The Immigration Judge granted the Department of Homeland Security's
motion to dismiss pursuant to 8 C.F.R. § 1239.2(c). Ex. E at 9. This regulation

1 allows dismissal when one of the grounds in 8 C.F.R. § 1239.2(a)(1)-(7) applies,
2 including where the Notice to Appear was improvidently issued or where
3
4 circumstances have changed so significantly that continuation is no longer in the
5 Government's interest. 8 C.F.R. § 1239.2(a)(7). Here, DHS itself moved for
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7 dismissal because Petitioner was classified as a UAC and had filed for asylum
8 under the protections of the TVPRA, for which USCIS has initial jurisdiction. See
9
10 8 U.S.C. § 208(b)(3)(C).

11 The J.O.P. settlement confirms this framework. See *J.O.P. v. DHS*, No.
12 8:19-cv-01944-PX (D. Md.), Settlement Agreement, ECF No. 199-2 (Filed July
13 30, 2024). It requires DHS to join or not oppose termination of removal
14 proceedings where necessary to allow USCIS to exercise initial jurisdiction over a
15 UAC's asylum application. The settlement further provides that DHS "refrain from
16 taking the position that USCIS does not have Initial Jurisdiction over a Class
17 Member's asylum application."
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21 Petitioner's case was dismissed not because of his age, but because the
22 statutory and settlement framework required that he be allowed to pursue his
23 asylum claim before USCIS under the TVPRA. That asylum application remains
24 pending. The Government is incorrect to suggest that termination extinguished
25 Petitioner's TVPRA protections.
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28 The Government further states Petitioner "cites to various laws and settlements relating to the detention of minors," whose protections only apply if the

1 person stayed in continuous government custody from the time they were a child
2 until after they turned 18. Gov't Br. at 2 Since Petitioner was released as a child
3 and only detained again at age 21, the Government is claiming the "minor
4 protections" no longer apply. The protections of the Trafficking Victims Protection
5 Reauthorization Act (TVPRA) attach at the time of entry when DHS determines an
6 individual is a UAC, and those protections do not vanish simply because the child
7 later turns eighteen or is released from custody.
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11 It is important to note that Petitioner's current detention is not result of a
12 criminal arrest or any new immigration violation. He was taken into custody during
13 an enforcement raid. Adopting the Government's position would mean that any
14 individual protected under the TVPRA who is arrested after turning eighteen
15 during enforcement operations could be subjected to prolonged detention without
16 access to a bond hearing. Under these circumstances, it is critical that the Court
17 ensure his detention authority rests on a lawful basis.
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21 3. Turning Eighteen Does Not Extinguish TVPRA Protections.

22 The Government is wrong to suggest that Petitioner is trying to rely on
23 settlements concerning the detention of minors and is attempting to claim "eternal
24 minor" status. That is not the argument. Petitioner's claim is based on the statutory
25 framework that applied to him when he entered the United States at 17. At that
26 time, he was lawfully classified and processed as a UAC, transferred to ORR
27 custody, and placed under the protections of the TVPRA. Those protections did not
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1 disappear on his eighteenth birthday, as they continue to govern the legal basis for
2 his custody and asylum eligibility. 8 USC § 1232(b); 8 U.S.C. § 1232(c)(2)(B).

3
4 Here, Petitioner was arrested not for any criminal conduct or new
5 immigration violation but was picked up in a raid while seeking lawful
6 employment. Under these facts, the Court must apply the statutory protections that
7 Congress expressly extended to former UACs. His custody is governed by the
8 UAC framework and the discretionary detention provisions of § 1226(a).
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11 Therefore, Petitioner's statutory protections under the TVPRA did not expire
12 when he turned eighteen. They continue to govern his custody, placement, and
13 asylum eligibility. Petitioner consequently requests his immediate release or, at a
14 minimum, that he provided with an individualized custody redetermination hearing
15 pursuant to §1226(a).
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17 **III. CONCLUSION**

18 For the foregoing reasons, the Court should grant Petitioner's ex parte TRO
19 Application.
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3 Dated: August 27, 2025

Respectfully Submitted,
S/Roxana V. Muro

4
5 Roxana V. Muro (CA SBN#344966)
6 Law Offices of Roxana V. Muro
7 510 W. 6th Street, Suite 506
8 Los Angeles, CA 90014
9 Tel.: (213) 622-4700
10 Fax: (213) 622-4701
11 Email:
12 roxanamuro@rvmimmigrationlaw.com
13
14
15

16 **WORD COUNT CERTIFICATION**

17
18 The undersigned, counsel of record for Petitioner certifies that this Memo
19 contains 2, 235 words, which complies with the word limit of L.R. 11-6.1.
20

21 Dated: August 27, 2025

/s/Roxana V. Muro

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23 Roxana V. Muro
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