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**UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

E.A.G., a minor, and **MARIA ARACELY
GARCIA CANDIA**, as his next friend and
on her behalf
Plaintiffs - Petitioners,

v.

ESKINDER NEGASH, Director, Office
of Refugee Resettlement (ORR); **RUTH
YANEZ**, Federal Field Specialist,
Administration for Children and Families
with Office of Refugee Resettlement;
ROCHELL POLLARD, Facility Director,
Children's First Residential Care Shelter;
CHIARA GRIFFIN, Program Supervisor,
United States Department of Health and
Human Services (HSS); **ALEX J.
ADAMS**, Acting Assistant Secretary of the
Department of Health and Human Services
(HHS) and Administration for Children and
Families (ACF); **J. NOE DIAZ**, Chief of
Police, Houston Police Department; **TODD
LYONS**, Acting Director of the U.S.
Immigration and Customs Enforcement;
KRISTI NOEM, Secretary of the U.S.
Department of Homeland Security; in their
official capacities.

Defendants - Respondents

Case No. 4:25-CV-5526

PETITION FOR WRIT OF
HABEAS CORPUS AND
COMPLAINT FOR
DECLARATORY AND
INJUNCTIVE RELIEF

Date: November 18, 2025

**PETITION FOR WRIT OF HABEAS CORPUS AND COMPLAINT FOR
DECLARATORY AND INJUNCTIVE RELIEF**

TO THE HONORABLE UNITED STATES DISTRICT COURT JUDGE:

INTRODUCTION

1. Plaintiff-Petitioners E.A.G. and Maria Aracely Garcia Candia, as E.A.G.'s next friend and on her own behalf, file this petition for writ of habeas corpus and complaint for declaratory and injunctive relief seeking E.A.G.'s immediate release from Defendants-Respondents' (Defendants) custody and E.A.G.'s immediate return to his family.
2. E.A.G. is a fifteen-year-old boy who moved to the United States with his mother in 2021. Since that time, he has lived in Houston, Texas in the care and custody of his mother, Maria Aracely Garcia Candia. *See* Exhibit A – Affidavit of Maria Aracely Garcia Candia.
3. E.A.G. is disabled, as he is hard of hearing, and has a speech impairment. E.A.G. requires specialized and consistent care, which his mother has provided since he was born. *See id.*
4. On October 4, 2025, E.A.G. was selling fruit with his mother when he wandered off. His mother became extremely worried and contacted the Houston Police Department to file a missing person's report. She was eventually notified that E.A.G. had been located and was in custody of the Office of Refugee

Resettlement (ORR). *See id.*, Exhibit B – Houston Police Department Missing Juvenile Report.

5. The Houston Police Department found him on October 5, 2025, transferred him to ICE custody, who then transferred him to ORR because they thought he was an unaccompanied alien minor. *See id.*
6. Critically, the Houston Police Department transferred E.A.G. despite his mother having filed a missing person's report with them.
7. Petitioner's counsel has repeatedly contacted ORR to ask for E.A.G. to be released to his mother, as he is not an unaccompanied minor.
8. However, E.A.G. has continued to be detained in ORR's facility and absent an order from this court, E.A.G. will remain in ORR custody, separated from his family, unless and until ORR deems his mother an adequate sponsor and chooses to reunify E.A.G. with his family.
9. While in custody, E.A.G. has suffered numerous harms, including being taken for emergency surgery. His medical conditions require constant attention, and he is very dependent on his mother. At home, he receives specialized and ongoing services at school and his mother's care and support that he needs to thrive. Without his mother and supportive community services, his health and developmental progress will suffer.

10. Defendants' forcible separation of E.A.G. from his family has also inflicted serious psychological and emotional injury on him and his entire family. His mother, in particular, has been deprived of her freedom to provide care and custody of her child.
11. The government cannot render E.A.G. an unaccompanied minor merely by virtue of his arrest and ORR cannot keep him in its custody knowing that he has been forcibly removed from his existing custodial relationship.
12. Moreover, at no point has the government suggested that E.A.G.'s mother is unfit to provide for care and custody, nor have they provided any hearing to determine her fitness prior to arresting E.A.G. and separating him from his family. Nonetheless, ORR continues to retain custody of E.A.G.
13. Defendant's arrest, transfer, and ongoing detention of E.A.G. violates the Trafficking Victims Protection Reauthorization Act of 2008, the Flores consent decree, the Rehabilitation Act, and the fundamental rights to liberty and family integrity protected by the Due Process Clause of the Fifth Amendment. Because E.A.G.'s continued detention and separation from his family violates the U.S. constitution and statutory law, Plaintiffs request this Court order E.A.G.'s immediate release to the family that has loved, cared, and provided for him since he was born.

JURISDICTION AND VENUE

14. This Court has subject matter jurisdiction over Plaintiffs’ petition for a writ of habeas corpus and their complaint for injunctive and declaratory relief pursuant to Art. I, § 9, cl. 2 of the United States Constitution; 28 U.S.C. § 2201; 28 U.S.C. § 2241; 28 U.S.C. § 1331; 28 U.S.C. § 1343; 28 U.S.C. § 1361; and 5 U.S.C. § 702. This action arises under the Fifth Amendment to the United States Constitution; the Immigration and Nationality Act (“INA”); the Homeland Security Act of 2002 (“HSA”); the William Wilberforce Trafficking Victims Protection Reauthorization Act (“TVPRA”), 8 U.S.C. § 1232; the Administrative Procedure Act, 5 U.S.C. § 701 et seq.; and Paragraph 24B of the class action consent decree entered in *Flores v. Reno*, Case No. 85-cv-4544-RJK(Px) (C.D. Cal. Jan. 17, 1997) (Exh. A). 13. Venue is proper in this Court pursuant to 28 U.S.C. § 2241. *See Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493-94 (1973). Venue is also proper in this Court pursuant to 28 U.S.C. § 1391(e) because a Defendant in the action resides in this District, and a substantial part of the events or omissions giving rise to the claims occurred in this District.

REQUIREMENTS OF 28 U.S.C. § 2243

15. The Court must grant the petition for writ of habeas corpus or order Respondents to show cause “forthwith” unless the Petitioner is not entitled to relief. 28 U.S.C. § 2243. If an order to show cause is issued, Respondents must

file a return “within three days unless for good cause additional time, not exceeding twenty days, is allowed.” *Id.*

16. Habeas corpus is “perhaps the most important writ known to the constitutional law...affording as it does a *swift* and imperative remedy in all cases of illegal restraint of confinement.” *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis added). “The application for the writ usurps the attention and displaces the calendar of the judge or justice who entertains it and receives prompt action from him within the four corners of the application.” *Yong v. I.N.S.*, 208 F.3d 1116, 1220 (9th Cir. 2000) (citation omitted).

PARTIES

17. Petitioner E.A.G. is a fifteen-year-old boy who moved to the United States with his mother and sister in 2021. He has severe intellectual disabilities. He was detained and transferred to ORR’s custody despite not being an unaccompanied minor. Prior to his detention, he lived in the care and custody of his mother in Houston, Texas, where he has lived since 2021.
18. Plaintiff Maria Aracely Garcia Candia is E.A.G.’s mother and legal guardian. She has provided for his care and custody since birth. She lives in Houston, Texas with the rest of E.A.G.’s family.

19. Defendant-Respondent Eskinder Negash is the Director of the Office of Refugee Resettlement (ORR). ORR is the government entity that is directly responsible for Plaintiff's detention. Director Negash is a legal custodian of E.A.G. and is sued in his official capacity.
20. Defendant-Respondent Ruth Yanez is a Federal Field Specialist for ORR, who serves as the approval authority for the transfer, detention, and release of children in ORR custody. Ms. Yanez is a legal custodian of E.A.G. and is sued in her official capacity.
21. Defendant-Respondent Rochell Pollard is the Facility Director of Children's First Residential Care – Gasmar Shelter in Houston, Texas, where E.A.G. is currently in custody. Director Pollard is a legal custodian of E.A.G. and sued in his official capacity.
22. Defendants-Respondent Chiara Griffin is a Program Supervisor with the United States Department of Health and Human Service (HHS) who is in charge of their minors in custody. Ms. Griffin is a legal custodian of E.A.G. and is sued in her official capacity.
23. Defendant Alex J. Adams is Acting Assistant Secretary of the Department of Health and Human Services ("HHS") and the HHS's Administration for Children and Families ("ACF"). ACF has responsibility for ORR. Mr. Adams is a legal custodian of E.A.G. and sued in his official capacity.

24. Defendant J. Noe Diaz is the Chief of Police, Houston Police Department (HPD). HPD transferred E.A.G. to ORR custody despite having a missing person's report which clearly indicated that E.A.G. was not an unaccompanied minor. Defendant Diaz is sued in his official capacity.
25. Defendant, Todd Lyons, is the Acting Director of ICE. He is responsible for the policies, practices, and procedures of ICE, including those related to detaining and transferring individuals. He has legal custody of E.A.G.. He is sued in his official capacity.
26. Defendant, Kristi Noem, is the Secretary of the Department of Homeland Security (DHS). She has responsibility over the administration of U.S. immigration laws, has authority over ICE and its offices, and has the authority to release E.A.G.. She has legal custody of E.A.G.. She is sued in her official capacity.

FACTUAL BACKGROUND

27. E.A.G. is a fifteen-year-old boy with autism and other cognitive disabilities. E.A.G. is currently detained by ORR at a shelter in Houston, Texas, alone and away from his mother and family. *See* Exhibit A – *supra*.
28. E.A.G. was born in Guatemala and came to the United States with his mother and sister in 2021. *See id.*

29. E.A.G. lives in a living household with supportive family that cares for him and who supports his cognitive development, therapies, and treatments. *See id.*
30. E.A.G.'s condition requires constant attention and his mother plays a paramount role in ensuring he receives appropriate treatment. He has always been under his mother's guardianship and care.
31. E.A.G. is enrolled in school with an IEP treatment plan that provides him with the support and therapy to address his Intellectual Disability, speech impairment, and deafness.
32. On or about October 4, 2025, Petitioner and his mother were selling fruit on the street when he was detained by the Houston Police Department. *See id.*
33. Petitioner's mother was not informed of his detention and she filed a police report with Houston Police Department. *See Exhibit B – supra.*
34. ORR incorrectly classified Petitioner as an unaccompanied minor and transferred him to their facility.
35. Petitioner's counsel has attempted to secure his release multiple times; however, each time, ORR has refused to release him despite the fact that they have no lawful justification for keeping him in detention.
36. The government has never suggested that E.A.G.'s mother is unfit to provide for his care and custody.

37. The arrest, transfer, and detention of E.A.G. in ORR custody has severely impacted E.A.G. and his family.
38. The ORR shelter where E.A.G. is held is not an appropriate setting for E.A.G.'s care.
39. E.A.G. requires educational accommodations and related services to receive appropriate care.
40. The harms of taking E.A.G. out of his home, school, and medical environment are immense – he has lost his main caretaker, his mother, who is most familiar with his treatment needs and who coordinates his medical care and therapy. He has been taken from school which provides him with special education classes and other services in a supportive and familiar environment. The emotional hardship and stress that the separation imposes on E.A.G. and his family undermines his treatment and therapy.

LEGAL FRAMEWORK

41. Defendants' authority to detain minors who are facing possible removal is proscribed by the Homeland Security Act of 2002 (HSA), the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (TVPRA), and the *Flores* Consent Decree. Under the HSA, an "unaccompanied child" is defined as a child under the age of 18 with no lawful status in the United States and, "with respect to whom (i) there is no parent or legal guardian

in the United States; or (ii) no parent or legal guardian in the United States is available to provide care and physical custody.” 6 U.S.C. §279(g)(2).

42. The HSA transferred responsibility for detained “unaccompanied children” from the former Immigration and Naturalization Services (INS) to the Department of Health and Human Services, (HHS), of which ORR is a part. 6 U.S.C. §279(b)(1)(A).

43. The Flores Consent Decree applies to all children apprehended by the U.S. Department of Homeland Security (DHS) and placed in detention, whether or not they are “unaccompanied.”¹ *Flores* Consent Decree 1, 4, 10, Case No. CV 85-4544-RJK(Px) (C.D. Cal. Jan. 17, 1997) (providing that the agreement covers “all minors who are detained in the legal custody of the INS”); *see also Flores v. Lynch*, 828 F.3d. 898, 905-6 (9th Cir. 2016).

44. Paragraph 11 of the *Flores* Consent Decree requires that the government place a minor in the “least restrictive setting appropriate to the minor’s age and special needs.” *Flores* 11. Moreover “[w]here the [agency] determines that the detention of the minor is not required either to secure his or her timely appearance before the [agency] or the immigration court, or to ensure the

¹ *Flores* binds the INS and the Department of Justice as well as “their agents, employees, contractors, and/or successors in office.” The INS’s powers over immigration custody generally were transferred to DHS in 2002. Homeland Security Act §402, Pub.L. 107-296 (H.R. 5005), 6 U.S.C. §202. Immigration custody of unaccompanied children was vested with ORR, where these responsibilities remain today. *Id.* §279(aa); *Bunikyte v. Chertoff*, 2007 WL 1074070, at *2 (W.D. Tex. 2007). Moreover, the Homeland Security Act includes explicit “savings” provisions specifying that the *Flores* Consent Decree remains in effect as to the agencies inheriting the INS’s former responsibilities. See Pub.L. 107-296 §§462(f)(2), 1512(a)(1), 1512(c).

minor's safety or that of others, the [agency] shall release a minor from its custody without unnecessary delay." *Flores* at 14. *Flores* establishes a preference for release to a parent, legal guardian, adult relative, or an adult individual or entity "designated by the parent or legal guardian as capable and willing to care for the minor's well-being." Over placement in a licensed facility or release to another entity. *Id.*

45. Moreover, the *Flores* Consent Decree prohibits the government from holding minors in a secure DHS or DHS-run detention facility unless the minor meets a set of specific criteria related to certain criminal violations or safety concerns. *See Flores* at 21.

46. E.A.G. does not meet the criteria under *Flores* for detention in a secure detention facility.

CLAIMS FOR RELIEF

FIRST CLAIM FOR RELIEF

Violation of the Homeland Security Act of 2002 and William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 Defendants' Lack of Statutory Authority to Transfer and Detain E.A.G. in ORR Custody

47. Plaintiffs incorporate by reference the allegations of fact set forth in paragraphs 1-46, as if fully set forth herein.

48. Defendants HPD and ICE prevented E.A.G.'s return to his mother when they apprehended him and transferred him to ORR custody as an "unaccompanied child" despite reports and knowledge to the contrary.
49. Defendant ORR continues to separate E.A.G. from his mother and other family members by continuing to detain him.
50. Defendants' authority to detain minors who are facing possible removal is proscribed by the Homeland Security Act of 2002 (HSA) and the Trafficking Victims Protection Reauthorization Act of 2008 (TVPRA). The HAS provides ORR with the authority to detain "unaccompanied children." 6 U.S.C. §279(g)(2). The TVPRA authorizes federal agencies like ICE to transfer "unaccompanied children" into ORR custody. 8 U.S.C. §1232(b)(1), (b)(3).
51. The HSA and the TVPRA do not authorize the federal government to knowingly and forcibly separate a child from his parent in the United States who was already providing him with care and physical custody.
52. At the time of E.A.G.'s apprehension and transfer to ORR custody, HPD knew that he was living in the United States under the care and custody of his mother, who was "available to provide care and custody" of him. *See* 6 U.S.C. §279(g)(2).

53. Shortly after his transfer, ICE and ORR were also notified that E.A.G. was not an unaccompanied minor and that his mother was “available to provide care and custody” of him. *See* 6 U.S.C. §279(g)(2).
54. E.A.G. is not and never has been an “unaccompanied child.”
55. Defendant HPD acted unlawfully by transferring E.A.G. to ORR custody despite knowing he is not an “unaccompanied child” under the relevant statutes.
56. Defendant ORR has acted unlawfully by keeping E.A.G. in its custody despite knowing that he is not an “unaccompanied child” under the relevant statutes.
57. ORR lacks any legal authority to keep E.A.G. in its custody.

SECOND CLAIM FOR RELIEF

Violation of Flores Consent Decree

58. Plaintiffs incorporate by reference the allegations of fact set forth in paragraphs 1-57, as if fully set forth herein.
59. Plaintiffs seek the Court’s review and an order to remedy violations of E.A.G.’s rights under the *Flores* Consent Decree pursuant to Paragraph 24B which provides that “[a]ny minor who disagrees with the [agency’s] determination to place that minor in a particular type of facility...may seek judicial review in any United States District Court with jurisdiction and venue over the matter to challenge that placement determination.”

60. Defendants have violated and continue to violate E.A.G.'s rights under the following paragraphs of the *Flores* Consent Decree:

Paragraph 11: requiring the government to place a minor in the "least restrictive setting appropriate to the minor's age and special needs...."

Paragraph 14: requiring that the government release a minor to the minor's parent unless "the detention of the minor is..required either to secure his or her timely appearance before the INS or the immigration court, or to ensure the minor's safety or that of others."

61. Defendants HPD, ICE, and ORR have violated Paragraphs 11 and 14 of the Flores Consent Decree by transferring E.A.G. to and detaining E.A.G. at an ORR shelter, rather than releasing him immediately to his mother or another family member.

THIRD CLAIM FOR RELIEF

Due Process Clause of the Fifth Amendment to the United States Constitution Violation of the Right to Family Integrity

62. Plaintiffs incorporate by reference the allegations of fact set forth in paragraphs 1-61, as if fully set forth herein.

63. The Fifth Amendment to the U.S. Constitution provides that "no person...shall be deprived of...liberty...without due process of law." U.S. Const., amend. V.

64. Plaintiffs have a fundamental and reciprocal liberty interest in family integrity, which is protected by both substantive and procedural due process.

65. E.A.G. has been in the care and custody of his mother since he was born.

66. At no point have Defendants found that E.A.G.'s mother is unfit to care for him. Nor did Defendants provide a prompt hearing to determine the fitness of E.A.G.'s mother prior to E.A.G.'s transfer and detention.

67. By transferring and detaining E.A.G. in ORR custody, without any hearing to determine the ability of his mother to provide for his care and custody, Defendants have deprived E.A.G. of the care of his mother, Ms. Maria Aracely Garcia Candia, and her freedom to provide such care, in violation of their fundamental due process rights.

FOURTH CLAIM FOR RELIEF

Due Process Clause of the Fifth Amendment to the United States Constitution Arbitrary Detention

68. Plaintiffs incorporate by reference the allegations of fact set forth in paragraphs 1-67, as if fully set forth herein.

69. The Fifth Amendment to the U.S. Constitution provides that "no person...shall be deprived of...liberty...without due process of law." U.S. Const., amend V.

70. The Due Process Clause of the Fifth Amendment permits civil detention of individuals only where it is reasonably related to the government's interests in preventing flight risk or protecting the community from danger.

71. E.A.G. is neither a flight risk nor does he pose a danger to public safety. He is fifteen years old boy with disabilities and serious medical needs who has lived with and been cared for his mother his entire life.

72. For these reasons, E.A.G.'s continued detention violates the Due Process Clause.

FIFTH CLAIM FOR RELIEF

Violation of the Immigration and Nationality Act Unlawful Warrantless Arrest

73. Plaintiffs incorporate by reference the allegations of fact set forth in paragraphs 1-72, as if fully set forth herein.

74. The Immigration and Nationality Act, 8 U.S.C. §1357(a)(2) limits Defendants' warrantless arrest authority to situations where there is probable cause of removability and the person is "likely to escape before a warrant can be obtained for his arrest." *Id.*

75. E.A.G. was detained by ICE and transferred to ORR without a warrant and without any determination that he was likely to escape

76. E.A.G. was not a flight risk. He is fifteen years old and has several disabilities.

77. By detaining E.A.G., Defendants took away his liberty in violation of 8 U.S.C. §1357(a)(2) without any lawful authority. He continues to be detained without any lawful authority.

PRAYER FOR RELIEF

WHEREFORE, PREMISES CONSIDERED, Petitioner prays that this Court grant the following relief:

- a. Assume jurisdiction over this matter;

- b. Declare E.A.G.'s transfer to and continued detention in ORR custody to be in violation of the Homeland Security Act of 2002, William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008, the *Flores* Consent Decree, and the Due Process Clause of the Fifth Amendment;
- c. Declare Plaintiffs' detention by ORR to be in violation of the Immigration and Nationality Act, 8 U.S.C. §1357(a)(2);
- d. Enjoin Defendants from detaining E.A.G. and order Defendants to release E.A.G. to the custody of her mother immediately;
- e. Award Petitioner attorney's fees and costs;
- f. Grant any other and further relief that this Court deems just and proper.

Dated this 18th day of November 2025

Respectfully submitted,

GONZALEZ OLIVIERI, LLC
/s/ Raed Gonzalez

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INDEX OF EXHIBITS

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