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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION**

H.S.S.U., a minor, and D.V.U.G., as Next
Friend of minor,

Petitioners,

v.

JESSICA BELTRAN, Federal Field
Specialist, Office of Refugee Resettlement;
YARIET RAMIREZ, Federal Field Specialist
Supervisor, Office of Refugee Resettlement;
ANDREW GRADISON, Assistant Secretary
of the Administration for Children and
Families; ANGIE SALAZAR, Acting Director
of the Office of Refugee Resettlement; and
ROBERT F. KENNEDY, Secretary of the
U.S. Department of Health and Human
Services,

Respondents.

Case No.

**PETITION FOR WRIT OF HABEAS
CORPUS**

**FILED UNDER SEAL PURSUANT
TO 79-5.2.2(a)(i)**

INTRODUCTION

1. Petitioner H.S.S.U.¹ is a 14-year-old unaccompanied child² from Colombia who was transferred to the custody of the Office of Refugee Resettlement (ORR) on or about April 13,

¹ Petitioner is referred to herein by [H.S.S.U.] initials, in compliance with Fed. R. Civ. P. 5.2(a)(3), which requires the use of a "minor's initials" on any filing made before the court.

² An "unaccompanied child" is a child with no lawful immigration status in the United States, who is under the age of eighteen, and who has arrived in the U.S. or at the border without a parent or guardian and without legal status. 6 U.S.C. § 279(g)(2).

1 2025, following her entry into the United States from Colombia on April 12, 2025.

2 2. H.S.S.U. has been detained in ORR custody since on or about April 13, 2025, despite
3 having an identified sponsor, D.V.U.G. D.V.U.G. is H.S.S.U.'s mother. H.S.S.U. is currently
4 detained at New Beginnings – David and Margaret Youth Family Services (David and Margaret
5 Shelter), an ORR subcontracted care facility.

6 3. D.V.U.G. submitted her Family Reunification Packet (FRP) to ORR on or about
7 September 24, 2025, to have her biological child, Petitioner H.S.S.U., released to her care.
8

9 4. Even after Petitioner's attorney sent a letter on October 29, 2025, demanding a final
10 decision or release of H.S.S.U., ORR has not informed D.V.U.G. or H.S.S.U.'s counsel what
11 additional information is required to provide final approval or release. (*See Exhibit 2*). The only
12 updates from the David and Margaret shelter to H.S.S.U.'s counsel and D.V.U.G. has been that
13 "the case is looking positive. Case will be submitted this week." (*See Exhibit 3*, November 5,
14 2025). This same message was sent by the ORR case manager and again on November 12, 2025.
15 (*See Exhibit 4*). It does not appear that ORR is promptly adjudicating D.V.U.G.'s FRP, or as
16 D.V.U.G. would describe it, ORR is only "moving the goalpost." (*See Declaration by Next*
17 *Friend*, D.V.U.G.).

18 5. The reunification between H.S.S.U. and D.V.U.G. therefore remains indefinitely delayed.
19 This ongoing delay has resulted in continued, unnecessary detention and emotional distress for
20 H.S.S.U.. H.S.S.U. has had a significant number of mental and physical health incidents occur
21 while in ORR custody, each of which can be directly linked to her prolonged detention and
22 separation from her mother.
23

24 6. Over the last month, H.S.S.U. has declined visits by her legal team because she feels
25 mentally and physically unwell enough to speak with anyone. The inability to meet with her
26 attorney and legal team needlessly impacts counsel's ability to zealously represent H.S.S.U. in
27 her removal proceedings and fully develop the record to defend her from deportation.
28

1 7. Accordingly, to vindicate Petitioner H.S.S.U.'s constitutional, statutory, and regulatory
2 rights, this Court should grant the instant petition for a writ of habeas corpus.

3 8. Absent an order from this Court, H.S.S.U. will continue to languish at David and
4 Margaret shelter, missing the crucial moments with her family so essential to a child's well-
5 being, development, and, ultimately, her future as an adult.

6 9. Petitioner hereby requests an immediate hearing be set on this matter.

7
8 10. Petitioner further seeks an order from this Court requiring that ORR immediately
9 release Petitioner H.S.S.U. to D.V.U.G.'s care during the pendency of this Petition.

10 **JURISDICTION**

11 11. This Court has subject matter jurisdiction over this matter pursuant to 28 U.S.C.
12 § 2241 (habeas corpus); 28 U.S.C. § 1651 (All Writs Act); 28 U.S.C. § 2201 (Declaratory
13 Judgment Act); 28 U.S.C. § 1361 (writ of mandamus); and 28 U.S.C. § 1331 (federal question).
14 This Court also has jurisdiction pursuant to Art. I, § 9, cl. 2 of the United States Constitution
15 (Suspension Clause).

16 12. Federal district courts have jurisdiction to hear habeas claims by noncitizens
17 challenging the lawfulness of their detention. *See Zadvydas v. Davis*, 533 U.S. 678, 687 (2001).

18 13. Administrative exhaustion is a prudential rather than jurisdictional requirement
19 for habeas review under 28 U.S.C. § 2241. *See Acevedo-Carranza v. Ashcroft*, 371 F.3d 539, 541
20 (9th Cir. 2004).

21 14. This Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241 et.
22 *seq.*, the Declaratory Judgment Act, 28 U.S.C. § 2201 et seq., and the All Writs Act, 28 U.S.C.
23 § 1651.
24

25 **VENUE**

1 15. Venue is proper because, as of today, Petitioner H.S.S.U. is detained at New
2 Beginnings – David & Margaret Youth Family Services in La Verne, California, which is within
3 the jurisdiction of this District.

4 16. Venue is also proper in this District because Respondents are officers, employees,
5 or agencies of the United States, a substantial part of the events or omissions giving rise to
6 Petitioner H.S.S.U.'s claims occurred in this District, and no real property is involved in this
7 action. 28 U.S.C. § 1391(e).

8 PARTIES

9 **I. Petitioners**

10 17. Petitioner H.S.S.U. is a 14-year-old Colombian national and unaccompanied
11 child. Petitioner is currently detained at David and Margaret shelter. Petitioner is in the custody,
12 and under the direct control, of Respondents and their agents.

13 18. Petitioner's Next Friend D.V.U.G.³ (hereinafter "Sponsor") is Petitioner's
14 biological mother and is the individual applying to be Petitioner H.S.S.U.'s Sponsor and have
15 H.S.S.U. released into her custody. Pursuant to ORR Rule 2.2.1, Identification of Qualified
16 Sponsors, D.V.U.G. is a Category 1, parent or legal guardian.⁴ Petitioner H.S.S.U. appears by
17 and through her next friend, D.V.U.G.

18 **II. Respondents**

19 19. Respondent Jessica Beltran ("FFS Beltran") is sued in her official capacity as an
20 ORR Federal Field Specialist (FFS). Federal Field Specialists are the government officials
21 responsible for the care and custody of children in ORR facilities. In this role, FFS Beltran is
22 responsible for determining Petitioner H.S.S.U.'s placement and has authority to approve her
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25
26 ³ As Next Friend of Petitioner H.S.S.U., the use of Petitioner D.V.U.G.'s initials further ensures H.S.S.U.'s privacy.
27 See Fed. R. Civ. P. 5.2(a), (c), (h) (mandating use of a minor's initials, providing for limited access to files in
28 proceedings related to immigration detention "unless the court orders otherwise," and noting that failure to redact
personal information in the first instance constitutes a waiver of that protection); see also 28 U.S.C. § 2242
(authorizing next friend status in the habeas context).

⁴ Available at: <https://acf.gov/orr/policy-guidance/unaccompanied-children-program-policy-guide-section-2#2.2>.

1 release to an appropriate sponsor's care. Respondent FFS Beltran is thereby a legal custodian of
2 H.S.S.U.

3 20. Respondent Yariet Ramirez ("FFS Supervisor Ramirez") is sued in her official
4 capacity as an ORR Federal Field Specialist Supervisor. Federal Field Specialist Supervisors are
5 the government officials responsible for the care and custody of children in ORR facilities and
6 supervise Federal Field Specialists. In this role, FFS Supervisor Ramirez is responsible for
7 determining Petitioner H.S.S.U.'s placement and has authority to approve her release to an
8 appropriate sponsor's care. Respondent FFS Supervisor Ramirez is thereby a legal custodian of
9 H.S.S.U.
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11 21. Respondent Angie Salazar is sued in her official capacity as the Acting Director of
12 ORR, the component of the U.S. Department of Health and Human Services (HHS) responsible
13 for implementing the Department's obligations to unaccompanied minors who are immigrants.
14 ORR is the government entity directly responsible for the continued detention of Petitioner
15 H.S.S.U. and has the authority to release her. Respondent Angie Salazar is thereby a legal
16 custodian of H.S.S.U.

17 22. Respondent Andrew Gradison is sued in his official capacity as the Acting
18 Assistant Secretary of the Administration for Children and Families (ACF). ACF is comprised of
19 23 offices, including ORR, responsible for the welfare of children and families. Respondent is
20 thereby responsible for H.S.S.U.'s continued detention and custody and is a legal custodian of
21 H.S.S.U.
22

23 23. Respondent Robert F. Kennedy is sued in his official capacity as the Secretary of
24 HHS. In this capacity Secretary Kennedy oversees ACF and ORR and is therefore the "head" of
25 those agencies. 6 U.S.C. § 271(a)(2). HHS is responsible for the care and placement of
26 unaccompanied children in federal custody. *See* 8 U.S.C. § 1232(c); 6 U.S.C. § 279. HHS and
27 ORR enter contracts with public and private entities to house, care for, and provide legal
28

1 assistance to unaccompanied children apprehended by the Department of Homeland Security
2 (DHS) pursuant to the Immigration and Nationality Act (INA). *See* 6 U.S.C. § 279. Respondent
3 Secretary Kennedy is thereby a legal custodian of H.S.S.U.

4 **STATEMENT OF FACTS**

5 24. Petitioner H.S.S.U. is a 14-year-old citizen of Colombia. Petitioner was
6 designated an unaccompanied child (UAC) by DHS upon her arrival, without a parent or legal
7 guardian at the time of apprehension, in the United States on April 12, 2025. On April 13, 2025,
8 H.S.S.U. was placed in ORR custody.

9
10 25. On April 23, 2025, D.V.U.G. submitted to DNA testing, confirming that D.V.U.G.
11 is H.S.S.U.'s parent. D.V.U.G. also submitted her fingerprints in accordance with ORR Field
12 Guidance Policy "FG-26".⁵ (*See* Declaration of Next Friend, D.V.U.G.).

13 26. Not until five months later, on September 24, 2025, was D.V.U.G.'s Family
14 Reunification Packet (FRP) deemed complete. The ORR case manager submitted the FRP to
15 ORR so that Petitioner H.S.S.U., could be released to D.G.U.V.'s care. (*See* Exhibit 1, "Case
16 Review" from H.S.S.U.'s ORR File). H.S.S.U.'s ORR records state, "The care provider has
17 submitted the child's case for TPR[G]⁶ and ORR/FFS approval. Pending an update at this time."
18 (*See* Exhibit 1).

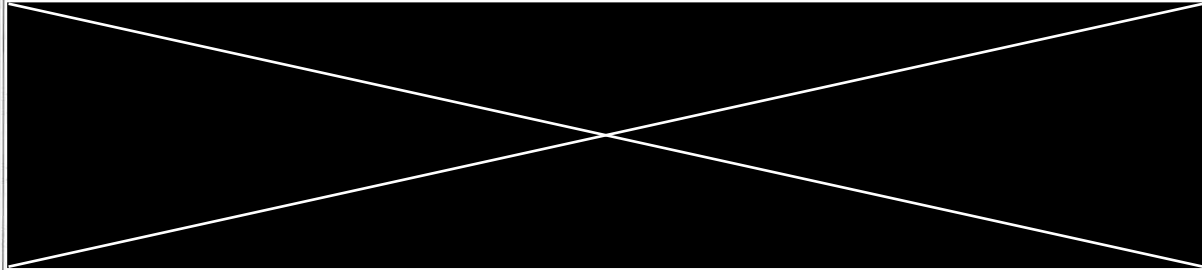
19
20 27. Without explanation, on September 25, 2025, "The care provider received
21 TPR[G] recommendation for a discretionary home study be conducted."⁷ (*Id.*). Since the home
22 study was conducted on October 4 and 5, 2025, ORR has yet to provide D.V.U.G. any guidance
23 as to what additional information would be necessary to obtain approval of the FRP. *Id.*

24
25 ⁵ Available at: <https://acf.gov/sites/default/files/documents/orr/ORR-FG-26-Revised-Fingerprint-Requirements-for-Sponsors-and-HHM--02-14-2025-.pdf>.

26 ⁶ TPG refers to "The Providencia Group," which was contracted by ORR to satisfy the requirements of ORR Field
27 Guidance 24. *See* <https://acf.gov/sites/default/files/documents/orr/fg-24-sponsor-services-role-guidance-for-selected-grantees.pdf>

28 ⁷ ORR Policy Guide 2.4.2 Home Study Requirement: The care provider must inform the potential sponsor whenever a home study is conducted, explain the scope and purpose of the study and answer the potential sponsor's questions about the process. <https://acf.gov/orr/policy-guidance/unaccompanied-children-program-policy-guide-section-2>.

1 28. A note from H.S.S.U.'s ORR file dated October 9, 2025, states, "Over the past
2 month, the child has exhibited increased symptoms of anxiety and feelings of being
3 overwhelmed which appear to correlate with the extended duration of stay." (*See* Exhibit 1).



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9 Friend, D.V.U.G.) Specifically, the ORR shelter case manager noted, "therapist provided
10 supportive counseling at bedside and observed the client's mother attending to the client's
11 physical and emotional needs." (*Id.*)

12 30. On October 15, 2025, H.S.S.U. was transferred from the Crittenton Family
13 Services shelter ("Crittenton shelter") in Fullerton, California, to David and Margaret shelter in
14 Los Angeles, California.

15 31. On October 29, 2025, Petitioner's counsel sent a letter demanding a final decision
16 or release of H.S.S.U. to her mother, D.V.U.G. (*See* Exhibit 2). To date, ORR has not responded
17 to said correspondence.

18 32. On November 7, 2025, a David and Margaret shelter case manager informed
19 H.S.S.U.'s counsel that "Reunification is looking positive, case to be submitted this week." (*See*
20 Exhibit 3). On November 12, 2025, the David and Margaret shelter case manager sent the same
21 message. (*See* Exhibit 4). To date, H.S.S.U.'s and D.V.U.G.'s FRP remains undecided.

22 33. Throughout her detention in ORR custody, H.S.S.U. has exhibited significant
23 physical symptoms of stress and anxiety including epigastric pain and shortness of breath, back
24 pain, non-suicidal self-harm, anxiety, and ingestion of a substance at school that made her non-
25 responsive. (*See* Exhibit 1). 

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28 ⁸ CA Welf & Inst Code § 5585 refers to the Children's Civil Commitment and Mental Health Treatment Act of 1988.

1 [REDACTED] There could be no more apparent
2 demonstration of the effects of long-term detention on H.S.S.U.'s development as a 14-year-old
3 child.

4 LEGAL FRAMEWORK

5 **I. Law and Procedure Governing this Habeas Petition**

6 34. A writ of habeas corpus under 28 U.S.C. § 2241 may issue if, among other things,
7 a person is "in custody under or by color of the authority of the United States," or is "in custody
8 in violation of the Constitution or laws or treaties of the United States." 8 U.S.C. § 2241(c).
9

10 35. A habeas court's role is at its "most extensive in cases of pretrial and noncriminal
11 detention," especially "where there ha[s] been little or no previous judicial review of the cause
12 for detention," as is the case here. *Boumediene v. Bush*, 553 U.S. 723, 780 (2008).

13 36. The Court must grant the petition for writ of habeas corpus or issue an order to
14 show cause (OSC) to Respondents "forthwith," unless Petitioner is not entitled to relief. 28
15 U.S.C. § 2243. If an OSC is issued, this Court must require Respondents to file a return "within
16 *three days* unless for good cause additional time, not exceeding twenty days, is allowed." *Id.*
17 (emphasis added). The writ or OSC shall be directed to the person having custody of the person
18 detained. *Id.*

19 **II. Legal Framework Governing the Care and Custody of Unaccompanied Children**

20 37. Three key laws and agreements govern the federal government's treatment and
21 custody of unaccompanied immigrant children: (1) the 1997 *Flores* Settlement Agreement
22 (FSA), largely codified into the federal regulatory scheme through ORR's promulgation of its
23 Foundational Rule in 2024; (2) the Homeland Security Act of 2002 (HSA); and (3) the
24 Trafficking Victims Protection Reauthorization Act (TVPRA) of 2008.
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A. The Flores Settlement Agreement (FSA)

38. The FSA arose from a lawsuit filed by a group of immigrant children challenging their detention and seeking to be released to family members or sponsors within the United States. *See Flores v. Sessions*, 862 F.3d 863, 869 (9th Cir. 2017) (discussing history of the *Flores* litigation). In 1997, the plaintiff children entered into a consent decree with the federal government to create a nationwide policy governing the custody and release of immigrant children. *See Stipulated Settlement Agreement, Flores v. Reno*, No. CV-85-4544 (C.D. Cal. Jan. 17, 1997).⁹

39. The FSA remains under the supervision of U.S. District Judge Dolly M. Gee in the Central District of California. *See Flores v. Bondi*, No. CV 85-4544-DMG (AGRx).¹⁰

B. The Homeland Security Act of 2002 (HSA)

40. Enacted in 2002, the HSA divided responsibilities for the processing and treatment of unaccompanied children between ORR – a sub-department of the Department of Health and Human Services – and the then-newly created Department of Homeland Security.¹¹ *See 6 U.S.C. § 279(a)*. ORR was assigned functions including “coordinating and implementing the care and placement” of unaccompanied children in appropriate custody. *6 U.S.C. § 279(b)*.

C. The Trafficking Victims Protection Reauthorization Act (TVPRA)

41. Enacted in 2008,¹² the TVPRA requires federal officials to screen unaccompanied immigrant children for certain vulnerabilities upon their arrival in the United States. *See 8 U.S.C.*

⁹ Available at:

https://www.aclu.org/sites/default/files/assets/flores_settlement_final_plus_extension_of_settlement011797.pdf.

¹⁰ Following the promulgation of the ORR Foundational Rule, described *infra*, the FSA was partially terminated as to children in HHS custody. *Flores v. Garland*, 2024 WL 3467715, CV 85-4544-DMG (AGRx) (C.D. Cal. Jun. 28, 2024).

¹¹ Prior to the creation of DHS, all matters related to the custody, detention, and deportation of immigrant children were managed by the Immigration and Naturalization Service (INS), which was dismantled simultaneously with the creation of DHS.

¹² The TVPRA is a reauthorization of the Trafficking Victims Protection Act of 2000 (TVPA), intended to combat the trafficking of persons. *See* Pub. L. No. 106-386, 114 Stat. 1464 (Oct. 28, 2000). Through the 2008 Reauthorization, Congress established certain rights for unaccompanied children navigating the immigration process, recognizing that they are a “particularly vulnerable population” to whom the country “owes a special obligation” to treat “humanely and fairly.” 154 Cong. Rec. S10866 (daily ed. Dec. 10, 2008) (statement of Sen. Feinstein).

1 § 1232(a)(4). It mandates that custody of an unaccompanied child be transferred to the HHS
2 Secretary within 72 hours of their arrival in the United States.¹³ 8 U.S.C. § 1232(b)(3).

3 42. The TVPRA enacted procedures for ensuring “safe and secure” placements for
4 these children, and, crucially, mandated that an unaccompanied child “shall be *promptly* placed
5 in the least restrictive setting that is in the best interest of the child.” 8 U.S.C. § 1232(c)(1),
6 (c)(2)(A) (emphasis added).

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8 **D. The ORR Foundational Rule**

9 43. In 2024, after a notice and comment period, HHS adopted a final rule intended to
10 further codify key aspects of the framework governing care and placement of unaccompanied
11 children as required by the HSA and TVPRA, and implement the substantive requirements of the
12 FSA. Unaccompanied Children Foundational Rule (Jul. 1, 2024) (hereinafter “Foundational
13 Rule”). 45 C.F.R. Part 410.

14 44. The Foundational Rule contains a non-exhaustive list of factors that ORR is to
15 consider when evaluating the best interests of an unaccompanied child, including, but not limited
16 to, the child’s expressed interests; age and maturity; mental and physical health; adjustment to
17 the community; cultural background and primary language; length or lack of time they have
18 “lived in a stable environment”; individualized needs, including disability; development and
19 identity; wishes of the parents or legal guardians; and “interactions and interrelationship” of the
20 child with their parents, siblings, and anyone who “may significantly affect” the child’s well-
21 being. 45 C.F.R. § 410.1001.

22
23 45. The Foundational Rule also provides a non-exhaustive list of 17 factors that ORR
24 “shall” consider when evaluating what is the “least restrictive setting that is in the best interest of
25 the child,” including danger to self; danger to community/others; runaway risk; trafficking or
26 other safety concerns; age; gender; LGBTQI+ status or identity; disability; specialized services
27

28 ¹³ In most cases, custody of an unaccompanied child is transferred to HHS, and ultimately ORR, from DHS, which
houses Immigration and Customs Enforcement (ICE) and Customs and Border Protection (CBP).

1 or treatment requested or required; criminal background; location of potential sponsor and safe,
2 timely release options; behavior; siblings in ORR custody; language access; whether they are
3 pregnant or parenting; location of apprehension; and length of stay in ORR custody. 45 C.F.R. §
4 410.1103(a), (b).

5 46. Further, the Foundational Rule provides guidance on how ORR is to evaluate the
6 suitability of a potential sponsor who seeks to assume the care and custody of an unaccompanied
7 child. 45 C.F.R. § 410.1202. Such evaluation may require a home study, wherein ORR
8 “investigat[es] [] the living conditions in which the unaccompanied child would be placed” prior
9 to their release. 45 C.F.R. § 410.1204.

10 47. Absent “an unexpected delay,” ORR is mandated to adjudicate a completed
11 sponsor application for a relative who has previously been the child’s primary caregiver “within
12 10 calendar days of receipt of the completed sponsor application,” and to adjudicate applications
13 by relatives who were not previously the child’s primary caregiver within 14 calendar days. 45
14 C.F.R. § 410.1205(b).

15 48. If ORR formally denies release to a potential sponsor “who is a parent or legal
16 guardian or close relative,” ORR must promptly notify the potential sponsor in writing, provide
17 an explanation of the reasons for the denial along with “evidence and information” supporting
18 the decision, inform the potential sponsor that they may request an appeal of the decision, and
19 allow for submission of additional evidence supporting their suitability. 45 C.F.R. § 410.1205(c).
20 Absent “good cause,” the appeal process “shall be completed within 30 calendar days of the
21 potential sponsor’s request for an appeal.” 45 C.F.R. § 410.1206(f).

22 49. In addition to the above, ORR supervisory staff “who supervise field staff” are
23 required to conduct “automatic review of all pending sponsor applications . . . within 90 days of
24 an unaccompanied child entering ORR custody.” 45 C.F.R. § 410.1207(a).
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1 583 U.S. 281, 296 (2018); *Leonardo v. Crawford*, 646 F.3d 1157, 1160 (9th Cir. 2011); *Singh v.*
2 *Holder*, 638 F.3d 1196, 1202 (9th Cir. 2011)) (internal quotation marks omitted).

3 53. In addition, Petitioner H.S.S.U. is not required to exhaust administrative remedies,
4 as exhaustion in the habeas context is prudential, rather than jurisdictional. *See Laing v. Ashcroft*,
5 370 F.3d 994, 997 (9th Cir. 2004); *Hernandez v. Sessions*, 872 F.3d 976, 988 (9th Cir. 2017).
6 Even prudential exhaustion is not required if “administrative remedies are inadequate or not
7 efficacious, pursuit of administrative remedies would be a futile gesture, [or] irreparable injury
8 will result.” *Laing*, 370 F.3d at 1000; *see also Hernandez*, 872 F.3d at 988.
9

10 54. Here, the ORR subcontracted care program, Crittenton shelter, confirmed in
11 H.S.S.U.’s ORR file that the FRP was completed and submitted to ORR on September 24, 2025.
12 (*See* Exhibit 1). The case was remanded, without explanation, for D.V.U.G. to complete a Home
13 Study. (*Id.*) D.V.U.G. and H.S.S.U. each completed their required interviews for the Home Study
14 on October 5 and October 4, respectively. (*Id.*) Despite full compliance with ORR’s
15 requirements, the ongoing delay in approval – well beyond the timeframe outlined in ORR’s own
16 guidance – has resulted in both child and parent being left in a state of limbo. Indeed, to date,
17 H.S.S.U. has been languishing in ORR custody for 219 days.
18

19 55. Without a final decision by ORR, D.V.U.G., who would be eligible to pursue
20 ORR’s internal appeal process, is unable to seek agency review of any potential denial.

21 56. Requiring exhaustion would also cause Petitioner H.S.S.U. irreparable harm in the
22 form of additional detention at David and Margaret shelter and continued separation from her
23 readily available sponsor, her mother, D.V.U.G. *See Cortez v. Sessions*, 318 F. Supp. 3d 1134,
24 1139 (N.D. Cal. 2018) (habeas petitioner “suffers potentially irreparable harm every day that
25 [they] remain[] in custody without a hearing, which could ultimately result in [their] release from
26 detention”).
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B. H.S.S.U.’s Continued Detention Violates the TVPRA Because the Statute Mandates Release to a Sponsor Unless the Government Designates Her a Danger or a Flight Risk.

57. The TVPRA was designed to provide “special protections” for unaccompanied minors, in light of their status as a “particularly vulnerable group.” *Saravia v. Sessions*, 280 F. Supp. 3d 1168, 1178 (N.D. Cal. 2017). Crucially, the TVPRA mandates release from ORR custody to an appropriate sponsor unless the federal government makes a finding that the minor is a danger to themselves or the community, or a flight risk. *See id.* at 1196.

58. Indeed, the “focus on care and placement – rather than on detention – is evident” from both the text of the TVPRA and the HSA. *Flores v. Sessions*, 862 F.3d at 876.

59. By failing to timely resolve D.V.U.G.’s application to assume the care and custody of H.S.S.U., Respondents flout their mandate to protect H.S.S.U., instead allowing her to languish in ORR custody for 219 days, away from family and any semblance of a normal life.

60. As demonstrated by the fact that H.S.S.U. has been detained in multiple ORR shelters, with no security, without absconding since her arrival, H.S.S.U. is not a flight risk. And there is no evidence indicating H.S.S.U. has ever engaged in conduct causing harm to the community, clearly establishing she is not a danger. Any evidence that H.S.S.U. has engaged in non-suicidal self-harm is only demonstrative of the negative effects that prolonged detention and family separation has on a child and further highlights her need to be promptly reunified with her mother.

61. H.S.S.U.’s continued detention, despite the availability of her parent, D.G.U.V., to assume her care, is also clearly at odds with the TVPRA’s mandate that ORR focus on the care and placement of unaccompanied children. Respondents disregard their responsibility to H.S.S.U. by allowing her to languish in detention for 219 days, while failing to provide any reason why D.G.U.V.’s application to assume her care has not been approved.

C. H.S.S.U.’s Continued Detention Violates Substantive Due Process Because it is Unnecessarily Punitive and Needlessly Infringes Upon Her Right to Family Unity.

62. Petitioner H.S.S.U.’s detention for, at the time of filing the instant petition, 219 days violates her substantive due process rights. Substantive due process “forbids the government to infringe certain ‘fundamental’ liberty interests *at all*, no matter what process is provided, unless the infringement is narrowly tailored to serve a compelling state interest.” *Reno v. Flores*, 507 U.S. 292, 302 (1993) (emphasis in original). In *Reno*, the Supreme Court held that where an unaccompanied child had no “parent, close relative, or legal guardian,” keeping them in government custody to “promot[e] the welfare of the child” was “not punitive since it [was] not excessive in relation to that valid purpose.” *Id.* at 303. By extension, where, as here, a child does have a close family member available to assume their care, D.G.U.V., continuing to detain H.S.S.U. in government custody is needlessly punitive.

63. In this context, this Court has emphasized the well-established nature of the “substantive due process right to family integrity or to familial association.” *Lucas R.*, 2018 WL 7200716, at *9 (quoting *Rosenbaum v. Washoe City*, 663 F.3d 1071, 1079 (9th Cir. 2011)). Respondents’ actions in continuing to detain H.S.S.U., away from D.G.U.V., her mother, have considerably encroached upon this right.

64. Further, by allowing D.G.U.V.’s application to assume H.S.S.U.’s care and custody to remain undecided, Respondents infringe “perhaps the oldest of the fundamental liberty interests” recognized by the Supreme Court: “the interest of parents in the care, custody, and control of their children.” *Troxel v. Granville*, 530 U.S. 57, 65 (2000). Similarly, other courts have recognized that children have a reciprocal right to be “raised and nurtured by their parents.” *D.B. v. Cardall*, 826 F.3d 721, 740 (4th Cir. 2016) (quoting *Berman v. Young*, 291 F.3d 976, 983

(7th Cir. 2002)) (internal quotation marks omitted). Each day H.S.S.U. remains detained at David and Margaret shelter – to date 219 days – Respondents are clearly violating these rights.

65. In addition, a statute may create a substantive interest protected by the Due Process Clause by using “mandatory language” that imposes an obligation on government officials. *Lucas R.*, 2018 WL 7200716, at *9. This Court has held that the TVPRA’s mandatory language gives rise to such a substantive right for unaccompanied children. *Id.*

66. Here, H.S.S.U. can establish her substantive rights pursuant to the TVPRA are being violated by Respondents. To date, H.S.S.U has been detained by ORR, and thereby separated from D.G.U.V., for 219 Days. D.G.U.V.’s complete application to assume her custody and care has been pending with ORR since September 24, 2025, and D.G.U.V. has not been notified as to what additional information she must provide to ensure approval of her application.

67. Because of the strength of these liberty interests, H.S.S.U.’s continued detention is needlessly punitive, and infringes on her rights to family unity and to be raised by her parent.

D. H.S.S.U.’s Continued Detention Violates Procedural Due Process Because She Has No Effective Means by Which to Challenge Her Continued Detention and Separation from D.G.U.V.

68. All individuals in immigration detention have a protected liberty interest in their release, “*inherent* in the Due Process Clause.” *R.D.T.M. v. Wofford*, 2025 WL 2617255, 1:25-cv-01141-KES-SKO (HC), at *4 (E.D. Cal. Sept. 9, 2025) (quoting *Guillermo M.R. v. Kaiser*, 2025 WL 1983677, 25-cv-05436-RFL, at *4 (N.D. Cal. Jul. 17, 2025)) (emphasis in original). In addition, this Court has held that the substantive family unity interest described above may underlie a procedural due process claim. *Lucas R.*, 2018 WL 7200716, at *9.

69. Procedural due process claims are evaluated under the well-established standard in *Mathews v. Eldridge*, which requires a reviewing court to evaluate (1) the nature of the private interest affected; (2) the comparative risk of erroneous deprivation of that interest with and

1 without additional, procedural safeguards; and (3) the nature and magnitude of any
2 countervailing interest in not providing additional or substitute procedure. 424 U.S. 319, 335
3 (1976).

4 70. In the context of immigration detention writ large, the Ninth Circuit has found it
5 “well-settled” that due process “requires adequate procedural protections to ensure the
6 government’s asserted justification for physical confinement outweighs the individual’s
7 constitutionally protected interest in avoiding physical restraint.” *Hernandez*, 872 F.3d at 990
8 (internal citations and quotations omitted). Thereby, H.S.S.U.’s “constitutionally protected
9 interest” in release from ORR custody and detention should be considered with the utmost
10 solemnity.

11 71. Courts in this Circuit have found a cognizable claim for due process relief in the
12 context of earlier family separation policies, emphasizing that the “absence of established
13 procedures” for ensuring prompt reunification left families “in a vacuum, without knowledge of
14 the well-being and location of their children . . . result[ing] in a number of different scenarios, all
15 of which are negative – some profoundly so.” *Ms. L. v. U.S. Immigration and Customs*
16 *Enforcem.*, 310 F. Supp. 3d 1133, 1144 (S.D. Cal. 2018)

17 72. Petitioner H.S.S.U. has a liberty interest being free from ORR detention. The
18 prolonged, unexplained detention of H.S.S.U. and separation from her mother violates
19 procedural due process because it deprives H.S.S.U. of her liberty from government custody
20 without notice or any opportunity to be heard.

21 73. There is no evidence demonstrating that the Home Study ordered by ORR
22 resulted in a negative recommendation and denying release to her mother, and there is otherwise
23 no evidence to demonstrate that D.V.U.G. has engaged in activity that would indicate a potential
24 risk to the child upon release. Every day that ORR fails to make a final decision in D.V.U.G.’s
25 FRP or release H.S.S.U. from custody furthers the erroneous deprivation of health, safety, and
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1 family unity that D.V.U.G. and H.S.S.U. are entitled to. At stake are H.S.S.U.'s liberty and
2 physical and mental well-being, which outweigh any interest Respondents may argue they have
3 in keeping H.S.S.U. detained.

4 74. Accordingly, H.S.S.U. clearly has a cognizable claim for relief sounding in
5 procedural due process under the *Mathews* test.

6 **CLAIMS FOR RELIEF**

7 **COUNT ONE**

8 **Violation of the TVPRA, 8 U.S.C. § 1232**

9
10 75. The allegations in the above paragraphs are realleged and incorporated herein.

11 76. An unaccompanied immigrant child in the custody of HHS "shall be *promptly*
12 placed in the least restrictive setting that is in the best interest of the child." 8 U.S.C. §
13 1232(c)(2) (emphasis added). When a potential sponsor has been identified for an
14 unaccompanied child, the HHS Secretary must make a "determination that the proposed
15 custodian is capable of providing for the child's physical and mental well-being," by evaluating
16 "the custodian's identity and relationship to the child," as well as making "an independent
17 finding that the individual has not engaged in any activity that would indicate a potential risk to
18 the child."¹⁴ 8 U.S.C. § 1232(c)(3)(A).

19 77. Here, Respondents have verified that Sponsor meets the requirements set forth in
20 U.S.C. § 1232(c)(2) and (3)(A). H.S.S.U.'s ORR records clearly indicate that on September 25,
21 2025, D.V.U.G. had met all the requirements to verify her identity and relationship to the child
22 by submitting to fingerprinting and DNA testing. D.V.U.G. was subsequently required to submit
23 to a home study, without explanation. (See Exhibit 1; See also, ORR Policy Guide 2.4.2 Home
24 Study Requirement, "The care provider must inform the potential sponsor whenever a home
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28 ¹⁴ The statute further authorizes a home study, if necessary. 8 U.S.C. § 1232(c)(3)(B).

1 study is conducted, explain the scope and purpose of the study and answer the potential
2 sponsor's questions about the process.")

3 78. Despite undergoing a home study, without evidence of a negative
4 recommendation of release, Petitioner H.S.S.U. faces continued detention . No guidance has
5 been provided from ORR as to what additional information would be necessary for D.G.U.V. to
6 obtain approval of the FRP and reunification with her child.

7 79. Petitioner H.S.S.U.'s prolonged detention at David and Margaret shelter is thus a
8 clear violation of the TVPRA's foundational requirement that unaccompanied children be
9 "promptly placed in the least restrictive setting that is in the best interest of the child." U.S.C. §
10 1232(c)(2).

11 80. Respondents' failure to act promptly, and ORR's ongoing and prolonged detention
12 of Petitioner H.S.S.U., bear no reasonable relation to any government purpose. Petitioner
13 H.S.S.U. has committed no crime and is not a danger to anyone. Further, Petitioner D.G.U.V. has
14 demonstrated that she is a capable and willing sponsor according to the requirements of the law.

15 81. Accordingly, Respondents' failure to release Petitioner H.S.S.U. into the custody
16 and care of Petitioner D.G.U.V. violates the TVPRA.

17 **COUNT TWO**

18 **Violation of Fifth Amendment: Substantive Due Process**

19 82. The allegations in the above paragraphs are realleged and incorporated herein.

20 83. The Due Process Clause of the Fifth Amendment provides that the government
21 shall not "deprive any person of life, liberty, or property without due process of law." U.S.
22 CONST. AMEND. V. The Due Process Clause applies to "all 'persons' within the United States . . .
23 whether their presence here is lawful, unlawful, temporary, or permanent." *Zadvydas*, 533 U.S. at
24 693. Any individual within the United States is therefore entitled to a timely and meaningful
25 opportunity to demonstrate that they should not be detained by the government.
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84. Here, H.S.S.U.'s continued detention is untethered to any legitimate government interest because she is neither a flight risk nor a danger to the community, and she has an appropriate sponsor – her mother – available and eager to care for her outside of detention.

85. Further, both H.S.S.U. and D.G.U.V. have a substantive liberty interest in family integrity and, as a 14-year-old child separated from her mother for 219 days, H.S.S.U. is suffering grave harm due to her continued detention by ORR.

86. ORR has continued to violate its own controlling statutes, regulations, and agency policies and procedures governing care and custody of unaccompanied children by keeping H.S.S.U. detained despite the availability of D.G.U.V. to assume her care.

87. Respondents' actions, as set forth above, have infringed upon H.S.S.U.'s substantive liberty interest to be free from detention and her liberty interest in family integrity.

88. Accordingly, Respondents' continued detention of H.S.S.U. violates her substantive due process rights.

COUNT THREE

Violation of the Fifth Amendment: Procedural Due Process

89. The allegations in the above paragraphs are realleged and incorporated herein.

90. The Due Process Clause of the Fifth Amendment provides that the government shall not "deprive any person of life, liberty, or property without due process of law." U.S. CONST. AMEND. V.

91. Unaccompanied children are entitled to the protections of the TVPRA, and therefore have a protected property interest in their statutory entitlements thereunder. The TVPRA expressly grants robust rights to such unaccompanied children, and directs HHS to establish procedures to provide for and protect said rights.

92. Specifically, the TVPRA, FSA, and ORR Foundational Rule expressly provide unaccompanied children the right to prompt placement in the least restrictive setting.

93. ORR has deprived Petitioner H.S.S.U. of her procedural due process rights by continuing to detain H.S.S.U. apart from her family, without providing notice of the reason for her continued detention or a meaningful opportunity to challenge said detention and separation.

94. Accordingly, Respondents' failure to timely resolve D.G.U.V.'s sponsorship application for H.S.S.U. within the mandated time frame – or even provide D.G.U.V. with any guidance on what additional information would be necessary to obtain an approval – violates H.S.S.U.'s procedural due process rights.

PRAYER FOR RELIEF

WHEREFORE, Petitioners respectfully request this Court to grant the following:

- (1) Assume jurisdiction over this matter;
- (2) Issue a writ of habeas corpus compelling Respondents to immediately release Petitioner H.S.S.U. to Petitioner D.G.U.V.;
- (3) Declare that Petitioner H.S.S.U.'s detention violates the Due Process Clause of the Fifth Amendment, 8 U.S.C. § 1232, and/or 45 C.F.R. § 410.1001 *et seq.*;
- (4) Award Petitioners attorney's fees and costs under the Equal Access to Justice Act, 28 U.S.C. § 2412, and on any other basis justified under law; and
- (5) Grant any further relief this Court deems just and proper.

Dated: November 14, 2025

Respectfully Submitted,

/s/ Marion Donovan-Kaloust
Marion Donovan-Kaloust

/s/ Cynthia Isabel Felix
Cynthia Isabel Felix

Attorneys for Petitioner

VERIFICATION PURSUANT TO 28 U.S.C. § 2242

I represent Petitioner, H.S.S.U., and submit this verification on her behalf. I hereby verify that the factual statements made in the foregoing Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated this 14th day of November, 2025.

Dated: November 14, 2025

Respectfully Submitted,

/s/ Cynthia Felix

Cynthia Isabel Felix

Attorney for Petitioner

DECLARATION BY NEXT FRIEND, D.V.U.G.

I, D.V.U.G., make the following statements on behalf of myself. I certify under penalty of perjury that the following statement is true and correct pursuant to 28 U.S.C. § 1746.

1. H.S.S.U. is my biological child. H.S.S.U. is 14 years old and was born in Colombia. H.S.S.U. arrived in the United States on April 12, 2025, with the intention to reunify with me. On April 13, 2025, H.S.S.U. was placed in ORR custody.
2. Since my daughter was placed into ORR care on April 13, 2025, I have cooperated with ORR to complete the necessary steps and submit the requested paperwork to have her released to my care.
3. On or about April 23, 2025, I submitted to DNA testing, confirming that I am my child's biological mother. I also submitted my fingerprints.
4. It is my understanding and belief that the FRP was completed and submitted to ORR on September 24, 2025.
5. ORR then conducted a Home Study on October 5, 2025, which included an interview with the home study case manager. I was told that I had completed all the necessary steps, and ORR would provide me with a decision by October 16, 2025. On October 15, 2025, H.S.S.U. was moved from Crittenton shelter to David and Margaret Youth Family Services shelter. I reached out to everyone I could requesting that they release my daughter to me. They did not respond to my requests for information or provide me any guidance as to what additional information would be necessary to obtain approval for H.S.S.U.'s release.
6. On October 29, 2025, my child's attorney sent a letter to ORR Headquarters requesting a final decision or release of my child, but I have yet to be contacted by ORR with any updates.
7. H.S.S.U. has now spent more than six months in detention. My daughter's prolonged detention has had severe consequences for her physical and mental health, which have both deteriorated significantly since being detained in ORR custody. She has been hospitalized multiple times for stress-induced medical conditions including stomach,

1 head, and back pain. Every additional day in custody compounds emotional and
2 psychological harm and deprives her of the stability and care that only family can
3 provide.

- 4 8. To date, my child's release remains undecided. I have followed up many times with the
5 case manager at David and Margaret shelter for an update on H.S.S.U.'s release, and they
6 did not respond to many of my attempts to reach them. When I finally reached them, they
7 told me that her release is in process.

8
9 I declare under penalty of perjury that the foregoing is true and correct.

10 Executed on this 14th day of November 2025, in Reseda, California.
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15 D.V.U.G.
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