

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

G.T.G.V. and I.R.D.A.,	)	
Petitioners,	)	
	)	Case No. 25-cv-14700
v.	)	
	)	
KRISTI NOEM, Secretary, U.S. Department	)	
of Homeland Security;	)	
ANGIE SALAZAR, Acting Director of the Office	)	
Of Refugee Resettlement,	)	
ROBERT F. KENNEDY, JR., Secretary of	)	
Health and Human Services;	)	
MARVENA TWIGG, President and Chief	)	
Executive Officer of the National Youth	)	
Advocate Program,	)	
Respondents.	)	

PETITION FOR A WRIT OF HABEAS CORPUS

INTRODUCTION

1. This is a petition for a writ of habeas corpus under 28 U.S.C. § 2241. The Petitioners are minor noncitizens whom the government detained upon their entry into the United States. They seek their release from the custody of the Respondents to their parents. By retaining custody of the petitioners, Respondents are violating the Trafficking Victims Protection Reauthorization Act (TVPRA), 8 U.S.C. § 1232, the Fifth Amendment, and the Administrative Procedure Act (APA), 5 U.S.C. § 706. The TVPRA mandates that the government “promptly” release the children from its custody to the “least restrictive setting that is in the best interest

of the child.” *Id.* § 1232(c)(2). The Petitioners’ parents can supply that setting and have applied to sponsor their children. The TVPRA requires that the Respondents act on the parents’ applications within 10 days of submission. Despite the parents’ suitability as sponsors, the Respondents have kept the children in their custody beyond this 10-day period and away from their parents. The Respondents have delayed release based on a newly created policy that requires the sponsors to furnish U.S.-issued forms identification. That policy conflicts with the TVPRA because foreign-issued forms of identification are permissible. The new policy is unlawful because it is unrelated to suitability of a sponsor or to the best interest of the children, it is not rationally related to a legitimate government interest, and it impedes parental custody, in violation of the TVPRA, the Petitioners’ rights under the Fifth Amendment, and the APA. Therefore, under § 2241 the Petitioners seek their immediate release from federal control into the custody of their parents.

PARTIES

2. The Petitioners are all minor noncitizens who were unaccompanied by an adult when Respondents detained them.

3. Petitioner G.T.G.V. is a 13-year-old girl from Honduras who has been detained since July 2025. Respondents have detained her in Chicago, Illinois, under a contract with the National Youth Advocate Program. Because she is a minor, she is identified by initials. Her mother previously applied to sponsor her and is otherwise suitable, but the mother withdrew her application after Respondents adopted their new identification policy. The mother has an order of removal entered

against her. That order is not disqualifying under the TVPRA. Furthermore, the mother's partner, a lawful permanent resident, has also applied to be an alternate sponsor if the government seeks to enforce the removal order or a collateral attack on it is unsuccessful. The partner is a suitable sponsor.

4. Petitioner I.R.D.A. is a 10-year-old boy from Honduras. He has been detained since June 2025. Respondents have detained him in Chicago, Illinois, under a contract with the National Youth Advocate Program. Because he is a minor, he is identified by initials. His father previously applied to sponsor him, but the father withdrew his application after Respondents adopted their new identification policy. The father has two orders of removal entered against him, but the orders are not disqualifying under the TVPRA. Furthermore, a close family friend, who is a U.S. citizen, has also applied to be a sponsor if the government seeks to enforce removal orders or collateral attacks are unsuccessful.

5. Respondent Kristi Noem is the Secretary of United States Department of Homeland Security. In that capacity, she maintains the detention of the Petitioners. She is sued in her official capacity.

6. Respondent Angie Salazar is the Acting Director of the Office of Refugee Resettlement, a division of the Department of Homeland Security that directly oversees, controls, and manages the detention of Petitioners. She is sued in her official capacity.

7. Defendant Robert F. Kennedy Jr. is the Secretary of the Department of Health and Human Services, the department of which the Office of Refugee

Resettlement is part. He has ultimate authority regarding the detention of the Petitioners. Mr. Kennedy is sued in his official capacity.

8. Respondent Marvena Twigg is the President and Chief Executive Officer of the National Youth Advocate Program. She is the immediate custodian of the Petitioners.

JURISDICTION, VENUE, and EXHAUSTION

9. This court has subject-matter jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, § 9, cl. 2 of the United States Constitution (Suspension Clause). Federal questions in this case arise under the Trafficking Victims Protection Reauthorization Act (TVPRA), 8 U.S.C. § 1232, and its implementing regulations, 45 C.F.R. § 410.1200-1210.

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

11. Under 28 U.S.C. § 2241 and § 1391(b), (e), venue is proper in this district. Venue is proper because the Petitioners are in respondents' custody in the Northern District of Illinois. Venue is further proper because a substantial part of the events or omissions giving rise to Petitioners' claims occurred in this district, where they are now in Respondent's custody.

12. Exhaustion of administrative remedies is not required. Under the TVPRA, Congress has not mandated that the Petitioners exhaust any administrative remedies. Under *McCarthy v. Madigan*, 503 U.S. 140, 144 (1992),

unless Congress has mandated exhaustion, it is not required under 28 U.S.C. § 2241. Furthermore, because any administrative challenge before ORR to the Respondents' new identification policies would be futile, exhaustion is not required. *See Honig v. Doe*, 484 U.S. 305, 326-27 (1988). Finally, the interests of Petitioners in a prompt resolution of their need to reunify with their parents, and the delay that further exhaustion would necessitate, outweigh any discretionary judicial interest in exhaustion.

LEGAL BACKGROUND

13. In 2008, the government passed the TVPRA to protect the welfare of unaccompanied minor noncitizens encountered at the border of the United States. 8 U.S.C. §§ 1232(a)(1), (a)(2)(A), (a)(3). This law codified a portion of the *Flores* settlement, a class-action decree approved in 1997 to ensure family reunification of detained noncitizen minors. *See Flores v. Sessions*, 862 F.3d 863, 869-71 (9th Cir. 2017). To ensure that such minors receive the best possible care while their immigration status is adjudicated, the law mandates how the government must handle the custody of the children. TVPRA operates under two relevant principles, both of which concern the child's welfare.

14. The first principle requires the government to determine if, given the risks of human trafficking, the child can be safely repatriated to the child's home country. *Id.* § 1232(a)(2), (a)(3), (b). If the child can be safely repatriated, and the government seeks to remove the child (and other technical conditions are met), then the government must use the statutory removal process. *Id.* § 1232(a)(5)(D). This

process is set forth in the Immigration and Naturalization Act, 8 U.S.C. § 1229, and includes the opportunity to seek relief from removal, such as through an application for asylum, 8 U.S.C. § 1158(a)(1), or withholding of removal, 8 U.S.C. § 1231(b)(3).

15. The second rule establishes that the “best interest” of the child determines *who* has custody of the child while the government assesses the propriety of repatriation and removal process. The TVPRA provides that an unaccompanied minor will be briefly placed in the custody of the Secretary of Health and Human Services and that department’s Office of Refugee Resettlement, or ORR. *See* 8 U.S.C. § 1520. But to promote the child’s best interests, the Secretary and ORR must “promptly place” the child into “the least restrictive setting that is in the best interest of the child.” 8 U.S.C. § 1232(c)(2).

16. To implement this second rule, the Secretary has codified regulations ensuring the “release, without unnecessary delay” of an unaccompanied child held in the custody of ORR “to a vetted and approved sponsor.” 45 C.F.R. § 410.1200. Specifically, when “the detention of the unaccompanied child is not required either to secure the child’s timely appearance” before immigration officials “or to ensure the child’s safety or that of others,” ORR musts “release a child from its custody without unnecessary delay” *Id.* § 410.1201.

17. The regulations list the order of preference of six possible sponsors of the child. The first in the order of preference is the child’s “parent.” *Id.* Next is a legal guardian of the child, then an adult relative, and then another adult or entity that a parent or legal guardian has designated as willing and capable. *Id.* The final

two potential custodians are a willing, licensed program and, lastly, another adult when family unification does not appear reasonably possible. *Id.*

18. In assessing the suitability of a sponsor, ORR shall verify the “sponsor's identity, physical environment of the sponsor's home, and relationship to the unaccompanied child, if any” *Id.* § 410.1202(b). Importantly, identification documents need not come from the United States: “ORR may consult with the issuing agency (e.g., consulate or embassy) of the sponsor's identity documentation to verify the validity of the sponsor identity document presented.” *Id.*

19. The suitability of a sponsor is based on the sponsor's ability to care for their child. In vetting a potential sponsor, the ORR shall determine whether the sponsor “is capable of providing for the unaccompanied child's physical and mental well-being.” *Id.* Likewise, ORR shall assess the potential sponsor's “understanding and awareness of responsibilities related to compliance with the unaccompanied child's immigration court proceedings....” *Id.* at § 410.1202(h)(3). Finally, ORR may consider whether the potential sponsor has proposed a back-up sponsor who can care for the child in the event that the primary sponsor becomes unavailable. *See* https://www.reginfo.gov/public/do/PRAViewIC?ref_nbr=202508-0970-005&icID=217209.

20. ORR must act on a sponsorship application quickly and may deny it only under limited conditions and subject to review. ORR shall ordinarily adjudicate a sponsorship application with 10 days (14 days for other relatives). *Id.* § 410.1205(b). ORR may deny a potential sponsorship only if it determines that the

sponsor cannot provide for the “well-being” of the child or that placement with the sponsor would endanger the child or the community. *Id.* § 410.1205(a). If ORR denies release, it must appoint a “neutral and detached decision maker” to “promptly” notify the potential sponsor. *Id.* § 410.1205(c). The decision must explain the reason for the denial, and (unless safety reasons or the law forbids it) the evidence upon which the denial is based. *Id.* The decision is subject to de novo review, with the opportunity for legal representation, at an administrative appellate hearing. *Id.* § 410.1206.

RECENT CHANGE IN POLICY

21. In March of 2025, the government adopted a new policy, not codified in these regulations, for evaluating sponsors who have applied for custody. ORR now requires that a parent or adult who seeks to sponsor a minor noncitizen must present to ORR an identification document that the United States has issued. This new policy conflicts with existing federal regulations, which contemplate that a parent may prove identity with a foreign-issued form of identification. *See* 45 C.F.R. § 410.1202(b). This new policy grants ORR limited discretion to waive this requirement, but only on a “case-by-case basis,” only if the waiver is supported by unspecified, “clear justification,” and only for parent sponsors.

22. Sponsors who are undocumented in the U.S. and have identification documents only from their home countries cannot expect to satisfy this new policy. As a result, children like Petitioners whose parents are otherwise suitable sponsors

and by law are the first priority among all potential sponsors have faced unnecessary and indefinite delays in reuniting with their parents.

CASE-SPECIFIC FACTS

23. Federal officials captured the Petitioners in or around 2025 and deemed them unaccompanied by an adult. Since their capture, the children have been held in the custody of ORR or their delegated agents. This custody has lasted for months. During these months, the Respondents have severely restricted the Petitioners' freedom to move and otherwise to engage in normal activities for children. Separated from family, their mental well-being has deteriorated. They need family reunification.

24. Petitioners all have parents who have applied to ORR to sponsor the children. The parents are all suitable sponsors. They meet or exceed the requirements of ensuring the well-being of their children and ensuring that the children meet all legal obligations. Further, they can offer to ORR valid, foreign-issued documents or other material from Respondents can verify their identify and parentage. They can also supply suitable, backup sponsors in the event that they become unavailable. ORR has not approved these applications for months.

CLAIMS FOR RELIEF

COUNT I

Violation of the Trafficking Victims Protection Reauthorization Act, 8 U.S.C. § 1232
(Custody must be in the child's "best interest")

25. Petitioners incorporate and restate all previous paragraphs.

26. Through the government's new identification policy, the Respondents are keeping the Petitioners in its custody in violation of their rights under the TVPRA.

27. The TVPRA requires that Respondents place the children in the setting that is in their "best interest." Under Respondent's regulations, 45 C.F.R. § 410.1201, once the Petitioners' parents are determined to be suitable sponsors, the "best interest" setting is with the Petitioners' parents.

28. The government's new policy presumptively disqualifies suitable sponsors who are undisputedly—based on foreign-issued identification documents or the equivalent—the parents of the Petitioners but lack U.S.-issued identification

29. As a result, the Respondents have delayed placing the Petitioners in their sponsors' custody.

30. The government's new policy contravenes the government's regulations under TVPRA. Those regulations provide that the government may determine identity by using non-U.S.-issued documents: "ORR may consult with the issuing agency (e.g., consulate or embassy) of the sponsor's identity documentation to verify the validity of the sponsor identity document presented." 45 C.F.R. § 410.1202(b).

31. By requiring U.S.-issued forms of identification from the sponsors of Petitioners, Respondents are maintaining custody of Petitioners in violation of federal law. The Petitioners are entitled to release under 28 U.S.C. § 2241.

COUNT II

Violation of the Trafficking Victims Protection Reauthorization Act, 8 U.S.C. § 1232
(Release must occur "promptly" and "without unnecessary delay")

32. Petitioners restate and incorporate all previous paragraphs.

33. Under the TVPRA, the government must release noncitizen children in its custody “promptly.” 8 U.S.C. § 1232(c)(2).

34. Similarly, under federal regulations, the Respondents must release noncitizen children “without unnecessary delay,” 45 C.F.R. § 410.1200, 1201.

35. ORR shall ordinarily adjudicate a sponsorship application with 10 days *Id.* § 410.1205(b). ORR may deny a parent sponsorship only if it determines that the parent cannot provide for the “well-being” of the child or that placement with the sponsor would endanger the child or the community. *Id.* § 410.1205(a).

36. These regulations place on ORR the obligation to release the Petitioners to their parents unless the Respondents have notified the parents of a decision that relies upon evidence subject to appellate challenge supporting a valid reason not to release. *Id.* § 410.1205-1206. Respondents have not done so.

37. By taking over 10 days to vet the suitability of the Petitioners’ sponsors, and by not supplying a valid, evidence-based decision for denying custody, the Respondents are not are further violating the Petitioners’ rights under the TVPRA.

38. Therefore under 28 U.S.C. § 2241, the Petitioners are entitled to release.

COUNT III

Violation of the Fifth Amendment
(Deprivation of Liberty Without Due Process—Family Separation)

39. Petitioners restate and incorporate all previous paragraphs.

40. The Fifth Amendment of the United States Constitution guarantees that no person shall “be deprived of life, liberty, or property, without due process of law.”

41. The right to due process includes the substantive protection of family unity: “parents in the care, custody, and control of their children” without government interference; it is “perhaps the oldest of the fundamental liberty interests.” *Troxel v. Granville*, 530 U.S. 57, 65 (2000). “[S]o long as a parent adequately cares for his or her children (i.e. is fit), there will normally be no reason for the State to inject itself into the private realm of the family...” *Id.* at 68.

42. The Respondents’ refusal to grant custody of the Petitioners to their otherwise suitable parent sponsors, based on their lack of U.S.-issued identification, is not a valid reason under the Fifth Amendment to prevent family reunification. They are entitled to release under 28 U.S.C. § 2241.

COUNT IV

Violation of the Fifth Amendment (Deprivation of Liberty Without Due Process—Procedural Fairness)

43. Petitioners restate and incorporate all previous paragraphs.

44. The right to due process also contains a procedural component that imposes constraints on the process of governmental decision-making. *See Matthews v. Eldridge*, 424 U.S. 319, 332 (1976).

45. The fairness of any governmental decision-making process involves consideration of the private interest affected (here, liberty of the Petitioners), the risk of an erroneous deprivation of that interest without additional procedural safeguards, and the government's countervailing interests (here, the well-being of the child). *See id.*

46. The Respondents prolonged detention of Petitioners without adequate procedures to ensure a prompt resolution of their legitimate claims for release to their parents violates the Petitioners' rights to due process under the Fifth Amendment. They are therefore entitled to release under 28 U.S.C. § 2241.

COUNT V

Violation of the Fifth Amendment (Deprivation of Liberty Without Due Process—Indefinite Detention)

47. Petitioners restate and incorporate all previous paragraphs.

48. The right to due process also includes a substantive presumption against the indefinite civil detention or detention exceeding six months of adults unless the government supplies a detainee-specific justification. *Zadyvydas v. Davis*, 533 U.S. 678 (2001).

49. The Petitioners are children facing detention of approximately three months or more. As children, the substantive presumption from *Zadyvydas* now applies to them.

50. Respondents have not identified a permissible justification specific to them, such as flight risk, dangerousness, or mental illness, that would justify separating them from their parents. *See id.*

51. Respondents continued detention of Petitioners under these circumstances thus violates the Petitioners' rights under the Due Process Clause of the Fifth Amendment, entitling them to release under 28 U.S.C. § 2241.

COUNT VI

Violation of the Fifth Amendment (Deprivation of Equal Protection)

52. Petitioners restate and incorporate all previous paragraphs.

53. The Fifth Amendment's right to due process includes an equal protection component applicable to the federal government. *Bolling v. Sharpe*, 347 U.S. 497 (1954).

54. Equal protection requires that the government supply a rational basis for treating undocumented noncitizens differently than documented noncitizens. *Plyer v. Doe*, 452 U.S. 202 (1982).

55. The Respondent's refusal to grant custody of the Petitioners to their otherwise suitable parent sponsors, based solely on the noncitizen parents' lack U.S.-issued identification, where they would grant custody if the noncitizen parent had U.S.-issued identification, is irrational because identification can be validated without U.S.-issued identification. Because it is irrational, the refusal violates to Petitioner's Fifth Amendment rights, entitling them to release under 28 U.S.C. § 2241.

REQUEST FOR RELIEF

Petitioners respectfully urge that this court:

1. Assume jurisdiction over this matter;
2. Declare that Petitioners' current detention is unlawful;
3. Issue a writ of habeas corpus ordering Respondents to release Petitioners from custody to the custody of their sponsors;
4. Prohibit the Respondents from transferring Petitioners from the district without the court's approval;
5. Award Petitioners' their attorney's fees and costs under the Equal Access to Justice Act, and on any other basis justified under law; and
6. Grant any further relief this court deems just and proper.

Respectfully submitted,

/s/ Charles Roth

Charles Roth

National Immigrant Justice Center

111 West Jackson Blvd, Suite 800

Chicago, IL 60604

(312) 660-1613 (tel)

(312) 660-1613 (fax)