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

10 B.S.Z., a minor; A.M.C.R., a minor;
11 K.M.O.R., a minor; and Erica
Santamaria, as Next Friend of minors,
12 Petitioners,

13 v.

14 ANA BABUDAR, Federal Field
15 Specialist, Office of Refugee
Resettlement; RUBY HERNANDEZ,
16 Federal Field Specialist, Office of
Refugee Resettlement; NIKY HYMEL,
17 Federal Field Specialist Supervisor,
Office of Refugee Resettlement; ALEX
18 J. ADAMS, Assistant Secretary of the
Administration for Children and
19 Families; ANGIE SALAZAR, Acting
20 Director of the Office of Refugee
Resettlement; and ROBERT F.
21 KENNEDY, JR., Secretary of the U.S.
Department of Health and Human
22 Services,

23 Respondents.
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Case No. 5:26-cv-701

**VERIFIED PETITION FOR WRIT
OF HABEAS CORPUS**

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

INTRODUCTION

1. Petitioners B.S.Z., A.M.C.R., and K.M.O.R.,¹ are unaccompanied children² (“UC”) who were transferred to the custody of the Office of Refugee Resettlement (“ORR”) on May 20, July 15, and July 17, 2025, respectively.

2. Petitioners have been detained at ORR facilities including Building Bridges in San Bernardino, California (“BBSB”), and Marsell Wellness Center in Riverside, California (“MWC-R”), for significant periods of time, ranging from six to eight months, despite the fact that each child has a biological parent in the United States who is available and willing to assume their custody and care. Pursuant to ORR Rule 2.2.1, Identification of Qualified Sponsors, Petitioners’ parents are classified as “Category 1: parent or legal guardian.” Office of Refugee Resettlement, *ORR Unaccompanied Alien Children Bureau Policy Guide: Section 2*, available at <https://acf.gov/orr/policy-guidance/unaccompanied-children-program-policy-guide-section-2#2.2>.

3. Each of Petitioners’ parents have submitted the documentation that ORR requires to be considered as a sponsor for an unaccompanied child, the Family Reunification Packet (“FRP”). However, ORR has allowed each of Petitioners’ FRPs to languish for months without a decision. ORR has allowed completed FRPs to languish for weeks or months without any explanation, and then surprise the sponsor with new “requirements” never previously mentioned. Rather than abiding by its statutory mandate to “promptly” place children in the

¹ Petitioners are referred to herein by their 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 least restrictive environment, it is engaging in apparently dilatory tactics at the
2 expense of children's wellbeing and constitutional rights.

3 4. The reunification between Petitioners and their parents therefore
4 remains indefinitely delayed. These ongoing delays have resulted in continued,
5 unnecessary detention and emotional distress for Petitioners. For example, B.S.Z.
6 is experiencing frustration due to the prolonged nature of his case, detention
7 fatigue, and sadness seeing his peers being discharged from the shelter while he
8 awaits release. A.M.C.R. is only three years old. Due to his tender age, he likely
9 lacks the vocabulary to even begin to describe the impact separation from his
10 mother has had on him. K.M.O.R. has experienced verbal and sexual harassment
11 by a peer that made sexually inappropriate gestures at her while in custody and is
12 experiencing continued discomfort and difficulty functioning in her environment.

13 5. Accordingly, to vindicate Petitioners' constitutional, statutory, and
14 regulatory rights, this Court should grant the instant petition for a writ of habeas
15 corpus.
16

17 6. Absent an order from this Court, Petitioners will continue to languish
18 in ORR custody, missing the crucial moments with family so essential to their
19 well-being as children, their development, and, ultimately, their futures as adults.
20

21 7. Petitioners hereby request an immediate hearing be set on this matter.

22 8. Petitioners further seek an order from this Court requiring that ORR
23 immediately release them to their parents' care and declaring their prolonged
24 detention an unlawful violation of their statutory and Constitutional rights.

25 JURISDICTION

26 9. This Court has subject matter jurisdiction over this matter pursuant to 28
27 U.S.C. § 2241 (habeas corpus); 28 U.S.C. § 1651 (All Writs Act); 28 U.S.C. §
28

1 2201 (Declaratory Judgment Act); 28 U.S.C. § 1361 (writ of mandamus); and 28
2 U.S.C. § 1331 (federal question). This Court also has jurisdiction pursuant to Art. I,
3 § 9, cl. 2 of the United States Constitution (Suspension Clause).

4 10. Federal district courts have jurisdiction to hear habeas claims by
5 noncitizens challenging the lawfulness of their detention. *See Zadvydas v. Davis*,
6 533 U.S. 678, 687 (2001).

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

10 12. This Court may grant relief under the habeas corpus statutes, 28
11 U.S.C. § 2241 *et. seq.*, the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, and
12 the All Writs Act, 28 U.S.C. § 1651.
13

14 VENUE

15 13. Venue is proper in the United States District Court for the Central
16 District of California because Petitioners are detained in ORR subcontracted
17 facilities which are respectively located in San Bernardino, California and
18 Riverside, California, which are within the jurisdiction of this judicial District.
19

20 14. Venue is also proper in this District because Respondents are officers,
21 employees, or agencies of the United States, a substantial part of the events or
22 omissions giving rise to Petitioners' claims occurred in this District, and no real
23 property is involved in this action. 28 U.S.C. § 1391(e).

24 PARTIES

25 **I. Petitioners**

26 15. Petitioner B.S.Z. is a fourteen-year-old unaccompanied child.
27 Petitioner is currently detained at MWC-R. Petitioner B.S.Z. is in the custody, and
28

1 under the direct control, of Respondents and their agents. Petitioner B.S.Z.'s parent
2 and sponsor is N.Z.L.³

3 16. Petitioner B.S.Z.'s Next Friend is Erica Santamaria ("Mrs.
4 Santamaria").⁴ See Declaration of Next Friend, Erica Santamaria, in Support of
5 Petition for Writ of Habeas Corpus ("Santamaria Declaration"), filed herewith.
6 Petitioner appears by and through his Next Friend, Mrs. Santamaria.
7

8 17. Petitioner A.M.C.R. is a three-year-old unaccompanied child.
9 Petitioner is currently detained at BBSB. Petitioner A.M.C.R. is in the custody, and
10 under the direct control, of Respondents and their agents. Petitioner A.M.C.R.'s
11 parent and sponsor is C.J.R.R. See *supra* footnote 3.

12 18. Petitioner A.M.C.R.'s Next Friend is Mrs. Santamaria. See *supra*
13 footnote 4; see also Santamaria Declaration. Petitioner appears by and through his
14 Next Friend, Mrs. Santamaria.

15 19. Petitioner K.M.O.R. is a twelve-year-old unaccompanied child.
16 Petitioner is currently detained at MWC-R. Petitioner K.M.O.R. is in the custody,
17 and under the direct control, of Respondents and their agents. Petitioner
18 K.M.O.R.'s parent and sponsor is E.R.G. See *supra* footnote 3.

19 20. Petitioner K.M.O.R.'s Next Friend is Mrs. Santamaria. See *supra*
20 footnote 4; see also Santamaria Declaration. Petitioner appears by and through her
21 Next Friend, Mrs. Santamaria.
22

23 II. Respondents

24 21. Respondent Ana Babudar is sued in her official capacity as an ORR
25 Federal Field Specialist ("FFS Babudar"). Federal Field Specialists are the

26 ³ The use of sponsor's initials further ensures child-petitioner's privacy. See Fed. R. Civ. P. 5.2(a), (c), (h)
27 (mandating use of a minor's initials, providing for limited access to files in proceedings related to immigration
28 detention "unless the court orders otherwise," and noting that failure to redact personal information in the first
instance constitutes a waiver of that protection).

⁴ See 28 U.S.C. § 2242 (authorizing next friend status in the habeas context).

1 government officials responsible for the care and custody of children in ORR
2 facilities. In this role, FFS Babudar is responsible for determining Petitioners'
3 placements and has authority to approve their respective releases to an appropriate
4 sponsor's care. Respondent FSS Babudar is thereby a legal custodian of
5 Petitioners.

6
7 22. Respondent Ruby Hernandez is sued in her official capacity as an
8 ORR Federal Field Specialist ("FFS Hernandez"). Federal Field Specialists are the
9 government officials responsible for the care and custody of children in ORR
10 facilities. In this role, FFS Hernandez is responsible for determining Petitioners'
11 placements and has authority to approve their respective releases to an appropriate
12 sponsor's care. Respondent FFS Hernandez is thereby a legal custodian of
13 Petitioners.

14 23. Respondent Niky Hymel is sued in her official capacity as an ORR
15 Federal Field Specialist Supervisor ("FFS Supervisor Hymel"). Federal Field
16 Specialist Supervisors are the government officials responsible for the care and
17 custody of children in ORR facilities and supervise Federal Field Specialists. In
18 this role, FFS Supervisor Hymel is responsible for determining Petitioners'
19 placements and has authority to approve their respective releases to an appropriate
20 sponsor's care. Respondent FFS Supervisor Hymel is thereby a legal custodian of
21 Petitioners.

22
23 24. Respondent Angie Salazar is sued in her official capacity as the Acting
24 Director of ORR ("Acting Director Salazar"), the component of the U.S.
25 Department of Health and Human Services ("HHS") responsible for implementing
26 the Department's obligations to unaccompanied minors who are immigrants. ORR
27 is the government entity directly responsible for the continued detention of
28

1 Petitioners and has the authority to release them. Respondent Acting Director
2 Salazar is thereby a legal custodian of Petitioners.

3 25. Respondent Alex J. Adams is sued in his official capacity as the
4 Assistant Secretary of the Administration for Children and Families (“ACF”)
5 (“Assistant Secretary Adams”). ACF is comprised of 23 offices, including ORR,
6 responsible for the welfare of children and families. Respondent Adams is thereby
7 responsible for Petitioners’ continued detention and custody and is a legal
8 custodian of Petitioners.
9

10 26. Respondent Robert Kennedy, Jr. is sued in his official capacity as the
11 Secretary of HHS (“Secretary Kennedy”). In this capacity, Secretary Kennedy
12 oversees ACF and ORR and is therefore the “head” of those agencies. 6 U.S.C. §
13 271(a)(2). HHS is responsible for the care and placement of unaccompanied
14 children in federal custody. *See* 8 U.S.C. § 1232(c); 6 U.S.C. § 279. HHS and ORR
15 enter contracts with public and private entities to house, care for, and provide legal
16 assistance to unaccompanied children apprehended by the Department of
17 Homeland Security (“DHS”) pursuant to the Immigration and Nationality Act
18 (“INA”). *See* 6 U.S.C. § 279. Respondent Secretary Kennedy is thereby a legal
19 custodian of Petitioners.
20

21 **STATEMENT OF FACTS**

22 **I. Petitioner B.S.Z.**

23 27. Petitioner B.S.Z. is a fourteen-year-old UC. Petitioner was designated
24 a UC by DIIS upon his arrival in the United States on May 14, 2025. On May 20,
25 2025, B.S.Z. was placed in ORR custody and transferred to an ORR shelter in
26 Fullerton, California. He was later transferred to MWC-R on October 15, 2025.
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1 28. On July 10, 2025, N.Z.L. submitted to DNA testing, confirming that
2 she is B.S.Z.'s parent. N.Z.L. also submitted her fingerprints in accordance with
3 ORR Field Guidance Policy "FG-26".⁵

4 29. N.Z.L. also submitted her Consular Identification card in accordance
5 with ORR Policy 2.2.4, "Proof of Sponsor Identity,"⁶ although she requested an
6 exception to the identification requirement, as provided for in the same policy, for
7 sponsors who qualify as Category 1 (parent or legal guardian), and cannot provide
8 the type of identity document requested by the policy.
9

10 30. On August 21, 2025, N.Z.L. submitted her FRP to ORR to have her
11 son, B.S.Z., released to her care.

12 31. On October 21, 2025, MWC-R provided a reunification update
13 indicating the "case does not need to undergo an ORR Mandated HS [home study]
14 as child entered care prior to July 14, 2025," and that "CM [case manager] did not
15 refer to [home study]." Before this communication, the only updates indicated that
16 the case was "Pending CAT 1 Exemption waiver approval from ORR HQ."

17 32. On November 15, 2025, MWC-R indicated, "No concerns identified.
18 ... Case Manager has noted for the [Division of Sponsor Vetting] of the case has
19 expired documents on portal due to the remand hold. Pending updated [Proof of
20 Address] and Sponsor/[Alternate Care Giver] background Checks." Thus, ORR's
21 own delays are causing *additional* delays for Petitioner, a vicious cycle that is
22 severely impeding B.S.Z.'s health and wellbeing.
23

24 33. On January 26, 2026, after an additional three months of completely
25 unexplained delay, Petitioner's counsel sent a letter to ORR Headquarters,
26

27 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>.

28 ⁶ Available at: <https://acf.gov/orr/policy-guidance/unaccompanied-children-program-policy-guide-section-2#2.2.4>.

1 addressed to Director Angie Salazar requesting the immediate adjudication and
2 timely release of B.S.Z. in light of the unexplained delays and the prolonged
3 detention's impact on his wellbeing.

4 34. While N.Z.L. continues to regularly reach out to the ORR-
5 subcontracted facility and to ImmDef, desperate for information about when her
6 child might be released to her, there is no indication that a decision on reunification
7 will be made any time soon.

8 35. As a result of his prolonged detention and separation from his mother,
9 B.S.Z. has required therapy to process his feelings of frustration with the progress
10 of his case, and sadness due to his separation from his mother.. B.S.Z. requested a
11 family visit in early December but it has never been facilitated due to the program
12 being short staffed. B.S.Z. was forced to spend his 14th birthday in detention,
13 without his family to celebrate with him.

14
15 **II. Petitioner A.M.C.R.**

16 36. Petitioner A.M.C.R. is a three-year-old UC. A.M.C.R. was designated
17 a UC by DHS upon his arrival in the United States on July 11, 2025. On July 15,
18 2025, A.M.C.R. was placed in ORR custody and transferred to BBSB.

19 37. On July 30, 2025, C.J.R.R. submitted to DNA testing, confirming that
20 she is A.M.C.R.'s parent. C.J.R.R. also submitted their fingerprints in accordance
21 with ORR Field Guidance Policy "FG-26". *See supra* footnote 5.

22 38. ORR conducted a Home Study on August 7, 2025, which resulted in a
23 positive recommendation that Petitioner A.M.C.R. be released to C.J.R.R. In
24 particular, the recommendation found that C.J.R.R.'s house was clean and safe to
25 reside in, and that she presented a safe, stable environment. Additionally, it found
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27
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1 that C.J.R.R. has a very strong and on-going positive relationship with A.M.C.R.
2 The recommendation concluded that the home was safe for the release of A.M.C.R.

3 39. C.J.R.R. also submitted her passport in accordance with ORR Policy
4 2.2.4, "Proof of Sponsor Identity," although she requested an exception to the
5 identification requirement, as provided for in the same policy, for sponsors who
6 qualify as Category 1 (parent or legal guardian), and cannot provide the type of
7 identity document requested by the policy. *See supra* footnote 6.
8

9 40. On August 24, 2025, C.J.R.R. submitted her FRP to ORR to have her
10 son, A.M.C.R., released to her care. An updated FRP was also submitted on
11 October 29, 2025, because C.J.R.R.'s passport expired.

12 41. On January 28, 2026, after three months of additional delay,
13 Petitioner's counsel emailed a formal letter to ORR Acting Director Angie Salazar,
14 demanding either a final decision on A.M.C.R.'s FRP or immediate release to his
15 mother.

16 42. From the FRP submission to date, the only updates have indicated the
17 case is pending an in-person identification appointment.

18 43. On January 29, 2026, FFS Babudar called Petitioner's counsel and
19 indicated that she would be staffing the demand letter with leadership. As of this
20 filing, it has been 15 days since this communication took place, and all the items
21 FFS Babadur identified as outstanding remain pending with no additional direction
22 from ORR.
23

24 44. A.M.C.R. is only three years old. Without having a parent present to
25 provide information and direction, it is impossible for petitioner's immigration
26 attorneys to develop rapport and represent him against deportation. He is growing
27 up in detention.
28

III. Petitioner K.M.O.R.

45. Petitioner K.M.O.R. is a twelve-year-old UC. Petitioner was designated a UC by DHS upon her arrival in the United States on July 16, 2025. On July 17, 2025, K.M.O.R. was placed in ORR custody and transferred to a shelter in Fullerton, California. She was later transferred to MWC-R on October 15, 2025.

46. On September 9, 2025, E.R.G. submitted her FRP to ORR to have her daughter, K.M.O.R., released to her care.

47. On August 12, 2025, E.R.G. submitted to DNA testing, confirming that she is K.M.O.R.'s parent. E.R.G. also submitted their fingerprints in accordance with ORR Field Guidance Policy "FG-26". *See supra* footnote 5.

48. E.R.G. also submitted her driver's license in accordance with ORR Policy 2.2.4, "Proof of Sponsor Identity" and tax returns as proof of income. *See supra* footnote 6.

49. The FRP was completed and submitted to ORR on September 4, 2025.

50. E.R.G. was scheduled for an in-person identification verification appointment on November 7, 2025. FFS Lucibel Gast cancelled the appointment and has yet to reschedule it and has not provided E.R.G. any guidance as to what additional information would be necessary to obtain an approval and, ultimately, release of K.M.O.R. To date, K.M.O.R. and K.M.O.R.'s FRP remains undecided.

51. On December 22, 2025, after nearly two months of additional and unexplained delay, Petitioners' counsel emailed a formal letter to ORR Acting Director Angie Salazar, demanding either a final decision on K.M.O.R.'s FRP or immediate release to her mother. Said correspondence was never acknowledged.

1 52. K.M.O.R. is eager to reunify with her mother. K.M.O.R. has had a
2 difficult time in custody. She has faced [REDACTED] from peers
3 and has had to seek help from staff in multiple situations. She has repeatedly felt
4 unsafe and uncomfortable with other children living in her same resource home.
5 While she remains in ORR care, she is being exposed to safety risks and peer
6 violence.
7

8 LEGAL FRAMEWORK

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

10 53. A writ of habeas corpus under 28 U.S.C. § 2241 may issue if, among
11 other things, a person is “in custody under or by color of the authority of the
12 United States,” or is “in custody in violation of the Constitution or laws or treaties
13 of the United States.” 8 U.S.C. § 2241(c).

14 54. A habeas court’s role is at its “most extensive in cases of pretrial and
15 noncriminal detention,” especially “where there ha[s] been little or no previous
16 judicial review of the cause for detention,” as is the case here. *Boumediene v. Bush*,
17 553 U.S. 723, 780 (2008).

18 55. The Court must grant the petition for writ of habeas corpus or issue an
19 order to show cause (OSC) to Respondents “forthwith,” unless Petitioners are not
20 entitled to relief. 28 U.S.C. § 2243. If an OSC is issued, this Court must require
21 Respondents to file a return “within *three days* unless for good cause additional
22 time, not exceeding twenty days, is allowed.” *Id.* (emphasis added). The writ or
23 OSC shall be directed to the person having custody of the person detained. *Id.*
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1 **II. Legal Framework Governing the Care and Custody of Unaccompanied**
2 **Children**

3 56. Three key laws and agreements govern the federal government's
4 treatment and custody of unaccompanied immigrant children: (1) the 1997 *Flores*
5 Settlement Agreement ("FSA"), largely codified into the federal regulatory scheme
6 through ORR's promulgation of its Foundational Rule in 2024; (2) the Homeland
7 Security Act of 2002 ("HSA"); and (3) the Trafficking Victims Protection
8 Reauthorization Act ("TVPRA") of 2008.
9

10 **A. The *Flores* Settlement Agreement**

11 57. The FSA arose from a lawsuit filed by a group of immigrant children
12 challenging their detention and seeking to be released to family members or
13 sponsors within the United States. *See Flores v. Sessions*, 862 F.3d 863, 869 (9th
14 Cir. 2017) (discussing history of the *Flores* litigation). In 1997, the plaintiff
15 children entered into a consent decree with the federal government to create a
16 nationwide policy governing the custody and release of immigrant children. *See*
17 Stipulated Settlement Agreement, *Flores v. Reno*, No. CV-85-4544 (C.D. Cal. Jan.
18 17, 1997).⁷
19

20 58. The FSA remains under the supervision of U.S. District Judge Dolly
21 M. Gee in the Central District of California. *See Flores v. Bondi*, No. CV 85-4544-
22 DMG (AGRx) (C.D. Cal.).⁸
23
24

25 ⁷ Available at:

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

27 ⁸ Following the promulgation of the ORR Foundational Rule, described *infra*, the FSA
28 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).

1 **B. The Homeland Security Act of 2002 (HSA)**

2 59. Enacted in 2002, the HSA divided responsibilities for the processing
3 and treatment of unaccompanied children between ORR – a sub-department of the
4 Department of Health and Human Services – and the then-newly created
5 Department of Homeland Security.⁹ See 6 U.S.C. § 279(a). ORR was assigned
6 functions including “coordinating and implementing the care and placement” of
7 unaccompanied children in appropriate custody. 6 U.S.C. § 279(b).
8

9 **C. The Trafficking Victims Protection Reauthorization Act**

10 60. Enacted in 2008,¹⁰ the TVPRA requires federal officials to screen
11 unaccompanied immigrant children for certain vulnerabilities upon their arrival in
12 the United States. See 8 U.S.C. § 1232(a)(4). It mandates that custody of an
13 unaccompanied child be transferred to the HHS Secretary within 72 hours of their
14 arrival in the United States.¹¹ 8 U.S.C. § 1232(b)(3).
15

16 61. The TVPRA enacted procedures for ensuring “safe and secure”
17 placements for these children, and, crucially, mandated that an unaccompanied
18 child “shall be *promptly* placed in the least restrictive setting that is in the best
19 interest of the child.” 8 U.S.C. § 1232(c)(1), (c)(2)(A) (emphasis added).
20

21 ⁹ Prior to the creation of DHS, all matters related to the custody, detention, and
22 deportation of immigrant children was managed by the Immigration and Naturalization
23 Service (“INS”), which was abolished simultaneously with the creation of DHS.

24 ¹⁰ The TVPRA is a reauthorization of the Trafficking Victims Protection Act of 2000
25 (TVPA), intended to combat the trafficking of persons. See Pub. L. No. 106-386, 114
26 Stat. 1464 (Oct. 28, 2000). Through the 2008 Reauthorization, Congress established
27 certain rights for unaccompanied children navigating the immigration process,
28 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).

¹¹ 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).

D. The ORR Foundational Rule

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

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

64. The Foundational Rule also provides a non-exhaustive list of 17 factors that ORR may consider when evaluating what is the “least restrictive setting that is in the best interest of the child,” including danger to self; danger to community/others; runaway risk; trafficking or other safety concerns; age; gender; LGBTQI+ status or identity; disability; specialized services or treatment requested or required; criminal background; location of potential sponsor and safe, timely release options; behavior; siblings in ORR custody; language access; whether they are pregnant or parenting; location of apprehension; and length of stay in ORR custody. 45 C.F.R. § 410.1103(a), (b).

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

7
8 66. Absent “an unexpected delay,” ORR is mandated to adjudicate a
9 completed sponsor application for a relative who has previously been the child’s
10 primary caregiver “within *10 calendar days of receipt* of the completed sponsor
11 application,” and to adjudicate applications by relatives who were not previously
12 the child’s primary caregiver within 14 calendar days. 45 C.F.R. § 410.1205(b)
13 (emphasis added).

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

22
23 68. In addition to the above, ORR supervisory staff “who supervise field
24 staff” are required to conduct “automatic review of all pending sponsor
25 applications . . . within 90 days of an [UC] entering ORR custody.” 45 C.F.R. §
26 410.1207(a). This “review” is not perfunctory, but rather is designed to keep the
27 child and potential sponsor informed of outstanding issues in the reunification
28

1 process and to work to resolve them. The Foundational Rule requires ORR and
2 subcontracted facility staff to “update the potential sponsor and [UC] on the status
3 of the case, explaining the reasons that the release process is incomplete.” 45
4 C.F.R. § 410.1207(b). Further, the Rule provides that ORR and subcontracted
5 facility staff “shall work with the potential sponsor, relevant stakeholders, and
6 ORR to address the portions of the sponsor application that remain
7 unresolved.” *Id.*

8
9 **E. Substantive and Procedural Due Process**

10 69. It is axiomatic that civil immigration detention is limited by both
11 substantive and procedural due process protections, which apply “to all ‘persons’
12 within the United States, including [noncitizens], whether their presence here is
13 lawful, unlawful, temporary, or permanent.” *Zadvydas*, 533 U.S. at 693. Indeed,
14 freedom “from imprisonment – from government custody, detention, or other
15 forms of physical restraint – lies at the heart of the liberty” that the Due Process
16 Clause protects. *Id.* at 690.

17 70. In addition, courts in this District have found that UCs have a
18 protected interest in their statutory entitlements under the TVPRA. *See*
19 *e.g.*, *Immigrant Defs. L. Ctr. v. U.S. Dep’t of Homeland Sec.*, No. CV 21-0395
20 FMO (RAOX), 2025 WL 1191572, at *15 (C.D. Cal. Mar. 14, 2025) (finding
21 “statutory entitlements [under the TVPRA] are constitutionally protected property
22 interests”) (collecting cases); *Lucas R. v. Azar*, No. CV 18-5741-DMG
23 (PLAx), 2018 WL 7200716, at *9 (C.D. Cal. Dec. 27, 2018) (noting that a statute
24 can create “a substantive interest protected by the Due Process Clause by using
25 ‘mandatory language’ that imposes an obligation on government officials,
26 and referring to such mandatory language in the TVPRA) (citing 8 U.S.C. §
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1 1232(c)(2)(A): a UC “shall be promptly placed in the least restrictive setting that is
2 in the best interest of the child”) (emphasis in original).

3 **ARGUMENT**

4 **A. Petitioners’ Claims are Cognizable as a Habeas Action, and**
5 **Administrative Exhaustion is Not Required.**

6 71. Petitioners seek habeas relief pursuant to the TVPRA and both the
7 substantive and procedural components of the Due Process Clause of the Fifth
8 Amendment. These claims may properly sound in habeas, as “challenges to the
9 statutory framework authorizing detention, questions of law raised in the
10 application or interpretation of statutes, and constitutional claims, such as claims
11 that the discretionary process itself was constitutionally flawed,” have been found
12 to “fit comfortably” within the scope of the habeas statute. *E.g., Alam v. Keeton*,
13 2020 WL 5439513, CV-19-05538-PHX-MTL (CDB), at *4 (D. Ariz. 2020)
14 (quoting *Jennings v. Rodriguez*, 583 U.S. 281, 296 (2018); *Leonardo v. Crawford*,
15 646 F.3d 1157, 1160 (9th Cir. 2011); *Singh v. Holder*, 638 F.3d 1196, 1202 (9th Cir.
16 2011)) (internal quotation marks omitted).

17 72. In addition, Petitioners are not required to exhaust administrative
18 remedies, as exhaustion in the habeas context is prudential, rather than
19 jurisdictional. *See Laing v. Ashcroft*, 370 F.3d 994, 997 (9th Cir. 2004); *Hernandez*
20 *v. Sessions*, 872 F.3d 976, 988 (9th Cir. 2017). Even prudential exhaustion is not
21 required if “administrative remedies are inadequate or not efficacious, pursuit of
22 administrative remedies would be a futile gesture, [or] irreparable injury will
23 result.” *Laing*, 370 F.3d at 1000; *see also Hernandez*, 872 F.3d at 988. In any
24 event, where Petitioners’ parents – who would be eligible to appeal a denial of their
25 application under controlling regulations – have received no decision from ORR on
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1 their sponsorship applications, there is no administrative remedy available for
2 Petitioners to pursue.

3 73. Here, approximately five months ago, the ORR subcontracted
4 facilities holding Petitioners confirmed in each of Petitioners' cases that their FRPs
5 have been completed and submitted. Petitioners' cases have then been elevated to
6 ORR Headquarters for a final decision, then remanded, which means that the case
7 is sent back to the FFS and that ORR has not made a decision on the release and it
8 is not currently being considered for a decision on release.
9

10 74. Despite full compliance with ORR's requirements, the ongoing delay
11 in approval – well beyond the timeframe outlined in ORR's own guidance, 45
12 C.F.R. § 410.1205(b) – has resulted in each child and their parents being left in a
13 state of limbo. Indeed, to date, Petitioners have been languishing in ORR custody
14 for up to eight months.

15 75. Requiring exhaustion would also cause Petitioners irreparable harm in
16 the form of additional detention at Building Bridges and Marsell Wellness Center
17 and continued separation from their readily available sponsors, their mothers. *See*
18 *Cortez v. Sessions*, 318 F. Supp. 3d 1134, 1139 (N.D. Cal. 2018) (habeas petitioner
19 “suffers potentially irreparable harm every day that [they] remain[] in custody
20 without a hearing, which could ultimately result in [their] release from detention”).
21

22 **B. Petitioners' Continued Detention Violates the TVPRA Because**
23 **the Statute Mandates Release to a Sponsor Unless the**
24 **Government Designates Them a Danger or a Flight Risk.**

25 76. The TVPRA was designed to provide “special protections” for
26 unaccompanied minors, in light of their status as a “particularly vulnerable group.”
27 *Saravia v. Sessions*, 280 F. Supp. 3d 1168, 1178 (N.D. Cal. 2017). Crucially, the
28

1 TVPRA mandates release from ORR custody to an appropriate sponsor unless the
2 federal government makes a finding that the minor is a danger to themselves or the
3 community, or a flight risk. *See id.* at 1196.

4 77. Indeed, the “focus on care and placement – rather than on detention –
5 is evident” from both the text of the TVPRA and the HSA. *Flores v. Sessions*, 862
6 F.3d at 876. Respondents have made no findings that any of the
7 Petitioners are flight risks or dangerous to themselves or the community. Nor could
8 they, as demonstrated by the fact that Petitioners have been detained in unlocked
9 ORR-subcontracted facilities without absconding since their arrivals into
10 ORR custody. Further, there is no evidence indicating any Petitioner
11 named herein has ever engaged in conduct causing harm to themselves or others,
12 clearly establishing they are not dangers to anyone.

14 78. Petitioners’ continued detention despite the availability of their
15 parents to assume their care is also clearly at odds with the TVPRA’s mandate that
16 ORR focus on care and placement. Respondents disregard their responsibility to
17 Petitioners by allowing them to languish in unfamiliar facilities full of strangers for
18 months on end, while failing to provide any reason why their sponsors’
19 applications to assume their care have not been approved.

21 79. By failing to timely resolve their sponsors’ applications to assume
22 their care and custody, Respondents flout their mandate to protect Petitioners,
23 instead allowing them to languish inside ORR facilities for months on end, without
24 answers, and away from family and any semblance of a normal life.

C. Petitioners' Continued Detention Violates Substantive Due Process Because it is Unnecessarily Punitive and Needlessly Infringes Upon Their Right to Family Unity.

80. Petitioners' prolonged detention violates each of their 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, each Petitioner *does* have a close family member available to assume their care, continuing to detain them in government custody is needlessly punitive.

81. In this context, courts in this District have 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)); *Ms. L. v. U.S. Immigration and Customs Enforcem.*, 310 F. Supp. 3d 1133, 1148 (S.D. Cal. 2018), *modified sub nom*, *Ms. L. v. U.S. Immigr. & Customs Enf't*, 330 F.R.D. 284 (S.D. Cal. 2019) (finding the government needed to achieve its stated purpose "in a way that preserves the class members' constitutional rights to family association and integrity"). Respondents, in continuing to detain Petitioners, away from their parents, for 8 months and longer, have considerably encroached upon this right.

1 82. Further, by allowing sponsor applications to assume Petitioners' care
2 and custody to remain undecided, Respondents infringe "perhaps the oldest of the
3 fundamental liberty interests" recognized by the Supreme Court: "the interest of
4 parents in the care, custody, and control of their children." *Troxel v. Granville*, 530
5 U.S. 57, 65 (2000). Similarly, other courts have recognized that children have a
6 reciprocal right to be "raised and nurtured by their parents." *D.B. v. Cardall*, 826
7 F.3d 721, 740 (4th Cir. 2016) (quoting *Berman v. Young*, 291 F.3d 976, 983 (7th
8 Cir. 2002)) (internal quotation marks omitted). Each day Petitioners remain
9 detained in ORR custody, Respondents are clearly violating these rights.
10

11 83. In addition, a statute may create a substantive interest protected by the
12 Due Process Clause by using "mandatory language" that imposes an obligation on
13 government officials. Courts in this District have held that the TVPRA's mandatory
14 language gives rise to such a substantive right in the UC for whose benefit the
15 statute was enacted. *See e.g., Immigrant Defs. L. Ctr. v. U.S. Dep't of Homeland*
16 *Sec.*, No. CV 21-0395 FMO (RAOX), 2025 WL 1191572, at *15 (C.D. Cal. Mar.
17 14, 2025) (finding "statutory entitlements [under the TVPRA] are constitutionally
18 protected property
19 interests"). Here, Petitioners again can individually establish that their substantive
20 rights pursuant to the TVPRA are being violated by Respondents.
21

22 84. To date, B.S.Z. has been detained, and thereby separated from N.Z.L.,
23 for 269 days. N.Z.L.'s completed application to assume B.S.Z.'s custody and care
24 has been pending with ORR since August 21, 2025, 176 days, time during which
25 previously submitted information has expired and been requested anew, causing a
26 vicious cycle in which the prolonged detention itself is further delaying B.S.Z.'s
27 reunification.
28

1 85. To date, A.M.C.R. has been detained at Building Bridges, and thereby
2 separated from C.J.R.R., for 213 days. C.J.R.R.'s application to assume A.M.C.R.'s
3 custody and care has been pending with ORR since August 24, 2025, 179 days,
4 only to announce new and previously unmentioned "requirements" months later,
5 months during which the three-year-old A.M.C.R. grows up in detention..

6 86. To date, K.M.O.R. has been detained at Marsell Wellness Center, and
7 thereby separated from E.R.G., for 211 days E.R.G.'s application to assume
8 K.M.O.R.'s custody and care has been pending with ORR since September 9,
9 2025, 157 days, and E.R.G. has not been notified as to what additional information
10 she must provide to ensure approval of her application.

11 87. Because of the strength of these liberty interests, Petitioners'
12 continued detention is needlessly punitive, and infringes on each of their rights to
13 family unity and to be raised by their parents.

14
15 **D. Petitioners' Continued Detention Violates Procedural Due Process**
16 **Because They Have No Effective Means by Which to Challenge**
17 **Their Continued Detention and Separation from Their**
18 **Parents/Sponsors.**

19 88. All individuals in immigration detention have a protected liberty
20 interest in their release, "*inherent* in the Due Process Clause." *R.D.T.M. v. Wofford*,
21 2025 WL 2617255, 1:25-cv-01141-KES-SKO (HC), at *4 (E.D. Cal. Sept. 9, 2025)
22 (quoting *Guillermo M.R. v. Kaiser*, 2025 WL 1983677, 25-cv-05436-RFL, at *4
23 (N.D. Cal. Jul. 17, 2025)) (emphasis in original). In addition, courts in this District
24 have held that the substantive family unity interest described above may underlie a
25 procedural due process claim. *Lucas R.*, 2018 WL 7200716, at *9.
26
27
28

1 89. Procedural due process claims are evaluated under the well-
2 established standard in *Mathews v. Eldridge*, which requires a reviewing court to
3 evaluate (1) the nature of the private interest affected; (2) the comparative risk of
4 erroneous deprivation of that interest with and without additional, procedural
5 safeguards; and (3) the nature and magnitude of any countervailing interest in not
6 providing additional or substitute procedure. 424 U.S. 319, 335 (1976).

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

15 91. Courts in this Circuit have found a cognizable claim for due process
16 relief in the context of earlier family separation policies, emphasizing that the
17 “absence of established procedures” for ensuring prompt reunification left families
18 “in a vacuum, without knowledge of the well-being and location of their children .
19 . . result[ing] in a number of different scenarios, all of which are negative – some
20 profoundly so.” *Ms. L. v. U.S. Immigration and Customs Enforcem.*, 310 F. Supp.
21 3d 1133, 1144 (S.D. Cal. 2018). Here, the risk of negative impact on Petitioners, in
22 both the short and long term, is equally apparent.

23
24 92. First, Petitioners have a strong private interest in their liberty, as well
25 as a substantive interest in being reunified with, and ultimately raised by, their
26 parents.
27
28

1 93. Second, Respondents have allowed Petitioners to remain stuck in
2 ORR's custody for extended periods of time after their parents' FRP's were
3 completed and submitted, without providing them with a decision on those
4 applications to reunify. Respondents have not even followed *their own* regulatory
5 process for completing and adjudicating sponsorship applications, instead allowing
6 the children to languish in custody without explanation. Respondents have
7 therefore erroneously deprived Petitioners of their due process rights, including by
8 denying their parents the opportunity to appeal a potential denial of their FRP,
9 given that no decision has ever been issued as to any of their sponsorship
10 applications.
11

12 94. Lastly, Respondents have never provided Petitioners' counsel with any
13 countervailing reason why the sponsorship applications in question should not be
14 approved, much less ruled on at all.

15 95. Accordingly, Petitioners clearly have a cognizable claim for relief
16 sounding in procedural due process under the *Mathews* test.
17

18 **CLAIMS FOR RELIEF**

19 **COUNT ONE**

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

21 96. The allegations in the above paragraphs are realleged and
22 incorporated herein.

23 97. Unaccompanied immigrant children in the custody of HHS "shall be
24 promptly placed in the least restrictive setting that is in the best interest of the
25 child." 8 U.S.C. § 1232(c)(2) (emphasis added). When a potential sponsor has been
26 identified for an unaccompanied child, the HHS Secretary must make a
27 "determination that the proposed custodian is capable of providing for the child's
28

1 physical and mental well-being,” by evaluating “the custodian’s identity and
2 relationship to the child,” as well as making “an independent finding that the
3 individual has not engaged in any activity that would indicate a potential risk to the
4 child.”¹² 8 U.S.C. § 1232(c)(3)(A).

5 98. Here, Respondents have verified that each of Petitioners’ sponsors
6 meet the requirements set forth in U.S.C. § 1232(c)(2) and (3)(A). In each of
7 Petitioners’ cases, Respondents have informed Petitioners’ counsel that the family
8 reunification applications have been submitted, sponsor identification exception
9 has been approved or is pending approval, the cases are pending final ORR HQ
10 decision, and that the cases will remain in “remand” until then.

12 99. Despite positive home studies, positive sponsor suitability
13 recommendations, completion of DNA testing, and no safety concerns regarding
14 any sponsor identified herein, Petitioners face continued detention. Although ORR
15 indicated that each FRP was remanded by ORR HQ, no guidance has been
16 provided to any sponsor or Petitioners’ counsel as to what information is missing
17 or any indication of when a final decision will be made.

18 100. Petitioners’ prolonged detention in ORR custody is thus a clear
19 violation of the TVPRA’s foundational requirement that unaccompanied children
20 be “promptly placed in the least restrictive setting that is in the best interest of the
21 child.” U.S.C. § 1232(c)(2).

23 101. Accordingly, Respondents’ failure to release Petitioners into the
24 custody and care of their parents violates the TVPRA.

25 COUNT TWO

26 Violation of Fifth Amendment: Substantive Due Process

28 ¹² The statute further authorizes a home study, if necessary. 8 U.S.C. § 1232(c)(3)(B).

1 102. The allegations in the above paragraphs are realleged and
2 incorporated herein.

3 103. The Due Process Clause of the Fifth Amendment provides that the
4 government shall not “deprive any person of life, liberty, or property without due
5 process of law.” U.S. CONST. AMEND. V. The Due Process Clause applies to “all
6 ‘persons’ within the United States . . . whether their presence here is lawful,
7 unlawful, temporary, or permanent.” *Zadvydas*, 533 U.S. at 693. Any individual
8 within the United States is therefore entitled to a timely and meaningful
9 opportunity to demonstrate that they should not be detained by the government.
10

11 104. Here, Petitioners’ continued detention is untethered to any legitimate
12 government interest because they are neither a flight risk nor a danger to the
13 community, and each has an appropriate sponsor – their parent – available and
14 eager to care for them outside of detention. Petitioners’ ages range from three to
15 fourteen, they have no criminal history here in the United States or anywhere in the
16 world, and there is no evidence that they have engaged in any conduct causing
17 harm to themselves or others.

18 105. Further, both Petitioners and their parents have a substantive liberty
19 interest in family integrity and, as children who have now been separated from
20 their families for up to many months, Petitioners are suffering grave harm due to
21 their continued detention by ORR. *Ms. L.*, 310 F. Supp. 3d at 1137.
22

23 106. Respondents’ actions, as set forth above, have infringed upon
24 Petitioners’ substantive liberty interests to be free from detention and their liberty
25 interests in family integrity.

26 107. Accordingly, Respondents’ continued detention of Petitioners violates
27 their substantive due process rights.
28

COUNT THREE

Violation of the Fifth Amendment: Procedural Due Process

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

109. 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.

110. UC are entitled to the protections of the TVPRA, and therefore have a protected property interest in their statutory entitlements thereunder. *See, e.g., Immigrant Defs. L. Ctr. v. U.S. Dep’t of Homeland Sec.*, No. CV 21-0395 FMO (RAOX), 2025 WL 1191572, at *15 (C.D. Cal. Mar. 14, 2025) (finding “statutory entitlements [under the TVPRA] are constitutionally protected property interests”) (collecting cases). The TVPRA expressly grants robust rights to such UC and directs HHS to establish procedures to provide for and protect said rights.

111. Petitioners’ interest in their liberty and in being reunited with their parents is unquestionably strong. *See Mathews*, 424 U.S. at 335.

112. Petitioners have been erroneously deprived of their liberty due to ORR’s failure to timely adjudicate their sponsorship applications, much less even provide their sponsors or counsel any information about why their attempts to reunite remain at a standstill. This lack of any decision also prohibits Petitioners’ parents from availing themselves of ORR’s own internal appeal process should their FRP theoretically be denied.

113. In contrast to Petitioners’ robust interests in their liberty and family reunification, the government’s interest in continuing to detain Petitioners, despite

1 the availability of their parents to assume their custody and care, is minimal at
2 best.

3 114. Accordingly, Respondents' continued detention of Petitioners, despite
4 the availability of their parents, and in light of Respondents' failure
5 to timely adjudicate their parents' sponsorship applications, violates Petitioners'
6 procedural due process rights.
7

8 **PRAYER FOR RELIEF**

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

- 10 (1) Assume jurisdiction over this matter;
11 (2) Issue a writ of habeas corpus compelling Respondents to immediately
12 release Petitioners to their parent sponsors;
13 (3) Declare that Petitioners' detention violates the Due Process Clause of the
14 Fifth Amendment, 8 U.S.C. § 1232, and/or 45 C.F.R. § 410.1001 *et seq.*;
15 (4) Award Petitioners attorney's fees and costs under the Equal Access to
16 Justice Act, 28 U.S.C. § 2412, and on any other basis justified under law;
17 and
18 (5) Grant any further relief this Court deems just and proper.
19

20
21 Dated: February 13, 2026

Respectfully Submitted,
22 /s/ Cynthia Isabel Felix
Cynthia Isabel Felix

23
24 *Attorney for Petitioner*
25
26
27
28

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

I represent Petitioners, B.S.Z., A.M.C.R., and K.M.O.R., and submit this verification on their 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 13th day of February, 2026.

Dated: February 13, 2026

Respectfully Submitted,

/s/ Cynthia Isabel Felix
Cynthia Isabel Felix

Attorney for Petitioner