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10 **UNITED STATES DISTRICT COURT**
11 **CENTRAL DISTRICT OF CALIFORNIA**
12 **EASTERN DIVISION**

13 B.S.Z., a minor; A.M.C.R., a minor;
14 K.M.O.R., a minor; and Erica
15 Santamaria, as Next Friend of
minors,

16 **Petitioners,**

17 **v.**

18
19 ANA BABUDAR, Federal Field
Specialist, Office of Refugee
20 Resettlement; RUBY HERNANDEZ,
21 Federal Field Specialist, Office of
Refugee Resettlement; NIKY
22 HYMEL, Federal Field Specialist
23 Supervisor, Office of Refugee
Resettlement; ALEX J. ADAMS,
24 Assistant Secretary of the
25 Administration for Children and
Families; ANGIE SALAZAR, Acting
26 Director of the Office of Refugee

Case No. 5:26-CV-701

Hon. Patricia Donahue

**PETITIONER'S TRAVERSE IN
SUPPORT OF VERIFIED
PETITION FOR WRIT OF
HABEAS CORPUS**

**[Declarations of Cynthia Isabel
Felix and Juliana Durning filed
concurrently herewith]**

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28 **PETITIONER'S TRAVERSE IN SUPPORT OF VERIFIED PETITION FOR WRIT OF
HABEAS CORPUS**

1 Resettlement; and ROBERT F.
2 KENNEDY, JR., Secretary of the U.S.
3 Department of Health and Human
4 Services,

5 Respondents.
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PETITIONER'S TRAVERSE IN SUPPORT OF VERIFIED PETITION FOR WRIT OF
HABEAS CORPUS

INTRODUCTION

Petitioners are three unaccompanied minor children (“UCs”) who have been held in the custody of the Office of Refugee Resettlement (“ORR”) for over 200 days despite their desire to be reunited with their parents. Each Petitioner has a biological parent willing to provide them with custody and care. Each parent has applied as their child’s sponsor and complied with the requirements for Petitioners’ release. Petitioners, however, remain in limbo.

Petitioners’ prolonged civil detention of nearly 7 to 9 months, respectively, and continued separation from their parents violates their most fundamental rights to liberty and family unity. Congress recognized the sanctity of these rights when it passed the Trafficking Victims Protection Reauthorization Act (“TVPRA”), requiring ORR to place UCs “promptly” in the least restrictive setting. ORR’s own policies make the agency’s obligations clear: timely adjudicate sponsors’ Family Reunification Packets (“FRP”) and release UCs to their sponsor’s care unless the sponsor is unfit or the UC is a danger or flight risk. Yet for months, Respondents made no progress on Petitioners’ sponsors’ FRPs, and only *after* the filing of the instant Petition for Writ of Habeas Corpus (“Petition”) now threaten that two of the FRPs will be denied. The stated reasons for these denials, which were never previously flagged by ORR (or ORR indicated were no impediment to the positive outcome of the FRP), strongly suggest that something is amiss. Respondents have

1 violated the TVPRA's statutory mandate, as well as Petitioners' Due Process rights,
2 by failing to make the necessary adjudications. Petitioners seek immediate release
3 from ORR custody via their Petition.
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5 **FACTS**

6 The facts alleged in the Petition are incorporated by reference (Petition, Dkt.
7 No. 1). The following summarizes and briefly supplements those facts:
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9 **I. B.S.Z.**

10 Petitioner B.S.Z. is a 14-year-old UC who has been held in ORR custody since
11 May 20, 2025. N.Z.L. is the biological parent and sponsor to B.S.Z. N.Z.L. submitted
12 her FRP on August 21, 2025. At the time of this filing, the application has not been
13 adjudicated.
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15 **II. A.M.C.R.**

16 Petitioner A.M.C.R. is a 3-year-old UC who has been in ORR custody since
17 July 15, 2025. C.J.R.R. is the biological parent and sponsor to A.M.C.R. C.J.R.R.
18 submitted her FRP on August 21, 2025. At the time of this filing, the application has
19 not been adjudicated.
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21 **III. K.M.O.R.**

22 Petitioner K.M.O.R. is a 12-year-old UC who has been held in ORR custody
23 since July 15, 2025. E.R.G. is the biological parent and sponsor to B.S.Z. E.R.G.
24 submitted her FRP on September 9, 2025. At the time of this filing, the application
25 has not been adjudicated.
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1 **IV. ORR'S REUNIFICATION VETTING PROCESS**

2 Respondent's Answer includes a description of the policies and procedures
3 ORR must follow when placing UCs with sponsors under the ORR Unaccompanied
4 Alien Children Bureau Policy Guide (the "Policy Guide") (Dkt. 8 at 5:3-7:4).
5
6 Petitioners supplement and clarify those procedures here.

7 **a. SUMMARY OF REUNIFICATION PROCESS**

8 To be considered for reunification, a potential sponsor must submit a Family
9 Reunification Packet ("FRP"). 8 C.F.R. §§ 410.1202(a)-(i). Sponsor suitability
10 assessments under 8 C.F.R. § 410.1202(b) include proof of identity and proof of
11 relationship such as DNA testing (Policy Guide § 2.2.3-§ 2.2.4); background
12 checks, including fingerprinting of the sponsor, with screening against
13 criminal-history and child-abuse/neglect databases (*Id.* § 2.5; § 2.5.1-§ 2.5.2); and
14 compliance with a home study, if one is required (*Id.* § 2.4.2).
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18 **b. RELEASE TIMING REQUIREMENTS**

19 Notably absent from Respondents' Answer are the timing requirements that
20 govern UC release. ORR must effectuate release to a vetted sponsor – with
21 preference for parents first – “without unnecessary delay,” and begin sponsor
22 assessment as soon as a child enters ORR custody. 45 C.F.R. §§ 410.1200–1201;
23 Policy Guide §§ 2.1, 2.2.
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26 To ensure UCs are released “in a safe, efficient, manner without unnecessary
27 delay,” ORR has mandated timeframes to adjudicate a completed FRP. Absent
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1 complicating factors, ORR must adjudicate completed FRPs "*within 10 calendar*
2 *days of receipt*" for parent sponsors. 8 C.F.R § 410.1205(b). ORR is further required
3 to periodically review pending FRPs – specifically, a *formal review every 90 days*
4 for applications that remain pending – to ensure the reunification process does not
5 stall. 8 C.F.R § 410.1207(a). This review is not cursory, ORR supervisory staff must
6 timely resolve the reasons that a release application remains pending and determine
7 possible steps to accelerate the child's safe release. *Id.* ORR must further update both
8 potential sponsor and child, explain why the process is incomplete, and work with
9 potential sponsors, relevant stakeholders, and ORR to address unresolved portions
10 of the FRP. *Id.*

14 **c. BASES FOR DENIAL OF REUNIFICATION**
15 **APPLICATION**

16 Under the Foundational Rule, ORR may deny release to a sponsor if the
17 sponsor is incapable of caring for the child, or if placement with the sponsor would
18 cause danger to the child or the community. 8 C.F.R § 410.1205(a). Further, under
19 the Policy Guide, ORR will deny reunification with a parent, if it determines: (1) the
20 parent is not willing or able to provide for the child's physical or mental well-being;
21 or (2) the parent (and/or any adult household member) refuses to complete the
22 mandatory fingerprint check; or (3) the physical environment of the home presents
23 risks to the child's safety and well-being; or (4) release of the unaccompanied child
24 would present a risk to themselves, the parent, household, or the community. Policy
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1 Guide § 2.7.4. ORR *may* deny release to a parent potential sponsor but *will* deny
2 release to other categories of potential sponsors, under certain circumstances listed
3 in the Policy Guide. *Id.*

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5 **d. ALTERNATIVE CAREGIVER IDENTIFICATION**

6 As part of the reunification process, an Alternative Caregiver is identified and
7 vetted in tandem with the FRP, to “create a plan to cover a broad range of care.” 8
8 C.F.R. § 410.1203(f). Potential sponsors must also submit documentation and
9 evidence verifying the identity of all adults residing with the sponsor and all adult
10 caregivers identified in a sponsor care plan. Policy Guide § 2.2.4. ORR is responsible
11 for conducting *concurrent* planning to identify *an alternate potential sponsor* (the
12 Alternative Caregiver) or plan for release.¹ This includes indicating the reason for
13 concurrent planning and any concerns with the potential sponsor, as well as any
14 available information about the additional sponsor(s) or alternate release plans.²

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18 **ARGUMENT**

19 **I. RESPONDENTS’ THRESHOLD PROCEDURAL**
20 **ARGUMENTS ARE UNAVAILING.**

21 The Petition argues Petitioners’ claims are cognizable as habeas action and
22 that administrative exhaustion is not required. Dkt. 1 at 18:4-21. Respondents
23 Answer offers no dispute and thus concedes these points. *see generally* Dkt. 8 FRCP

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27 ¹ UC MAP Section 2: Safe and Timely Release from ORR Care (Version 8.2),
https://acf.gov/sites/default/files/documents/orr/UACMAP_Section-2_2025-04-15.pdf,
page 44.

28 ² *Id.* at page 45.

1 Rule 8(b)(6); *Stichting Pensioenfonds ABP v. Countrywide Fin. Corp.*, 802 F. Supp.
2 2d 1125, 1132 (C.D. Cal. 2011) (“failure to respond in an opposition brief to an
3 argument put forward in an opening brief constitutes waiver or abandonment”),
4 citing *Jenkins v. Cnty. of Riverside*, 398 F.3d 1093, 1095 n.4 (9th Cir. 2005).
5

6 Respondents argue Petitioners are improperly joined in this action, rendering
7 it procedurally defective, and that judicial economy favors severance here because
8 “joining such diverse and varied claims would also severely prejudice Respondents
9 and work a disservice to the Court.” Dkt. 8 at 1:15-2:5, 9:17-10:11, 10:3-10:3.
10 Respondents are wrong on both points.
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13 First, joinder is proper under FRCP 20(a)(1) as Petitioners are similarly
14 situated in all relevant respects. All Petitioners are unaccompanied children, as such
15 they share the same legal protections under the TVPRA. Dkt. 1 at 7:23—24, 9:16-
16 18, 11:2-3, 14:10-19. All Petitioners are in ORR detention (two at the same ORR
17 facility) and seek release to reunify with their parents based on completed FRPs that
18 remain unadjudicated. Dkt. 1 at 7:22-12:7. ORR’s unlawful continued detention of
19 Petitioners violates their same statutory and constitutional rights, and they are all
20 seeking the same remedy. Joinder is therefore proper.
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23 Second, judicial economy is served by joinder here. As argued above, the
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26 ³ Respondents argue this matter is procedurally defective because only a Guardian ad Litem
27 can bring this claim. Dkt. 8 at 1:15-24. Respondents’ argument is unnecessary. The Court
28 already addressed this point by Order on February 18, 2026. *See* Dkt. 4. In compliance with
the Court’s instructions and FRCP 17(c), Petitioners file the requisite motions concurrently
with this filing.

1 similarities Petitioners share do not warrant separate trials, collection of evidence,
2 or interpretation of different rules. The caselaw Respondents cite does not support
3 severance here. Unlike the petitioners in *Asagari*, who sought to compel decisions
4 on different immigration petitions that would implicate different legal standards,
5 Petitioners' FRPs are reviewed under the same standards, by the same agency, in
6 compliance with the same laws. *See Asgari v. United States Citizenship & Immigr.*
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8 *Servs.*, No. 822CV01888FWSKES, 2023 WL 6785801, at *5 (C.D. Cal. July 31,
9 2023) (denying leave to amend).⁴

11 **II. RESPONDENTS OFFER NO DEFENSE FOR THEIR**
12 **CONTINUED VIOLATION OF PETITIONERS PROCEDURAL**
13 **DUE PROCESS RIGHTS**

14 ORR's detention of Petitioners is limited by the procedural due process
15 protections of the Due Process Clause, which apply "to all 'persons' within the
16 United States, including [noncitizens], whether their presence here is lawful,
17 unlawful, temporary, or permanent." *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001).
18 Further, as minors designated as UCs, they are afforded additional protections by the
19 TVPRA. *See e.g., Immigrant Defs. L. Ctr. v. U.S. Dep't of Homeland Sec.*, No. CV
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22 ⁴ The other cases Respondents cite involve complicated mortgage-lender disputes with over
23 one hundred parties. *D'Angelis v. Bank of Am., N.A.*, No. 13-CV-5472 JS AKT, 2014 WL
24 202567, at *3 (E.D.N.Y. Jan. 16, 2014) (finding judicial economy would not be served by
25 "joinder of over 100 different claims against eight different defendants involving the
26 application of the laws of twenty-eight different states" with "little, if any, overlapping
27 discovery"); *Padron v. Onewest Bank*, No. 2:14-CV-01340-ODW, 2014 WL 1364901, at
28 *4 (C.D. Cal. Apr. 7, 2014) (finding "evocation of the vague strategy, scheme, or
'conspiracy'" insufficient to support joinder of one hundred and twenty-one plaintiffs
joined against various banks, mortgage servicers, trustees, and an appraisers). By contrast,
this action involves three petitioners and application of the same law.

1 21-0395 FMO (RAOX), 2025 WL 1191572, at *15 (C.D. Cal. Mar. 14, 2025)
2 (finding “statutory entitlements [under the TVPRA] are constitutionally protected
3 property interests”). Here, ORR violates both by detaining Petitioners without
4 affording them process for release.
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6 **III. PETITIONERS ARE ENTITLED TO MANDATORY, TIMELY**
7 **RELEASE.**

8 The parties agree that under the TVPRA, UCs must be *promptly* placed in the
9 least restrictive setting that is in their best interest. 8 U.S.C. § 1232(c)(1), (c)(2)(A);
10 Dkt. 1 at 14:15-18; Dkt. 8 at 3:20-22. The TVRPA allows ORR to continue to detain
11 Petitioners *only* if they are a danger to themselves or the community, or a flight risk;
12 otherwise, Respondents must promptly release Petitioners to a sponsor. Dkt. 1 at
13 19:22-20:24. Respondents’ Answer asserts no danger or flight-risk findings for any
14 Petitioner, nor does it dispute ORR’s obligation to timely release Petitioners. *See*
15 *generally* Dkt. 8. Instead, Respondents attempt to recast Petitioners’ claims as
16 asserting unreasonable delay. Dkt. 10:14-19. This is inaccurate. Petitioners have
17 been unlawfully detained by ORR for months in violation of their due process rights.
18 *See generally* Dkt. 1. Release is the appropriate remedy.
19

20 Next, Respondents seem to restate their failed joinder position, arguing that
21 holding Petitioners in detention for over 200 days is lawful because of “their varying
22 specific circumstances relative to their sponsor applicants.” Dkt. 8 10:14-19.
23 Respondents’ position is nonsensical. Of course, every UC in ORR detention has
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1 “varying, specific circumstances relative to their sponsor” because they are
2 individual children, each with unique potential sponsors. This is the nature of the
3 reunification process. Respondents provide no credible “varying, specific
4 circumstances” that warrant months of inaction and continued detention.
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6 Unable to make the required showing, Respondents attempt to create two new
7 legal standards: (1) ORR’s previous “prompt steps” toward reunification and (2) “no
8 lack of recent agency activity.” Dkt. 8 at 10:25-11:3. Respondents cite no legal
9 authority to support these supposed standards, nor do either of them justify their
10 prolonged, unlawful detention of Petitioners.
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13 *First*, Respondents argue that because they took prompt steps when
14 Petitioners were *first* detained, detention is lawful now. Dkt. 8 at 12:14-17. This
15 argument fails. That ORR took prompt initial steps to vet sponsors months ago is
16 meaningless now, when completed FRP’s sat for months or weeks with no action.
17 Meanwhile, ORR is still detaining Petitioners as documents and background checks
18 expire, and ORR continues to create *new* impediments to release. Dkt. 1 at 8:18-22.
19 In fact, ORR’s prompt action at the outset, followed by inexplicable inaction and
20 ongoing detention now, supports Petitioners’ due process violation claim.
21 Petitioners do not argue that they were entitled to *immediate* release to their sponsors
22 upon arrival in ORR custody. On the contrary, they agree that ORR needed to take
23 prompt steps to verify the identity and fitness of the sponsor, and to confirm that the
24 child presented neither a danger to themselves nor to others. What makes their
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1 detention unlawful is their *continued* detention long past ORR's own policy and
2 constitutional and statutory mandates.

3 *Second*, Respondents argue that "no lack of recent agency activity" supports
4 their continued detention of Petitioners. Dkt. 8 at 11:1-3. Respondents' vague
5 assertions that there was *some* recent ORR activity provides no basis for continuing
6 to detain Petitioners. None of the "activity" Respondents identify is a decision
7 regarding Petitioners release. Mere activity is insufficient to warrant prolonged
8 custody. Especially when any of those "activities," if necessary to promptly vet the
9 sponsor, could have been initiated weeks or months ago. ORR has not decided any
10 of the FRPs submitted by Petitioners' sponsor parents that have been pending for
11 months. Respondents' ambiguous language that they will issue a denial to certain
12 FRPs now is not a final determination. Dkt. 8 at 7:27 (on the RFP pending for B.S.Z..
13 "ORR continues to work towards completing the sponsor vetting process..."); *Id.* at
14 8:20-22 (on the FRP pending for A.M.C.R., "ORR plans to issue a denial letter in
15 this case, subject to any immediate change in the sponsor's circumstances"); *Id.* at
16 9:12-13 (on the FRP pending for K.M.O.R., "ORR is in the process of issuing a
17 formal denial of E.R.G.'s application, and will work to identify another suitable
18 sponsor"). Respondents' Answer is not the proper vehicle to provide notice of intent
19 to deny or an actual denial to any sponsor.
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21 Taking Respondent's arguments together, Respondents admit that ORR
22 initially took prompt action to release Petitioners to sponsor parents, then
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1 inexplicably stopped for several months, until it recently engaged in some “agency
2 activity.” Concerningly, what seems to have spurred ORR’s recent activity is
3 nothing other than this litigation. The timing of ORR activity for each Petitioner
4 below is instructive.

6 B.S.Z.

- 7 I. Petitioner B.S.Z. entered ORR custody on May 20, 2025. Dkt. 8 at 7:10-11;
8 see Biswas Decl. at ¶ 19.
- 9 II. In the seven weeks that followed: ORR identified N.Z.L. as a possible
10 sponsor; N.Z.L. submitted to D.N.A. testing and fingerprinting; the tests
11 confirmed she is B.S.Z.’s biological mother. Id. at ¶ 20.
- 12 III. Respondents’ Answer identifies no other ORR activity, including a
13 determination on N.Z.L. as a sponsor, for the next 19 weeks. See Dkt. 8 at
14 7:10-8:3.
- 15 IV. B.S.Z. continues to languish in O.R.R. detention and so filed this habeas
16 petition on February 14, 2025. Dkt. 1.
- 17 V. Only 9 days after filing this Petition, ORR issued a negative home study
18 report for sponsor parent N.Z.L., claiming ambiguous “safety and suitability
19 concerns that will need to be resolved before an approval may be issued.”⁵
20 Dkt. 8 at 7:21-26.
- 21 VI. At the time of this filing B.S.Z. has been in ORR detention for 286 days,
22 since May 20, 2025. Id. At 7:10-11; see Biswas Decl. at ¶ 19.
- 23 VII. To date, ORR has made no decision regarding B.S.Z.’s release or sponsor
24 parent. Respondents’ Answer states that ORR “continues to work towards
25 completing the sponsor vetting process[.]” Id. at 7:27-8:3; Biswas Decl. at
26 ¶23.

21 A.M.C.R.

- 22 I. Petitioner A.M.C.R. entered ORR custody on July 15, 2025. Dkt. 8 at
23 8:510-11; see Biswas Decl. at ¶ 24.
- 24 II. In the two weeks that followed: ORR identified C.J.R.R. as a possible
25 sponsor; C.J.R.R. submitted to D.N.A. testing and fingerprinting; the tests

26 ⁵ Respondents also claim they are waiting on the return of CA/N report to determine
27 N.Z.L.’s application. Dkt. 8 at 7:23-26. This is no excuse for ORR’s failure to process
28 the application, especially where ORR does not require CA/N results to be received to
authorize release of a child. (Policy Guide § 2.5.2)

confirmed she is A.M.C.R.'s biological mother. *Id.* at ¶ 25.

III. One week later, on August 6, 2025, ORR received a home study report with a *positive* recommendation for sponsor parent C.J.R.R. (*Id.* at ¶ 26.)

IV. Respondents' Answer claims C.J.R.R. submitted "false documentation during her application for sponsorship," but identifies no document they purport is false nor provides any evidence to support their claim.⁶ *Id.* at ¶ 28. Respondents also provide no date they claim this false submission occurred.

V. Respondents' Answer identifies no other ORR activity, including a determination on C.J.R.R. as a sponsor, for 27 weeks. *See* Dkt. 8 at 7:10-8:3.

VI. A.M.C.R. continues to languish in O.R.R. detention and so filed this habeas petition on February 14, 2025. Dkt. 1.

VII. The same day the Petition was filed, C.J.R.R. was detained by the Department of Homeland Security ("DHS").⁷ Dkt. 8 at 8:16-17.

VIII. At the time of this filing A.M.C.R. has been in ORR detention for 229 days since July 15, 2025. Dkt. 8 at 8:510-11; *see* Biswas Decl. at ¶ 24.

IX. To date, ORR has failed to provide C.J.R.R. with any decision regarding A.M.C.R.'s release. Respondents' Answer states, ORR "plans to issue a denial letter in this case." *Id.* at 7:27-8:3; Biswas Decl. at ¶ 23.

⁶ Under the Policy Guide, ORR *may, but is not required to*, deny release to a parent (Category 1) potential sponsor, like C.J.R.R., here, if the sponsor "[h]as knowingly provided false information, committed perjury, or submitted fraudulent documentation during the sponsor assessment process." Policy Guide § 2.7.4. Petitioners' do not concede that C.J.R.R. submitted any false documentation and lack the information to make this determination. Either way, this is not a mandatory basis to deny release to a sponsor parent under § 2.7.4.

⁷ To the extent Respondents argue C.J.R.R.'s arrest justifies continued detention of A.M.C.R., they are wrong. The law still requires ORR to prioritize release to a parent "without unnecessary delay," and detention of the parent does not render the parent "unavailable" or otherwise bar reunification absent an individualized unsuitability finding. *See* 45 C.F.R. § 410.1201(a)(1) (2026) (parent is first-preference sponsor; release required "without unnecessary delay" subject to suitability); *Flores v. Reno*, No. CV 85-4544-DMG (C.D. Cal. Jan. 17, 1997); *see also Ms. L. v. U.S. Immigration & Customs Enf't*, 310 F. Supp. 3d 1133, 1142-46 (S.D. Cal. 2018) (recognizing the fundamental right to family integrity to parent in ICE detention). Even if a detained parent cannot immediately take physical custody the Policy Guide permits release to an Alternate Caregiver or parent-designated sponsor. *See* 45 C.F.R. § 410.1201(a)(4)(i)-(ii) (2026) (permitting parental designation via sworn declaration or other satisfactory documentation); Office of Refugee Resettlement, Policy Guide § 2.2 (identifying parents and "individuals designated by the child's parents" as eligible sponsors).

K.M.O.R.

- I. Petitioner K.M.O.R. entered ORR custody on July 17, 2025. Dkt. 8 at 8:26-27; *see* Biswas Decl. at ¶ 31.
- II. In the three weeks that followed: ORR identified E.R.G. as a possible sponsor; E.R.G. submitted to D.N.A. testing and fingerprinting; the tests confirmed she is K.M.O.R.'s biological mother. *Id.* at ¶ 20.
- III. Respondents' Answer claims on November 28, 2025, "a background check revealed links to a human smuggling case currently being investigated by HSI."⁸ ORR provides no more information such as whose background check or what kind of link to a case, or whether the case is ongoing. *See* Dkt. 8 at 9:7-11.
- IV. Respondents' Answer identifies no other ORR activity, including a determination on E.R.G. as a sponsor, for the next 13 weeks. *See* Dkt. 8.
- V. K.M.O.R. continues to languish in O.R.R. detention and so filed this habeas petition on February 14, 2025. Dkt. 1.
- VI. At the time of this filing, K.M.O.R. has been in ORR detention for 227 days, since July 17, 2025. Dkt. 8 at 8:26-27; *see* Biswas Decl. at ¶ 31.
- VII. To date, ORR has made no decision regarding K.M.O.R.'s release or sponsor parent. Respondents' Answer states, ORR "is in the process of issuing a formal denial." *Id.* at 9:12-13; Biswas Decl. at ¶23.

The foregoing timeframes illustrate the pattern Respondents concede: ORR initially took prompt action to release Petitioners to sponsor parents, stopped inexplicably for several months at a time, then only *after* Petitioners filed for habeas relief, ORR acted again. This pattern shows that Respondents' "recent agency activity" is in fact an attempt to obfuscate their violations of Petitioner's procedural due process rights at best, and retaliatory pretext to deny Petitioners FRPs at worst.

Lastly, Respondents argue the current status quo is not their decision but is

⁸ Respondents claim E.R.G. is being investigated by HSI for suspicion of smuggling. Dkt. 8 at 9:7-11. ORR never notified counsel for K.M.O.R. of any suspicion. Felix Decl. at 4:22-27. Direct contact with the field agent assigned to this matter directly contradicts Respondents' facts. *See* Declaration of Juliana Durning ("Durning Decl."). Counsel for K.M.O.R. was told the March 16, 2026, appointment is voluntary, not investigatory. *Id.* at 2:19-21.

1 the fault of some earlier decision they presume Petitioners' sponsor parents made.
2 Dkt. 8 12:13-17. Respondents' attempt to escape responsibility for continuing to
3 detain Petitioners is unavailing. Respondents are the only ones that make final
4 release decisions for Petitioners and other similarly situated unaccompanied
5 children. Dkt. 8 at 3:2-6 ("HSA also transferred to ORR the responsibility for
6 making all placement decisions for UACs"); at 3:18-19 ("the TVPRA makes clear
7 that HHS is responsible for all placement decisions for UACs in its custody, and for
8 conducting suitability assessments for those placements"); at 6:23 ("ORR makes the
9 final release decision"). Petitioners have now been in ORR custody for over 200
10 days. *Id.* at 7:9-13; Dkt. 1 at 7:23-12:7. ORR has offered no credible basis for its
11 inaction in making decisions about Petitioners' release, nor for their threatened and
12 pretextual denial of sponsor parents' FRPs that had been pending for months with
13 no activity prior to this litigation.

14 **IV. ORR CONTINUES TO VIOLATE THE FOUNDATIONAL RULE**
15 **AND ORR POLICY GUIDE**

16 ORR's sponsor-vetting process is governed by clear rules and standards
17 provided by the Foundational Rule and ORR Policy Guide. 45 C.F.R. § 410.1204-
18 1207; Policy Guide § 2. The Foundational Rule requires release without unnecessary
19 delay once a decision is made. *Id.*

20 To be considered for reunification, a potential sponsor must submit an FRP.
21 Policy Guide §§ 2.2- 2.2.3. The Foundational Rule and Policy Guide provides limits
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1 on the time to adjudicate a reunification application: absent complicating factors,
2 completed sponsor parent applications should be decided “*within 10 calendar days*
3 *of receipt.*” Policy Guide § 2.7. ORR further requires periodic review of pending
4 family-reunification cases – specifically a *formal review every 90 days* for
5 applications that remain pending, to ensure the reunification process does not stall.
6 *Id.* at § 2.7.9.

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9 Respondents have still not determined Petitioners’ completed FRPs⁹ in
10 violation of the Foundational Rule, Policy Guides, and Petitioners’ due process
11 rights. Rather than process the applications, ORR keeps moving the goalposts,
12 leaving Petitioners’ sponsor parents trapped in a cycle of endlessly applying for
13 reunification with their children and Petitioners stuck in detention. For example,
14 N.Z.L.’s reunification application for B.S.Z.’s custody has been pending with ORR
15 since August 21, 2025. Dkt. 1 at 22:22-27. ORR missed its 10 Day Rule on August
16 31, 2025, and the 90 Day Rule November 19, 2025. Since ORR never processed the
17 application, the previously submitted information has expired and been requested
18 anew, causing a vicious cycle that keeps Petitioner endlessly stuck in detention. *Id.*
19 Similarly, C.J.R.R.’s application to assume A.M.C.R.’s custody and care has been
20 pending with ORR since August 24, 2025 in clear violation of the timing
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26 ⁹ To the extent Respondents attempt to argue applications are incomplete or defective, ORR
27 has not notified the sponsor parents of either. *See* Felix Decl. at 3:14-17; 4:24-27.
28

1 requirements. *Id.* at 23:1-6-5.¹⁰ Months into waiting for a response, ORR announced
2 that new and previously unmentioned “requirements” applied. *Id.* Lastly, E.R.G.’s
3 application to assume K.M.O.R.’s custody has been pending with ORR since
4 September 9, 2025. *Id.* at 23:6-11. It should have been determined, under ORR’s 10
5 Day Rule completed by September 3, 2025; under the 90 Day Rule by November
6 22, 2025. ORR has not notified E.R.G. of a decision on her pending application. *Id.*

7
8 Respondents make the conclusory assertion that the sponsor application
9 process “does take time.” Dkt. 8 at 12:24-13:1. Yet, they cite no law, no policy, no
10 guideline that justifies endless delay in processing FRPs. The only specific facts
11 Respondents provide state that when “specific sponsor applicants have significant
12 problems or shifting life circumstances as with MRA” the sponsorship process
13 “takes time.” *Id.* It is not clear to whom Respondents refer-- there is no “MRA”
14 Petitioner or sponsor in this matter. Perhaps Respondents refer to a parent-sponsor
15 in a *different* Petition filed in this district. *See* O.J.R.A., et al, v. Hernandez, et al,
16 2:26-cv-00482-AB-PD. Respondents’ conclusory assertions and boilerplate
17 response with facts about *another* petitioner from a *different* matter fail to justify
18 continued detention of Petitioners in this case.
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25 **a. THE MATHEWS TEST WEIGHS HEAVILY FOR**
26 **PETITIONERS**

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28 ¹⁰ Under ORR’s 10 Day Rule the FRP should have been completed September 3,
2025; under the 90 Day Rule November 22, 2025.

Procedural due process claims are evaluated under *Mathews* test which requires courts to weigh: (1) the nature of the private interest affected; (2) the comparative risk of erroneous deprivation of that interest with and without additional, procedural safeguards; and (3) the nature and magnitude of any countervailing interest in not providing additional or substitute procedure.

Mathews v. Eldridge, 424 U.S. 319, 335 (1976).

i. Petitioners Are Being Deprived of Their Most Fundamental Rights – Liberty, Family Unity, and to Be Raised by Their Parents

Respondents are depriving Petitioners of the most important, precious human rights the Due Process Clause protects: their rights to freedom, family unity, and to be raised and nurtured by their parents. U.S. CONST. AMEND. V. (the government shall not “deprive any person of life, liberty, or property without due process of law.”); see *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001) (“Freedom from imprisonment – from government custody, detention, or other forms of physical restraint – lies at the heart of the liberty [the Due Process] Clause protects.”); *Rosenbaum v. Washoe Cty.*, 663 F.3d 1071, 1079 (9th Cir. 2011) (“The substantive due process right to family integrity or to familial association is well established”); *D.B. v. Cardall*, 826 F.3d 721, 740 (4th Cir. 2016) (recognizing children’s reciprocal right to be “raised and nurtured by their parents”). These liberty interests are especially strong here, where Petitioners are of a tender age filled with precious moments and fundamental developmental milestones.

1 Unable to contest such undeniably important interests, Respondents try to
2 downplay them. *First*, Respondents quibble that Petitioners are in “federal custody,”
3 not detention, and, that “[n]ot being in a single preferred sponsor applicant’s custody
4 does not constitute ‘detention.’” Dkt. 8 at 11:26-12:4; 12:4-5. Respondents’
5 attempted distinction is meaningless. Petitioners are under ORR’s custody and
6 control, unable to leave while awaiting a decision on their sponsors’ FRPs. Dkt. 1
7 at 7:23-12:7; Dkt. 8 at 7:9-9:13. This is a violation of their core liberty interests.
8
9 *Reno v. Flores*, 507 U.S. 292 (1993) (“Children, too, have a core liberty interest in
10 remaining free from institutional confinement”).
11

12
13 *Second*, Respondents argue months of detention is not a “grave violation” of
14 Petitioners’ liberty, because “the minor Petitioners were already unaccompanied and
15 separated from their parents when they entered the United States.”¹¹ Dkt. 12:10-12.
16 Respondents’ argument misses the point. The relative positions of the Petitioners
17 and their parents before they were in ORR custody do not change the nature of the
18 interests at stake now – the fundamental rights to liberty, family unity, and to be
19 raised by your parents. Moreover, Respondents cite no legal basis for their argument.
20
21 As such, the first *Mathews* factor weighs heavily for Petitioners.
22

23
24 **ii. Risk of Erroneous Deprivation Is High**

25 Respondents admit the risk of erroneous deprivation in this matter is very
26

27
28 ¹¹ Respondents Answer is devoid of any facts or evidence that support this irrelevant position.

1 high. Dkt. 8 at 12:19-24 (citing *G.M.M. et al v. Jessica Beltran et al.*, 5:26-cv-00085-
2 SVW-PVC). As Respondents' Answer states, "it is noteworthy that [in] other recent
3 habeas petition[s] filed in this District, involving minor petitioners from multiple
4 families making similar claims against ORR, *almost all of the many petitioners*
5 were thereafter released to sponsors, on a relatively prompt timeframe." *Id.*¹² ORR
6 has already corrected its erroneous deprivation of the same liberty interests from
7 similarly situated petitioners, bringing the same claim against the same agency as
8
9 Petitioners. This alone weighs the second *Mathews* factor in Petitioners' favor.
10

11 The high risk of erroneous deprivation also applies to the specifics of this case.
12 Respondents' Answer presents a smattering of post-litigation facts that demonstrate
13 little if any genuine risk in releasing Petitioners to their sponsor parents' custody. As
14 argued above, ORR's errant accusations against Petitioners' parents are unsupported
15 by any evidence, seem to be pretextual and punitive, and some facts run directly
16 contrary to statements made to Petitioners' counsel.¹³ See *E.H.C.F. v. Salazar*, No.
17 3:25-cv-01364, 2026 WL 145229, at *7, *12 (D. Conn. Jan. 16, 2026) (rejecting
18 vague "additional vetting" and "investigations" as due-process-satisfying and
19 recognizing irreparable harm to family integrity); *Santos v. Smith*, 260 F. Supp. 3d
20 598, 602-04 (W.D. Va. 2017) (holding due process violated where ORR delayed
21 and relied on erroneous grounds). These concerns, coupled with Respondents' own
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27 ¹² This showcases a concerning trend—ORR is failing to process many RFPs and only
28 releasing UCs to their families in response to litigation.

¹³ See *supra* Note 8.

1 admission of their pattern of erroneous deprivation of rights in this exact context,
2 underscores the high risk here.

3
4 **iii. Respondents Identify No Countervailing Interest**

5 In their Answer, Respondents have identified no countervailing government
6 interest that supports additional or substitute process. Further, Respondents have
7 had months to complete the process outlined in their own regulation and policy and
8 have instead violated their own rules and statutory mandate, leaving children to
9 languish in detention. Indeed, Respondents have a mandate to place children
10 promptly in the least restrictive setting in child's best interest under the TVPRA. 8
11 U.S.C. § 1232(c)(1), (c)(2)(A).
12

13
14 **V. RESPONDENTS' JUSTIFICATION FOR THEIR VIOLATION**
15 **OF PETITIONERS' DUE PROCESS RIGHTS FAIL**

16 Respondents' Answer fails to address Petitioners' substantive due process
17 arguments. Nevertheless, it bears repeating that the government, i.e., Respondents,
18 is prohibited from infringing upon "certain 'fundamental' liberty interests *at all*, no
19 matter what process is provided, unless the infringement is narrowly tailored to serve
20 a compelling state interest." *Reno v. Flores*, 507 U.S. 292, 302 (1993) (emphasis in
21 original). The fundamental liberty interest at issue here – those of children in being
22 "raised and nurtured by their parents," is one of "the oldest fundamental liberty
23 interests recognized by the Supreme Court." *D.B. v. Cardall*, 826 F.3d at 740
24 (quoting *Troxel v. Granville*, 530 U.S. 57, 65 (2000)).
25
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27

28 Respondents' deprivation of this fundamental liberty interest applies with

1 even greater force where they have made no determination that any of the minor
2 Petitioners are dangers to themselves or others, or flight risks. *See generally* Dkt. 8.
3 Further, prior to the filing of the instant Petition, Respondents had made no findings
4 suggesting they were concerned about the fitness of any of Petitioners' sponsors. *See*
5 *Ms. L. v. ICE*, 310 F. Supp. 3d 1133, 1142 (S.D. Cal. 2018) (holding that failing to
6 reunite parents with their children in ORR custody "without a determination that the
7 parent is unfit or presents a danger to the child violates the parents' substantive due
8 process rights to family integrity"); *see also E.H.C.F. v. Kennedy*, 3:25-CV-2142
9 (VDO), 2026 WL 145229, at *10 (D. Conn. Jan. 16, 2026) (courts have "repeatedly
10 held that it is a violation of substantive due process . . . to separate children from
11 parents absent a clear showing that the parent is unfit or otherwise endangering the
12 child").

13
14 Indeed, on November 15, 2025, Petitioner B.S.Z.'s case was marked as "no
15 concerns identified," yet reunification remained delayed because, given
16 Respondents' failure to adjudicate the FRP within the 10-day timeframe mandated
17 by ORR's Foundational Rule, certain documents had expired. Dkt. 1 at 22:22-27. It
18 was only *after* the instant Petition was filed that, on February 23, 2026, Respondents
19 raised "safety and suitability concerns," while failing to identify what those
20 "concerns" were. Dkt. 8 at 7:21-26; *see generally* Dkt. 1. B.S.Z.'s continued
21 detention, then, can only be attributable to Respondents' failure to timely adjudicate
22 the FRP, in clear violation of the fundamental right to family integrity.
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1 Similarly, A.M.C.R.'s FRP was submitted in August of 2025, and had to be
2 resubmitted in October of 2025 due, again, to document expiration which would not
3 have occurred had the FRP been adjudicated within the mandated 10-day timeframe.
4
5 Dkt. 1 at 10:9-11. Strikingly, although Respondents apparently noted issues with
6 A.M.C.R.'s sponsor's identity documents months ago, Respondents took no prompt
7 action to seek an alternative sponsor. Dkt. 8 at 8:4-24; Biswas Decl. ¶¶ 24-30.
8
9 Instead, Respondents continued to let the FRP sit undecided, until the day the instant
10 Petition was filed, after which A.M.C.R.'s mother and sponsor was arrested by HSI.
11
12 *Id.* The fact that this arrest took place after a demand letter seeking adjudication of
13 the FRP or threatening the pursuit of the underlying Petition, and a day after
14 Petitioner's counsel provided a courtesy copy to Respondents, should raise alarm
15 bells to this Court regarding A.M.C.R. and his mother's fundamental liberty interests
16 in reunifying. Dkt. 1 at 10:12-23; Felix Decl. 2:2-10.

18 Separately, Respondents have stated for the first time in their Answer
19 concerns about K.M.O.R.'s release. Dkt. 8 at 9:4-13; Biswas Decl. ¶¶ 32-34.
20
21 Respondents' Answer identifies an "investigation" concerning K.M.O.R.'s mother
22 that began in November of 2025 but was *never flagged for her or undersigned*
23 *counsel.* *Id.* The fact that this "investigation" was only revealed *after* the filing of
24 the instant Petition strongly suggests that Respondents are moving the goal posts and
25 there is no rectifying theoretical "safety" issues. Respondents have violated
26 K.M.O.R.'s substantive due process rights.
27
28

1 **CONCLUSION**

2 For the foregoing reasons, this Court should grant the relief sought in
3 Petitioners' Petition or hold an evidentiary hearing. This Court should order
4 Petitioners immediately released from ORR detention to their respective sponsor
5
6 parents or Alternative Caregiver.

7
8 Respectfully submitted on March 2, 2026.
9

10
11 /s/ Caitlin Jolley
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