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

M.D.B.H., a minor, by and through his
Next Friend, ANDRES ESTEBAN
BALBINO MAYA,

Petitioners/Plaintiffs,

v.

ROBERT F. KENNEDY, JR. in his
official capacity as Secretary of Health
and Human Services, 200 Independence
Avenue SW, Washington, DC 20201;
ANGIE SALAZAR, in her official
capacity as Acting Director of the Office
for Refugee Resettlement, 330 C Street
SW, Room 5123, Washington, DC
20201; DEYANIRA ROMERO, in her

Civil Case No.: 1:26-cv-195

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

Date: February 18, 2026

official capacity as Federal Field
Specialist, Office of Refugee
Resettlement, and LUIS ROSAS, in his
official capacity as Director of Hands of
Healing Sunshine Foster,

Respondents/Defendants.

**IN THE UNITED STATES DISTRICT COURT
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PETITION FOR WRIT OF HABEAS CORPUS

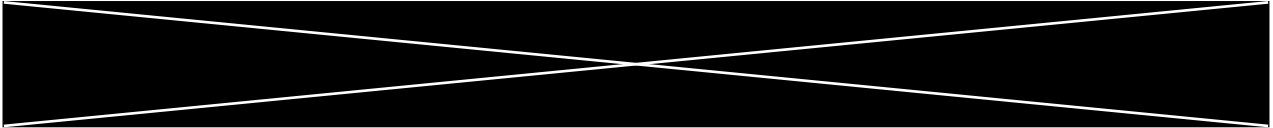
M.D.B.H. petitions this Court for a Writ of Habeas Corpus, pursuant to 28 U.S.C. § 2241 and the Administrative Procedure Act, 5 U.S.C. § 701, *et seq.*, to remedy her continued unlawful detention by Respondents. Petitioner hereby requests that an immediate hearing be set on this matter. Petitioner also requests that she be released during the pendency of this Petition. In support of this Petition, Petitioner alleges as follows:

INTRODUCTION

1. Petitioner M.D.B.H. is a three-year-old child who has been separated from her parents and held in federal custody for over five months. M.D.B.H. came to the United States with her mother, Esmeralda H.T on September 16, 2025. M.D.B.H.'s father, Andres Esteban Balbino Maya, is a Legal Permanent Resident living in Chicago. At the Texas-Mexico border, Customs and Border Patrol ("CBP") agents separated M.D.B.H. from her mother, designated M.D.B.H an unaccompanied alien child, and transferred M.D.B.H to the Office of Refugee Resettlement ("ORR") on September 17, 2025.

2. M.D.B.H. is currently detained in the custody of ORR at Hands of Healing Sunshine Foster, a Transitional Foster Care ("TFC") program in Harlingen, Texas. M.D.B.H. has been in the custody of ORR since September 17, 2025, for over 5 months now.

3. 



The ORR-funded program removed the other child from the foster home.

4. Andres Esteban Balbino Maya has made every effort to reunify with his child. Andres Esteban Balbino Maya submitted the sponsor application to the ORR shelter case worker the day after his daughter was admitted to the shelter. The Mexican consulate confirmed that the birth certificate listing Andres Esteban Balbino Maya as the father was a valid birth certificate. The shelter case manager advised Andres Esteban Balbino Maya that he would need to undergo fingerprinting and DNA testing, but that no appointments were currently available.

5. The federally appointed Child Advocate/Guardian Ad Litem supports the reunification of M.D.B.H. with her father. On October 22, 2025, ORR appointed the Young Center

for Immigrant Children's Rights ("Young Center") to act as Child Advocate for M.D.B.H. On February 2, 2026, the Child Advocate issued a Best Interests Determination in Support for Immediate Reunification of M.D.B.H. with her father, Andres Esteban Balbino Maya.

6. After a Christmas spent in detention, M.D.B.H.'s counsel urged ORR to release M.D.B.H to her father. A formal demand letter was sent to ORR on February 3, 2026. No response was received.

7. ORR has a statutory and regulatory responsibility to "promptly" place M.D.B.H. "in the least restrictive setting that is in the best interest of the child." *See* 8 U.S.C. § 1232(c)(2)(A); 45 C.F.R. § 410.1003(f). Additionally, it has a regulatory responsibility to "adjudicate the completed sponsor application of a parent...within 10 calendar days of receipt of the completed sponsor application, absent an unexpected delay." 45 C.F.R. § 410.1205(b). Although the necessity of the completion of a home study is cited as an "unexpected delay," and a home study has occurred in this case, no home study should have needed to be completed, as M.D.B.H.'s father has a loving and supportive relationship with his child. M.D.B.H.'s father has promptly complied with all that ORR has asked of him to be able to receive his daughter, but ORR still refuses to release her.

8. As of the date of filing of this Petition, ORR has identified Petitioner's father as a viable sponsor. However, Petitioner's reunification process is stalled due to ORR's explanation (as relayed by shelter case workers) that reads "CURRENTLY THE REUNIFICATION IS NOT STALLED AND PROGRESS IS BEING MADE." ORR's timeline for reunification is listed as "UNKNOWN." ORR's failure to act "promptly" violates M.D.B.H.'s constitutional rights to due process and family integrity.

JURISDICTION AND VENUE

9. The right to seek the writ of habeas corpus is protected by the Constitution. U.S. Const. art. I § 9, cl. 2 (“The privilege of the Writ of Habeas Corpus shall not be suspended, unless when in Cases of Rebellion or Invasion the public Safety may require.”). Because this case presents a civil action “arising under the Constitution...of the United States,” this Court, a district court, has jurisdiction. *See* 28 U.S.C. § 1331. This Court also has jurisdiction under 28 U.S.C. § 1651, which provides that “all courts established by Act of Congress may issue all writs necessary or appropriate in aid of their respective jurisdictions and agreeable to the usages and principles of law,” as well as under 28 U.S.C. § 2241, which provides that “[w]rits of habeas corpus may be granted by...the district courts...within their respective jurisdictions.” and 5 U.S.C. § 701 (the Administrative Procedure Act).

10. This Court has additional remedial authority under 28 U.S.C. §§ 2201, 2202 to grant injunctive and declaratory relief.

11. Venue is proper in the Southern District of Texas because “a substantial part of the events or omissions giving rise to the claim occurred” in this district. *See* 28 U.S.C. 1391(b)(2).

12. Venue is also proper under 28 U.S.C. § 2241(a) because M.D.B.H. is detained within this district and “[w]rits of habeas corpus may be granted by...the district courts...within their respective jurisdictions.”

PARTIES

13. Petitioner M.D.B.H. is a 3-year-old unaccompanied child in the custody of the Office of Refugee Resettlement. She is detained at Hands of Healing Sunshine Foster in Harlingen, Texas. She wants to reunify with her father.

14. Andres Esteban Balbino Maya, the father of M.D.B.H., is the Next Friend of Petitioner M.D.B.H. Petitioner M.D.B.H. appears by and through her father, Andres Esteban Balbino Maya.

15. Respondent Robert F. Kennedy, Jr. is the Secretary of the U.S. Department of Health and Human Services (“HHS”), a cabinet-level department of the United States Government. ORR is a component of HHS. Respondent Kennedy is sued in his official capacity.

16. Respondent Angie Salazar is the Acting Director of ORR, the subagency of HHS responsible for overseeing the care and custody of unaccompanied children. ORR is the government entity directly responsible for the detention of M.D.B.H. Respondent Salazar is sued in her official capacity.

17. Respondent Deyanira Romero is an ORR Federal Field Specialist. On information and belief, Federal Field Specialist Deyanira Romero is the government official responsible for the care and custody of children who ORR has placed in Hands of Healing Sunshine Foster. In this role, Federal Field Specialist Deyanira Romero is responsible for determining M.D.B.H.’s placement and has authority to approve her release to an appropriate sponsor’s care. Respondent Deyanira Romero is sued in her official capacity.

18. Respondent Luis Rosas is the Director of Hands of Healing Sunshine Foster, the shelter overseen by ORR where M.D.B.H. is being held at the time of filing of this Petition. Respondent Luis Rosas is sued in his official capacity.

LEGAL FRAMEWORK

The Care, Custody, and Release of Unaccompanied Immigrant Children

A. Statutory and Regulatory Framework

19. The care and custody of unaccompanied immigrant children is governed by a legal framework consisting primarily of the Homeland Security Act of 2002, the Trafficking Victims Protection Reauthorization Act, the 1997 *Flores* Settlement Agreement (which is binding on the relevant federal agencies), and federal regulations.

20. Prior to 2002, the Office of Juvenile Affairs in the former United States Immigration and Naturalization Service (hereinafter “INS”) was responsible for the custody of unaccompanied immigrant children in the United States. The *Flores* Settlement Agreement, originally agreed to by the INS in 1997, established national minimum standards for the treatment and placement of children in immigration custody. Stipulated Settlement Agreement, *Flores v. Reno*, No. CV 84-4544-RJK(Px) (C.D. Cal. Jan. 17, 1997) (“*Flores* Settlement”). It remains under the supervision of U.S. District Judge Dolly M. Gee in the Central District of California. *Flores v. Bondi*, No. CV 85-4544-DMG (AGRx).¹

21. In 2002, Congress passed the Homeland Security Act (“HSA”), transferring functions of the former INS to other government entities. Pub. L. No. 107-296, 116 Stat. 2153 (2002). Specifically, the HSA transferred authority over the care and custody of unaccompanied immigrant children from the INS to ORR, housed within HHS. *See* 6 U.S.C. § 279.

22. Congress’ decision to transfer responsibility for the care and custody of unaccompanied children from the INS to ORR reflected Congress’ determination that the act of caring for children who arrive to the United States without their parent or legal guardian, on the one hand, and the enforcement of the immigration laws, on the other, were incompatible roles for

¹ After the promulgation of regulations implementing the *Flores* Settlement Agreement in part, the *Flores* Settlement Agreement was partially terminated as to HHS. *Flores v. Garland*, 2024 WL 3467715 (C.D. Cal., June 28, 2024).

a single agency.² Within HHS, ORR is responsible for children’s safety and welfare and is explicitly not a law enforcement agency. *See* 89 Fed. Reg. at 34399, 34423, 34591.

23. With strong bipartisan support, Congress then expanded protections for unaccompanied children in the Trafficking Victims Protection Reauthorization Act of 2008 (“TVPRA”), reaffirming Congress’ intent to treat unaccompanied immigrant children differently than adults are treated by the Department of Homeland Security (“DHS”), both in the conditions of their detention and in their removal proceedings. *See* 8 U.S.C. § 1232 *et seq.*

24. The TVPRA requires federal officials who discover an unaccompanied alien child to transfer the child to the care and custody of HHS within 72 hours (absent exceptional circumstances). *See* 8 U.S.C. § 1232(b)(3). The TVPRA also tasks ORR with ensuring that unaccompanied children are “promptly placed in the least restrictive setting that is in the best interest of the child.” *See* 8 U.S.C. § 1232(c)(2)(A). This is usually with a sponsor. *See, e.g., Saravia v. Sessions*, 905 F.3d 1137, 1142–43 (9th Cir. 2018) (affirming a preliminary injunction issued by the district court calling for children who had been accused of criminal violations and re-detained by ORR to be released back to their previous sponsors pending a hearing). Congress enacted the TVPRA specifically to facilitate the safe, speedy release and minimally restrictive placement of unaccompanied children. *See, e.g.,* 154 Cong. Rec. S10886 (daily ed. Dec. 10, 2008) (statement of Sen. Feinstein, sponsoring senator).

² *See, e.g.,* 148 Cong. Rec. S11295 (Nov. 18, 2002) (statement of Sen. Feinstein); 148 Cong. Rec. S8189 (Sept. 4, 2002) (reprinting letter from Sens. Kennedy and Brownback). *See also* 148 Cong. Rec. S5960 (Oct. 1, 2002) (“As we transfer and reshape the INS in this legislation, it is imperative to relieve the agency of its responsibility of the care and custody of unaccompanied children. Doing so would accomplish two ends: one, it would permit the INS to focus its energies, efforts, and attention on its core missions; and two, it would transfer the care and custody of these children to the Office of Refugee Resettlement, ORR, an office that is better suited and much more experienced in handling the complexities of the children’s situations.”)

25. In 2024, ORR promulgated regulations (“The Foundational Rule”) codifying the “policies, standards, and protections for [unaccompanied children], consistent with the HSA and TVPRA, and to implement the substantive requirements of the [*Flores* Settlement Agreement] as they pertain to ORR.” 89 Fed. Reg. at 34385 (promulgating 45 C.F.R. §§ 410.1000 *et seq.*).

26. The Foundational Rule includes “policies and procedures regarding release, without unnecessary delay, of an unaccompanied child from ORR custody to a vetted and approved sponsor.” 89 Fed. Reg. at 34439. The Foundational Rule is consistent with the agency’s “strong belief that, generally, placement with a vetted and approved family member or other vetted and approved sponsor, as opposed to placement in an ORR care provider facility...is in the best interests of unaccompanied children.” *See id.* In response to comments on their proposed regulations, ORR explained that “[t]he HSA and the TVPRA do not make any mention of a sponsor’s potential immigration status as a prerequisite to receive an unaccompanied child into their custody and do not imbue ORR with the authority to inquire into immigration status as a condition for sponsorship.” *Id.* at 34442.

27. The Foundational Rule establishes that “ORR shall release a child from its custody without unnecessary delay” to sponsors in a specific order of preference, with parents and legal guardians taking first priority, and other family members following. *See* 45 C.F.R. § 410.1201(a). As required by the regulation, sponsor suitability assessments must include various investigations and background checks, and “may include” background checks “based on fingerprints for some potential sponsors and adult residents of the potential sponsor’s household.” *See* 45 C.F.R. § 410.1201(c). Furthermore, “ORR shall adjudicate the completed sponsor application of a parent or legal guardian...within 10 calendar days . . . absent an unexpected delay”. 45 C.F.R. § 410.1205(b).

28. As part of its sponsor suitability process, ORR may require “verification of the employment, income, or other information provided by the potential sponsor as evidence of the ability to support the child.” *See* 45 C.F.R. § 410.1202(c). In the Preamble to the Foundational Rule, ORR stated that although employment is “a permissible consideration as part of the suitability assessment[.] . . . ORR will not deny an otherwise qualified sponsor solely on the basis of low income or employment status.” 89 Fed. Reg. at 34446.

29. ORR’s subregulatory framework is laid out in the UC Policy Guide. The UC Policy Guide was first published publicly in 2015 and is available on ORR’s website. Office of Refugee Resettlement, *Unaccompanied Alien Children Bureau Policy Guide* (2025) (“Policy Guide”), <https://acf.gov/orr/policy-guidance/unaccompanied-children-bureau-policy-guide>. The Policy Guide governs the placement, care, and release of unaccompanied children in ORR custody, consistent with ORR’s legal authorities.

30. Section 2 of the guide sets out ORR’s policies with respect to securing “[s]afe and timely release” of unaccompanied children “to parents, guardians, relatives, or individuals designated by the child’s parents, referred to as ‘sponsors.’” Policy Guide, § 2.1. Under the Policy Guide, “[s]afe and timely release must promote public safety and ensure that sponsors are able to provide for the physical and mental well-being of the children.” *Id.* The Policy Guide describes the sponsor identification and application process in detail, including specific ORR requirements prior to application adjudication and approval. *See id.* at §§ 2.2-2.7.

B. Legal and Factual Background of Prolonged Detention of Unaccompanied Immigrant Children

i. Constitutional Protections for Unaccompanied Children

31. The substantive component of due process forbids the Government from infringing in any way upon fundamental liberty interests unless the infringement is narrowly

tailored to serve a compelling state interest. *See United States v. Salerno*, 481 U.S. 739, 749 (1987). In the immigration context, whether the infringement is narrowly tailored to serve a compelling governmental interest is determined by evaluating whether the infringement on liberty: 1) is impermissible punishment or permissible regulation; and 2) is excessive in relation to the regulatory goal Congress sought to achieve. *See id.* at 747; *see also Zadvydas v. Davis*, 533 U.S. 678, 690 (2001) (“[G]overnment detention violates [the Due Process] Clause...[except] in certain special and narrow nonpunitive circumstances, where a special justification, such as harm-threatening mental illness, outweighs the individual’s constitutionally protected interest in avoiding physical restraint.” (internal citations omitted)); *Hernandez v. Sessions*, 872 F.3d 976, 990 (9th Cir. 2017).

32. “[T]he interest in being free from physical detention” by the state is “the most elemental of liberty interests[.]” *Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004). A child’s interest in being free from confinement is no narrower than that of an adult. *See In re Gault*, 387 U.S. 1, 13 (1967) (“neither the Fourteenth Amendment nor the Bill of Rights is for adults alone”); *see also Reno v. Flores*, 507 U.S. 292, 316 (1993) (O’Connor, J. and Souter, J., concurring), quoting *Gault*, 387 U.S. at 13 (“[The Supreme Court] ha[s] consistently [...] rejected the assertion that ‘a child, unlike an adult, has a right ‘not to liberty but to custody.’”). Further, “incarceration is rarely if ever a necessary condition for raising the living standards of those capable of surviving safely in freedom, on their own or with the help of family or friends.” *O’Connor v. Donaldson*, 422 U.S. 563, 575 (1975). Therefore minors, like adults, have a substantial liberty interest “in avoiding unjustified physical restraint.” *Lucas R. v. Becerra*, 2022 WL 2177454, at *14 (C.D. Cal. Mar. 11, 2022). *See also, e.g., Parham v. J.R.*, 442 U.S. 584, 600 (1979).

33. The serious harm of prolonged detention of unaccompanied children caused by unnecessary additional vetting requirements is well documented. *See Lucas R.*, 2022 WL 2177454 at *17 (“Numerous child welfare experts have expounded on the harm that detention causes children, particularly young children” and “[i]t is undisputed that being separated from family members is inimical to a child’s well-being.”) In 2018 in similar circumstances, ORR policy changes caused unaccompanied children’s length of custody in ORR to increase significantly, with children spending months in congregate care designed to hold children for only a few weeks. *See, e.g.*, Dep’t of Health and Hum. Servs., Office of the Inspector Gen., *Care Provider Facilities Described Challenges Addressing Mental Health Needs of Children in HHS Custody*, 13 (Sept. 2019), <https://perma.cc/YLT7-R3HP> (“HHS OIG Report”) (“[C]hildren’s average length of stay in ORR custody increased markedly after ORR implemented the new fingerprinting policy in June 2018”, from 61 days in June 2018 to 93 days in November 2018, and then decreased after ORR ended fingerprinting requirements for adult household members and then for parent sponsors, receding to 48 days in April 2019).

34. The then-Assistant Secretary for the Administration for Children and Families later conceded that the policy did not “add[] anything to the protection and safety of the children.”³ Extended lengths of stay in ORR custody harmed children’s mental health and wellbeing. *See, e.g.*, HHS OIG Report, 13 (After implementing new restrictive reunification policies, “[ORR f]acilities reported that it became more difficult to identify sponsors willing to accept children after the new fingerprinting requirements were implemented, which delayed

³ *See* John Burnett, *Several Thousand Migrant Children In U.S. Custody Could Be Released Before Christmas*, NPR (Dec. 18, 2018), available at <https://perma.cc/6WHS-BNR6>; *J.E.C.M. v. Lloyd*, 352 F. Supp. 3d 559, 583 (E.D. Va. 2018) (citing amicus brief filed by Human Trafficking Legal Center).

placing children with sponsors, adding further stress and uncertainty.”); *see also id.* at 12–13 (“According to facility staff, longer stays resulted in higher levels of defiance, hopelessness, and frustration among children, along with more instances of self-harm and suicidal ideation.”).

35. The constitutional right to family integrity or to familial association is [also] well established.” *Rosenbaum v. Washoe Cty.*, 663 F.3d 1071, 1079 (9th Cir. 2011); *see also Santosky v. Kramer*, 455 U.S. 745, 753 (1982) (holding that parents and children have a well-elaborated constitutional right to live together without government interference); *Ching v. Mayorkas*, 725 F.3d 1149, 1157 (9th Cir. 2013) (“The right to live with and not be separated from one’s immediate family is ‘a right that ranks high among the interests of the individual’ and that cannot be taken away without procedural due process.”); *D.B. v. Cardall*, 826 F.3d 721, 740 (4th Cir. 2016) (children “enjoy a familial right to be raised and nurtured by their parents”) (internal quotation marks omitted); *Beltran v. Cardall*, 222 F. Supp. 3d 476, 482 (E.D. Va. 2016) (“It is beyond dispute that [a mother’s] right to the care and custody of her son – and [a son’s] reciprocal right to his mother’s care . . . is deserving of the greatest solicitude.”) (internal quotation marks and citation omitted); *Jordan v. Jackson*, 15 F.3d 333, 343 (4th Cir. 1994); *see also Smith v. Org. of Foster Families for Equality & Reform*, 431 U.S. 816, 845 (1977) (“the liberty interest in family privacy has its source, and its contours are ordinarily to be sought...in intrinsic human rights.”); *Hodge v. Jones*, 31 F.3d 157, 163 (4th Cir. 1994) (the “sanctity of the family unit is a fundamental precept firmly ensconced in the Constitution”); *Angelica S. v. U.S. Dep’t. of Health and Hum. Svcs.*, 786 F.Supp.3d 158, 175 (“Courts have found that family separation and prolonged detention qualify as irreparable injury.”) (citing *Jacinto-Castanon de Nolasco*, 319 F. Supp. 3d 491, 502 (D.D.C. 2018); *Andrieu v. Ashcroft*, 253 F.3d 477, 484 (9th St. Cir. 2001) (en banc)). *See also, Ms. L. v. U.S. ICE*, 310 F.Supp.3d 1133 (S.D. Cal. June 26,

2018) (finding likely substantive due process violation stemming from “zero tolerance” policy of family separation).

36. Longstanding Supreme Court precedent establishes that when a government action deprives an individual of a fundamental constitutional interest, that individual is entitled to procedural due process consisting of notice and an opportunity to be heard. *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976); *Mullane v. Central Hanover Bank & Trust*, 339 U.S. 306 (1950). Furthermore, “‘significant’ and ‘unexplained delay[s] in responding to a [a proposed sponsor’s] unification request’ violate due process irrespective of other procedural defects.” *Lucas R. v. Becerra*, 2022 WL 2177454, at *27 (C.D. Cal. Mar. 11, 2022) (citing *Santos v. Smith*, 260 F. Supp. 3d 598, 613-14 (W.D. Va. 2017)).

37. In accordance with these procedural safeguards, ORR has a statutory and regulatory responsibility to determine the safety and suitability of Andres Esteban Balbino Maya without unnecessary delay. Based on the facts provided below, M.D.B.H.’s sponsor is safe and qualified, and ORR has a duty to grant Andres Esteban Balbino Maya’s reunification request and place M.D.B.H. in the least restrictive setting that is in her best interests, with her father.

FACTUAL BACKGROUND

A. M.D.B.H. is an unaccompanied child with a vetted sponsor capable of providing for her physical and mental well-being.

38. M.D.B.H. came to the United States with her mother, Esmeralda H.T., on or about September 16, 2025. Her mother was charged with 18 USC §1001 making a false, fictitious, or fraudulent statement or representation to Customs and Border Patrol (“CBP”) agents. CBP agents separated M.D.B.H. from her mother, designated M.D.B.H. an unaccompanied alien child, and transferred M.D.B.H. to the Office of Refugee Resettlement (“ORR”) on September 17, 2025. *See Exhibit A.*

39. M.D.B.H. remains detained at Hands of Healing Sunshine Foster in Harlingen, Texas.

40. M.D.B.H.'s father, Andres Esteban Balbino Maya, is a Lawful Permanent Resident living in Chicago. M.D.B.H.'s birth certificate lists Andres Esteban Balbino Maya as M.D.B.H.'s father. *See Exhibit B*. There has been no question as to authenticity of the birth certificate. Andres Esteban Balbino Maya submitted all requested documentation to the shelter and complied with every request.

41. On October 22, 2025, ORR appointed the Young Center for Immigrant Children's Rights ("Young Center") to act as Child Advocate for M.D.B.H. *See Exhibit D*. On February 2, 2026, the Child Advocate issued a Best Interests Determination in Support for Immediate Reunification of M.D.B.H. with her father, Andres Esteban Balbino Maya. *See Exhibit E*.

B. Respondents are violating their legal obligation to release M.D.B.H. to her vetted sponsor/father, Andres Esteban Balbino Maya, despite release being in M.D.B.H.'s best interest.

42. M.D.B.H. was admitted to ORR custody on September 17, 2025. On September 18, 2025, his father, Andres Esteban Balbino Maya submitted his initial application to be his child's sponsor. On February 04, 2026, Andres Esteban Balbino Maya provided fingerprints and DNA testing. On February 10, 2026, a home study was conducted at Andres Esteban Balbino Maya's home. Andres Esteban Balbino Maya has since been waiting with no other information.

43. Counsel asked ORR, through the staff of Hands of Healing Sunshine Foster, for an update about M.D.B.H.'s reunification. The shelter staff responded on February 10, 2026 that M.D.B.H.'s sponsor is "NOT STALLED AND PROGRESS IS BEING MADE." *See Exhibit C*. The timeline for reunification was listed as "UNKNOWN." *See Id.* On February 17, counsel renewed the request for update. Counsel again received the update that the reunification is "NOT

STALLED AND PROGRESS IS BEING MADE.” *See Exhibit C*. The timeline for reunification was again listed as “UNKNOWN.” Counsel also sent ORR a letter on February 3, 2026, demanding M.D.B.H.’s release. No response was received.

44. The federally appointed Child Advocate recommends that immediate reunification of M.D.B.H with her father is in her best interests. The Child Advocate notes that in ORR custody, M.D.B.H. has “not only endured prolonged separation from her parents and forced detention but has also undergone a child abuse investigation.” *See Exhibit E*. The Child Advocate found M.D.B.H. and her father have a loving and supportive relationship. *Id.* According to the Child Advocate, M.D.B.H. wishes to be with her father and her parents both wish for the same. *Id.*

45. M.D.B.H.’s continued detention at this time, despite having her father able and available to care for her, is simply unlawful.

CLAIMS FOR RELIEF

FIRST CLAIM

VIOLATION OF PROCEDURAL DUE PROCESS

46. Petitioner restates and realleges all paragraphs above as if fully set forth herein.

47. The government may not deprive a person of life, liberty, or property without due process of law. U.S. Const. amend. V. Due process protects “all ‘persons’ within the United States, including [non-citizens], whether their presence here is lawful, unlawful, temporary, or permanent.” *Zadvydas v. Davis*, 533 U.S. 678, 698 (2001). A child’s interest in being free from confinement is no narrower than that of an adult. *See In re Gault*, 387 U.S. 1, 13 (1967); *Reno v. Flores*, 507 U.S. 292, 316 (1993) (O’Connor, J. and Souter J., concurring) (“[The Supreme Court] ha[s] consistently [...] rejected the assertion that ‘a child, unlike an adult, has a right ‘not to liberty but to custody.’”). This includes the right of a child “to be raised and nurtured by their parents.”

D.B. v. Cardall, 826 F.3d 721, 740 (4th Cir. 2016) (citations omitted); *Troxel v. Granville*, 530 U.S. 57, 65 (2000) (“[T]he interest of parents in the care, custody, and control of their children [] is perhaps the oldest of the fundamental liberty interests recognized by [the Supreme] Court.”).

48. Due process requires that the government may not deprive an individual of their constitutional rights without meaningful notice and an opportunity to be heard before a neutral arbiter to protect against the risk of erroneous deprivation. *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976). Due process also requires that government action be rational and non-arbitrary. *See U.S. v. Trimble*, 487 F.3d 752, 757 (9th Cir. 2007).

49. Respondents’ policies and actions, as set forth above, have deprived M.D.B.H. of freedom from confinement and her right to family integrity without Constitutionally sufficient due process.

SECOND CLAIM FOR RELIEF
VIOLATION OF THE TRAFFICKING VICTIMS PROTECTION
REAUTHORIZATION ACT (TVPR), 8 U.S.C. § 1232

50. Petitioner restates and realleges all paragraphs above as if fully set forth herein.

51. Respondents have a non-discretionary duty under the TVPRA to promptly place M.D.B.H. “in the least restrictive setting” that is in her best interests, usually with “a suitable family member.” 8 U.S.C. § 1232(c)(2)(A).

52. Respondents have failed to act promptly.

53. M.D.B.H.’s sponsor, Andres Esteban Balbino Maya, is capable, proper, and fit, and M.D.B.H. does not present any flight risk or danger to the community. Therefore, Respondents have failed to place M.D.B.H. in the least restrictive setting that is in her best interests.

54. Respondents' policies and actions described above, which have resulted in M.D.B.H.'s unnecessary prolonged detention and separation from her suitable sponsor, violate Section 235 of the TVPRA, 8 U.S.C. § 1232.

THIRD CLAIM FOR RELIEF
VIOLATION OF THE ADMINISTRATIVE PROCEDURES ACT (APA), 5 U.S.C. §§ 701
et seq.

55. Petitioner restates and realleges all paragraphs above as if fully set forth herein.

56. Respondents' continued detainment of and failure to release M.D.B.H. to her vetted sponsor constitutes final agency action.

57. Respondents' action of requiring additional identification verifications, then not providing or delaying for months in providing their own appointment dates determines the "rights and obligations" of M.D.B.H. and creates "legal consequences" of continued detainment and separation from her family members, in violation M.D.B.H.'s fundamental right to family integrity. *Bennett v. Spear*, 520 U.S. 154, 177-78 (1977). Accordingly, M.D.B.H. is entitled to judicial review of ORR's actions under 5 U.S.C. §§ 702 and 704.

58. Respondents' detention of M.D.B.H. and their failure to release M.D.B.H. to her fit sponsor is arbitrary, capricious, and not in accordance with the law.

59. M.D.B.H. has exhausted all administrative remedies available to her as of right. Counsel sent a formal demand letter to Hands of Healing Sunshine Foster on February 3, 2026. No response was received. Counsel has also asked for reunification updates from M.D.B.H.'s case manager. The only information provided to date is that "currently the reunification is not stalled and progress is being made" with an unknown timeline for completion. *Exhibit C*.

60. M.D.B.H. has no recourse to judicial review other than by this action.

FOURTH CLAIM FOR RELIEF
**VIOLATION OF THE FOUNDATIONAL RULE, 45 C.F.R. §§ 410.1000 *et seq.*, AND THE
ORR UC POLICY GUIDE**

61. Petitioner restates and realleges all paragraphs above as if fully set forth herein.

62. Federal agencies and their officials are required to follow their own “existing valid regulations.” *See United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260, 268 (1954). When an agency fails to comply with binding regulations, such actions are “not in accordance with law.” *See Vitarelli v. Seaton*, 359 U.S. 535, 545 (1959).

63. Under the Foundational Rule, Respondents have a non-discretionary duty to promptly place M.D.B.H. in the least restrictive setting that is in her best interests under the Foundational Rule. 45 C.F.R. § 410.1003(f). ORR is also required to make and record prompt and continuous efforts towards a child’s release. *Id.* § 410.1203(a).

64. Andres Esteban Balbino Maya has completed an application for release of M.D.B.H., including supporting information and documentation regarding his identity; relationship to the child; background information for himself and household members; his ability to care for M.D.B.H.; and his commitment to fulfill the sponsor’s obligations in the Sponsor Care Agreement as required by 45 C.F.R. § 410.1203(c).

65. The ORR Policy Guide requires that ORR/FFS must make one of the following release decisions: approve release to sponsor; approve release with post-release services; conduct a home study before a final release decision; deny release; or remand for further information. *See* Policy Guide § 2.1. The sponsor applications of category 1 sponsors – parents of unaccompanied children – must be adjudicated within 10 calendar days. *See id.* M.D.B.H. has now been detained for over five months in ORR custody, and ORR has failed to make any release decision. This violates ORR’s own policy guide.

66. Respondents have failed to make a release decision for a parent sponsor for over five months, in violation of their own regulations and guidance, and therefore are holding M.D.B.H. unlawfully.

FIFTH CLAIM FOR RELIEF
HABEAS CORPUS

67. Petitioner restates and realleges all paragraphs above as if fully set forth herein.

68. As set forth above, Respondents are holding Petitioner M.D.B.H. in federal custody, in violation of federal statutes, the Foundational Rule, their own agency policies guidance, and the U.S. Constitution.

69. Accordingly, Petitioner M.D.B.H. seeks a writ of habeas corpus compelling Respondents to release M.D.B.H. to the custody and care of Andres Esteban Balbino Maya.

PRAYER FOR RELIEF

Petitioner prays that the Court assume jurisdiction over this Petition and Complaint and grant the following relief:

- I. Issue a Writ of Habeas Corpus compelling Respondents to release M.D.B.H. to the custody and care of Andres Esteban Balbino Maya.
- II. Issue a declaration that Respondents have violated M.D.B.H.'s constitutional and statutory rights.
- III. Issue an injunction compelling M.D.B.H.'s placement in the custody of Andres Esteban Balbino Maya, as required by federal statutes, the Foundational Rule, and the U.S. Constitution; and
- IV. Any other relief the Court deems just and proper.

Dated: 2/18/2026

Respectfully Submitted,



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

M.D.B.H. a minor, by and through her
Next Friend, ANDRES ESTEBAN
BALBINO MAYA

Petitioners/Plaintiffs,

Civil Case No.: 1:26-cv-195

v.

ROBERT F. KENNEDY, JR. in his
official capacity as Secretary of Health
and Human Services, 200 Independence
Avenue SW, Washington, DC 20201;
ANGIE SALAZAR, in her official
capacity as Acting Director of the Office
for Refugee Resettlement, 330 C Street
SW, Room 5123, Washington, DC
20201; DEYANIRA ROMERO, in her
official capacity as Federal Field
Specialist, Office of Refugee
Resettlement, and LUIS ROSAS, in his
official capacity as Director of Hands of
Healing Sunshine Foster,

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

Respondents/Defendants.

INDEX OF EXHIBITS

Exhibit A	Shelter placement document
Exhibit B	M.D.B.H.'s birth certificate
Exhibit C	Email from Hands of Healing Sunshine Foster regarding M.D.B.H.'s reunification status
Exhibit D	Child Advocate Appointment Notice
Exhibit E	Child Advocate Best Interest Determination

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

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

Dated this 18th day of February, 2026.

Respectfully Submitted,



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CERTIFICATE OF SERVICE

Counsel for Petitioner will deliver a copy of the foregoing petition with accompanying exhibits by certified mail to Respondents along with the summons, when issued by the Court.

Date: 2/18/2026

Respectfully Submitted,



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