

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

K.Y.C.C.,	)	
	)	
Petitioner,	)	
	)	Case No. 26-cv-2506
v.	)	
	)	
KRISTI NOEM, Secretary of Homeland	)	
Security;	)	
ROBERT F. KENNEDY, JR., Secretary of	)	
Health and Human Services;	)	
ANGIE SALAZAR, Acting Director of the Office	)	
Of Refugee Resettlement;	)	
DAVID SINSKI, Chief Executive and Vision	)	
Officer of Heartland Human Care Services,	)	
	)	
Respondents.	)	

PETITION FOR A WRIT OF HABEAS CORPUS

INTRODUCTION

1. This is a petition for a writ of habeas corpus under 28 U.S.C. § 2241.
The Petitioner is a minor alien whom the Respondents have detained since he entered into the United States last year. The Respondents have separated him from his mother who resides in this country, can sponsor him, and wants to relieve him of his isolation. The Petitioner seeks release from government to the custody of his mother.
2. By retaining custody of the Petitioner and separating him from his mother who can safely provide for him, Respondents are violating the Trafficking

Victims Protection Reauthorization Act (TVPRA), 8 U.S.C. § 1232 and the Fifth Amendment.

3. The TVPRA mandates that the government “promptly” release the children from its custody to the “least restrictive setting that is in the best interest of the child.” *Id.* § 1232(c)(2). The Petitioner’s mother can supply that setting. The TVPRA requires that the Respondents act on sponsors’ applications on an expedited basis and not later than 14 days from the filing of this petition. Despite the mother’s suitability, the Respondents have unjustifiably kept the Petitioner in their custody and away from his mother for months- a prohibited action that has been emotionally and physically detrimental to the minor.

4. The Respondents have also delayed release based on a newly created policy. The new policy requires sponsors to furnish U.S.-issued forms identification, which the mother lacks. The government no longer permits sponsors to supply their foreign-based documents of identification.

5. The delays in release and the new policy are unlawful. First, they conflict with the TVPRA. Under that law foreign-issued forms of identification are permissible because the national origin of a valid identity document is unrelated to the suitability of a sponsor or to the best interest of the children. And delays in responding to a sponsor’s application beyond 14 days contravene the TVPRA’s time limits. Finally, the delays and new policy also violate the Petitioner’s rights under the Fifth Amendment: They unnecessarily impede familial association, prolong

groundless institutional custody, are not rationally related to a legitimate government interest, and are procedurally flawed.

6. Therefore, under § 2241 the Petitioner seeks release from the custody of the Respondents to that of his mother.

PARTIES

7. The Petitioner K.Y.C.C. is a minor alien who was unaccompanied by an adult when Respondents detained him.

8. Petitioner is 17 years old and a citizen of Venezuela. Respondents have detained K.Y.C.C. since August 22, 2025, about six months at the time of filing this suit. Respondents have detained K.Y.C.C. in Chicago, Illinois, under a contract with Heartland Human Care Services. K.Y.C.C.'s mother has applied to sponsor K.Y.C.C. and she is otherwise suitable, but she has no basis to expect that Respondents will grant her application because she lacks documents that can meet the new identification policy. Respondents may believe that K.Y.C.C.'s mother is in this country illegally, but that belief is not disqualifying under the TVPRA. Under that law, immigration status is not a condition for sponsorship.

9. Furthermore, K.Y.C.C. has an alternative, suitable sponsor. This person is available if the government seeks to remove the mother and defenses to her removal are unsuccessful. Finally, based on DNA testing and a successful criminal background check, the government has no reason to question the identities of the mother and alternative sponsor, their relationship to K.Y.C.C., and their lack of a criminal history.

10. Respondent Kristi Noem is the Secretary of the Department of Homeland Security. In that capacity, she has influence over the detention of the Petitioner. She is sued in her official capacity.

11. Defendant Robert F. Kennedy Jr. is the Secretary of the Department of Health and Human Services. she has authority over the Office of Refugee Resettlement, which is a division of the Department of Health and Human Services and directly oversees, controls, and manages the detention of Petitioner. He is sued in his official capacity.

12. Respondent Angie Salazar is the Acting Director of the Office of Refugee Resettlement. She is sued in her official capacity.

13. Respondent David Sinski is the Chief Executive and Vision Officer of Heartland Human Care Services in Illinois. As such, he is the immediate custodian of the Petitioner. He is sued in his official capacity.

JURISDICTION, VENUE, AND EXHAUSTION

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

15. The Petitioner has standing to sue. His separation from his mother and his detention in institutional custody establish standing. *See, e.g., J.E.C.M. v. Lloyd*, 352 F. Supp. 3d 559, 579 (E.D. Va. 2018); *Jacinto-Castamon de Nolasco v.*

ICE, 319 F. Supp. 3d 491, 502 (D.D.C. 2018). Further, the Petitioner remains detained because his sponsor lacks the required domestic-identity documents. Thus, he is injured by that requirement. *See FDA v. All. For Hippocratic Med.*, 602 U.S. 367, 384-85 (2024).

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

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

18. Exhaustion of administrative remedies is not required. First, under the TVPRA, Congress has not mandated that Petitioner exhaust any administrative remedies. *McCarthy v. Madigan*, 503 U.S. 140, 144 (1992) holds that unless Congress has mandated exhaustion, it is not required under 28 U.S.C. § 2241. Second, a requirement that Petitioner exhaust an administrative challenge to his detention would be improper. Such exhaustion would be futile, and courts do not require futile exhaustion. *See Carr v. Saul*, 593 U.S. 83, 93 (2021); *Honig v. Doe*, 484 U.S. 305, 326-27 (1988). Respondents have not supplied any reason for Petitioner to believe that an administrative challenge will lead to his release to his sponsor who lacks the domestic documents that Respondents require. Third, the interests of

Petitioner in a prompt resolution of his need to reunify with his mother, and the delay that further exhaustion would necessitate, outweigh any discretionary judicial interest in exhaustion.

CASE-SPECIFIC FACTS

19. Federal officials captured the Petitioner in or around 2025 and deemed him a minor unaccompanied by an adult. Since his capture, the Petitioner has been held in the custody of ORR or their delegated agents. Since his detention began, the Respondents have severely restricted the Petitioner's freedom to move and otherwise to engage in normal activities for children. Separated from family, his physical health and mental well-being have significantly deteriorated. He needs family reunification now.

20. The Petitioner has a mother who has previously applied to ORR to sponsor the Petitioner. She is a suitable sponsor. First, she has offered ORR valid, foreign-issued documents and other material (such as DNA samples) from which Respondents can verify the sponsor's identity and parentage to the Petitioner. Second, she can pass criminal background checks or similar procedures so that the Respondents do not doubt the sponsor's ability to support the Petitioner safely. Finally, the sponsor has a suitable, backup sponsor in the event that she becomes unavailable. Thus, she meets or exceeds the requirements of ensuring the well-being of the Petitioner and that the Petitioner meets all his legal obligations. Yet, based on Respondents' policies, Petitioner could not be released to his mother.

21. Respondents would not consider any alternate placement unless Petitioner's mother withdrew her sponsorship of him.

22. The remedy the Petitioner seeks under 28 U.S.C. § 2241 is his release from institutional custody. "[T]he essence of habeas corpus is an attack by a person in custody upon the legality of that custody, and that the traditional function of the writ is to secure release from illegal custody." *Preiser v. Rodriguez*, 411 U.S. 475, 484 (1973). Petitioner seeks release from custody. Petitioner's mother is among those people "whom our society and this Court's jurisprudence have always presumed to be the preferred and primary custodians of their minor children." *Reno v. Flores*, 507 U.S. 292, 310 (1993). This court has authority to condition release to the sponsor until the Respondents reach a new decision about sponsorship that does not violate the law.

LEGAL BACKGROUND

23. The Homeland Security Act of 2002 assigned to the Office of Refugee Resettlement duties regarding unaccompanied minor aliens, like the Petitioner, encountered at the border of the United States. 6 U.S.C. § 279.

24. In 2008, the government passed the TVPRA to protect the welfare of these minors. 8 U.S.C. §§ 1232(a)(1), (a)(2)(A), (a)(3). This law codified a portion of the *Flores* settlement, a class-action decree approved in 1997 to expedite family reunification of detained alien minors. *See Flores v. Sessions*, 862 F.3d 863, 869-71 (9th Cir. 2017). To ensure that the minors receive the best possible care while the government adjudicates their immigration status, the law mandates how the

government must handle the custody of these children. TVPRA operates under two relevant principles, both of which concern the children's welfare.

25. The first principle addresses human trafficking. The government must “establish policies and programs to ensure that unaccompanied alien children in the United States are protected from traffickers and other persons seeking to victimize or otherwise engage such children in criminal, harmful, or exploitative activity.” 8 U.S.C. § 1232(c)(1). Under certain conditions, if the child is not at risk of human trafficking, the government may seek to repatriate the child to the child's home country. 8 U.S.C. § 1232(a)(2), (a)(3). If the child can be safely repatriated and the government seeks to remove the child, then the government must use the statutory removal process. *Id.* § 1232(a)(5)(D). This process is set forth in the Immigration and Naturalization Act, 8 U.S.C. § 1229, and includes the opportunity to seek relief from removal, such as through an application for asylum, 8 U.S.C. § 1158(a)(1), or withholding of removal, 8 U.S.C. § 1231(b)(3).

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

27. To implement this second rule the government codified regulations (called the “Foundational Rule”) ensuring among other things the “release, without unnecessary delay” of an unaccompanied child held in the custody or ORR “to a vetted and approved sponsor.” 45 C.F.R. § 410.1200. Specifically, when “the detention of the unaccompanied child is not required either to secure the child’s timely appearance” before immigration officials “or to ensure the child’s safety or that of others,” ORR must “release a child from its custody without unnecessary delay” *Id.* § 410.1201. This mandate for release without unnecessary delay is strict: ORR shall ordinarily adjudicate an application from a close relative within 10 days, 14 days for other sponsors. 45 C.F.R § 410.1205(b).

28. The regulations list the order of preference of six possible sponsors of the child. The first in the order of preference is the child’s “parent.” 45 C.F.R. § 410.1201. Next is a legal guardian of the child, then an adult relative, and then another adult or entity that a parent or legal guardian has designated as willing and capable. *Id.* The final two potential custodians are a willing, licensed program and, lastly, another adult when family unification is not reasonably possible. *Id.*

29. In assessing the suitability of a sponsor with the required 10- to 14-day timeframe, ORR shall verify the “sponsor’s identity, physical environment of the sponsor’s home, and relationship to the unaccompanied child, if any” *Id.* § 410.1202(b). A sponsor’s documentation of identity need *not* come from the United States: “ORR may consult with the issuing agency (e.g., consulate or embassy) of

the sponsor's identity documentation to verify the validity of the sponsor identity document presented.” *Id.*

30. The right of an alien to supply a foreign document of identity is not unique to the TVPRA sponsorship context. Throughout federal immigration law and beyond, aliens have the right (and sometimes the duty) to submit documents issued by foreign governments to prove their identity. *See* 8 C.F.R. § 244.9 (in applying for temporary protected status, an alien must supply “[e]vidence of identity,” which is “[a]ny national identity document from the alien’s country of origin bearing photo and/or fingerprint”); 22 C.F.R. § 41.104 (in applying for nonimmigrant visa, the alien must present a foreign passport); 8 C.F.R. § 208.3(a)(1) (alien applying for asylum may submit foreign passport); 26 C.F.R. § 301.6109-1(a)(3)(iii) (alien applying for individual taxpayer identification number must submit documentation establishing “identity” and connection to foreign government); <https://www.uscis.gov/forms/filing-guidance/checklist-of-required-initial-evidence-for-form-i-485-for-informational-purposes-only> (alien applying for permanent residency must supply foreign-origin documents).

31. Suitability also involves the child’s welfare. The ORR shall assess whether a sponsor “is capable of providing for the unaccompanied child's physical and mental well-being.” 45 C.F.R § 410.1202(b). In so doing, the ORR may review the sponsor’s “understanding and awareness of responsibilities related to compliance with the unaccompanied child’s immigration court proceedings....” *Id.* at § 410.1202(h)(3). Also, the ORR may consider whether the sponsor has proposed a

back-up sponsor who can care for the child if the primary sponsor becomes unavailable. See https://www.reginfo.gov/public/do/PRAViewIC?ref_nbr=202508-0970-005&icID=217209.

32. Release follows vetting for identity and safety: Once ORR has verified “the custodian’s identity and relationship to the child” and determined that the custodian “has not engaged in any activity that would indicate a potential risk to the child,” ORR may release the child to the custodian. 8 U.S.C. § 1232(c)(3)(A).

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

RECENT CHANGE IN POLICY

34. In March of 2025, without following normal rule-making procedures, the government adopted a new policy for evaluating sponsors who have applied for custody. ORR now requires that a prospective sponsor of a minor present to ORR an identification document that the United States, rather than a foreign government,

has issued. This new policy conflicts with existing federal regulations, which provide that an alien, including a sponsor of a minor alien, may prove identity with a foreign-issued form of identification. *See* 45 C.F.R. § 410.1202(b).

35. Sponsors who are undocumented in the U.S. and have identification documents only from their home countries cannot expect to satisfy this new policy. Since March of 2025, the Respondents have applied the new policy to sponsors as “regulated parties.” *See Sierra Club v. EPA*, 955 F.3d 56, 63 (D.C. Cir. 2020) (quoting *Nat’l Mining Ass’n v. McCarthy*, 758 F.3d 243, 253 (D.C. Cir. 2014)).

36. The Respondents have publicly stated two inadequate rationales for their new policy of requiring domestic-identity documents: (1) some unnamed countries are difficult to contact, and (2) some sponsors have used fraudulent foreign documents. As to the first rationale, it is by its own terms limited to a few countries, but the Respondents have applied the policy globally. Consequently, ORR has prohibited itself from contacting the vast majority of foreign countries that are easy to reach for verification. The second rationale is pretextual: The government continues to accept or require foreign-issued identity documents in a vast number of immigration-related contexts, despite its purported concern about fraud. For example, if the sponsors applied for temporary protected status, non-immigrant visas, permanent residency, asylum, or individual taxpayer identification numbers, the government would expect and accept the documents it refuses to accept here.

37. The new policy ostensibly grants ORR limited discretion to waive the requirement of domestic identification, but any supposed discretion is illusory. It

applies only for parental sponsors, and even then, only if the waiver is supported by unspecified, “clear justification.” The Respondents have not published any definition of this standard, nor have they given Petitioner any reason to believe how a parent can meet it. To their knowledge, no sponsor has received a waiver.¹

38. The insufficient and pretextual basis for the domestic-identity rule seeks to hide its true purpose: to transform the ORR from a program to foster child welfare into a program to foster removal of undocumented sponsors. This goal is unlawful. Under the TVPRA, the ORR’s function is to effectuate the best interest of the child; immigration enforcement is not part of its activities.

39. Congress has confirmed that the ORR may not engage in immigration enforcement. In appropriating funds to the Department of Homeland Security (of which ORR is a part), Congress legislated in 2019 that “[n]one of the funds provided by this Act or any other Act, or provided from any accounts in the Treasury of the United States derived by the collection of fees available to the components funded by this Act, may be used by the Secretary of Homeland Security to place in detention, remove, refer for a decision whether to initiate removal proceedings, or initiate removal proceedings against a sponsor, potential sponsor, or member of a household of a sponsor or potential sponsor of an unaccompanied alien child (as defined in section 462(g) of the Homeland Security Act of 2002 (6 U.S.C. 279(g)).”

¹ 1. Respondents also adhere to a policy of only considering one sponsor at a time. Thus, a parental sponsor unable to secure release under current rules must either withdraw sponsorship or thus preclude any other family member or family friend from attempting to sponsor the child.

Consolidated Appropriations Act, 2020, Pub. L. No. 116-93, Div. D, § 216(a), 133 Stat. 2317, 2513 (2019).

40. By virtue of the TVPRA and this budgetary legislation, the ORR may not facilitate immigration-enforcement activities. Even the appearance of coordination between the ORR and immigration-enforcement personnel intimidates undocumented but qualified sponsors into not sponsoring loved ones, contrary to the TVPRA's stated and sole goal of ensuring the children's best interest.

41. Petitioner recognizes that Respondents may argue that in 2025 the government validly rescinded any prohibition on involving immigration authorities in ORR activities, but that argument is unfounded. For one thing, the TVPRA and statutory command that ORR focus exclusively on the unaccompanied alien's best interest, and not immigration enforcement, remains intact. Moreover, the budgetary act in 2019 bars the Department of Homeland Security from using not only "the funds provided by this Act" but the funds provided by "any other Act," or by "any accounts in the Treasury of the United States derived by the collection of fees available to the components funded by this Act" for immigration enforcement. Congress has not rescinded that prohibition.

42. Respondents adopted additional policies in March 2025, and these policies reveal that Respondents' principal goal is not family reunification but immigration enforcement whenever a sponsor lacks domestic identification. First, beginning in March 2025, ORR started inviting immigration-enforcement agents to attend in-person interviews with sponsors. For sponsors who lack domestic-identity

documents (and are otherwise undocumented), the specter of immigration authorities at an interview deters those sponsors who can provide the best setting for the child.

43. Second, along with the new domestic-identity rule, in March 2025 Respondents adopted a rule about how sponsors must prove their income. Sponsors must now supply a prior year's tax return, 60 days of continuous paystubs, or a letter from their employer. The new income-documentation policy will often bar to reunification with sponsors who lack domestic-identification documents.

44. Third, the Respondents have imposed additional, extra-legal obstacles to the reunification of minors with their sponsors. These obstacles delay reunification beyond the 10-to-14-day norm of the TVPRA.

45. After it began to enforce its new policies in March 2025, ORR confirmed their adoption. Twice in 2025, ORR published notices about its revisions to the sponsorship application to accord with the new policies. *See Unaccompanied Alien Children Sponsor Application Packet*, 90 Fed.Reg. 39194. ORR's revisions are final agency actions. *Bennett v. Spear*, 520 U.S. 154, 177-78 (1997) (quoting *Chicago & S. Air Lines v. Waterman S. S. Corp.*, 333 U.S. 103, 113 (1948), and *Port of Bos. Marine Terminal Ass'n v. Rederiaktiebolaget Transatlantic*, 400 U.S. 62, 71 (1970)).

46. The new policies have needlessly delayed family reunification. The ORR's data show that, for the over 2,000 children in its custody across the country, the average length of detention is substantial and *growing*. In October 2025, the average length of detention before release was 166 days; by January 2026, it had

swelled by nearly three weeks, to 185 days. *See* Office of Refugee Resettlement, Data, available at https://acf.gov/orr/about/ucs/facts-and-data#book_content_1 (last accessed Feb. 19, 2026). Likewise, ORR releases almost none of the children in its custody. In January of 2026, ORR released only 20 (less than 1% of those in custody) to their parents, and only 42 (less than 2%) to any sponsor. *See id.* at https://acf.gov/orr/about/ucs/facts-and-data#book_content_9. These needlessly long detentions far exceed the 14-day presumptive time limit, and they are attributable to the Respondents' new domestic-identity policy.

CLAIMS FOR RELIEF

COUNT I

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

47. Petitioner incorporates and restates all previous paragraphs.

48. Through the Respondents' policy of requiring domestic-identity documents, the Respondents have kept the Petitioner in custody in violation of their rights under the TVPRA.

49. Through the Respondents' policy of having immigration-enforcement authorities participate in the sponsor-vetting process, the Respondents have kept the Petitioner in custody, further violating his rights under the TVPRA.

50. The TVPRA requires that Respondents place Petitioner in the setting that is in his "best interest." 8 U.S.C. § 1232(c)(2)(A). This is presumptively with "a suitable family member." *Id.* ORR regulations affirm "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, whenever feasible, is in the best interests of unaccompanied children.” 89 Fed. Reg. at 34440.

51. This policy presumptively disqualifies the Petitioner’s mother even though, based on her foreign identity documents, DNA testing, and background checks, she is who she purports to be—the mother of the Petitioner. As she can provide for the Petitioner’s well-being, she should have custody of Petitioner because that custody supplies the least restrictive setting and is in the Petitioner’s best interest. 45 C.F.R. § 410.1201. Yet, the Respondents refuse to release the Petitioner to his mother. They refuse because of a reason unrelated to the Petitioner’s “best interest” or the TVPRA—the mother cannot produce domestic-identity documents (and similarly unavailable proof-of-income documents). It is therefore unlawful.

52. The Respondents’ policy of including immigration-enforcement officials in the vetting process also violates the Petitioner’s rights under the TVPRA. Their inclusion has needlessly delayed reunification of the mother with the Petitioner.

53. The Respondents’ policy of refusing to accept foreign documents of identity (and their inclusion of immigration officials in the vetting process) contravenes not only the TVPRA but the regulations under the TVPRA. The TVPRA’s regulations explicitly provide that the government may determine identity by using non-U.S.-issued documents: “ORR may consult with the issuing agency (e.g., consulate or embassy) of the sponsor's identity documentation to verify the validity of the sponsor identity document presented.” 45 C.F.R. § 410.1202(b).

54. By requiring U.S.-issued forms of identification from the sponsor of Petitioner, Respondents are maintaining custody of Petitioner in a manner that is not in his “best interest,” in violation of the Petitioner’s rights under the TVPRA.

55. By involving immigration-enforcement officers in the vetting process, Respondents are maintaining custody of Petitioner in a manner that is not in his “best interest,” further violating the Petitioner’s rights under the TVRPA.

56. The Petitioner is thus entitled to release under 28 U.S.C. § 2241.

COUNT II

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

57. Petitioner incorporates and restates all previous paragraphs.

58. Under the TVPRA, the government must release alien children in its custody “promptly.” 8 U.S.C. § 1232(c)(2). “Prompt” means “to act immediately, responding on the instant.” Black’s Law Dictionary 1093 (5th ed. 1979).

59. Likewise, under federal regulations, the Respondents must release the alien children “without unnecessary delay,” 45 C.F.R. § 410.1200, 1201.

60. These commands are strict: ORR shall ordinarily adjudicate a sponsorship application with 10 days for a close relative, 14 days otherwise. *Id.* § 410.1205(b). ORR may deny a sponsorship only if it determines that the sponsor cannot provide for the “well-being” of the child or that placement with the sponsor would endanger the child or the community. *Id.* § 410.1205(a).

61. These regulations obligate the ORR to release the Petitioner to his mother unless the Respondents have notified the mother of a decision that relies

upon evidence subject to appellate challenge supporting a valid reason not to release. *Id.* § 410.1205-1206. Respondents have not done so.

62. By taking over 14 days to release Petitioner to his mother, and by not supplying a valid, evidence-based decision for denying release, the Respondents are violating the Petitioner's rights under the TVPRA.

63. Under 28 U.S.C. § 2241, the Petitioner is entitled to release.

COUNT III

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

64. Petitioner restate and incorporate all previous paragraphs.

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

66. The substantive component of the Due Process Clause protects liberty against “certain government actions regardless of the fairness of the procedures used to implement them.” *Daniels v. Williams*, 474 U.S. 327, 331 (1986). The Government may not infringe upon fundamental liberty interests unless the infringement is narrowly tailored to serve a compelling state interest. *United States v. Salerno*, 481 U.S. 739, 749 (1987).

67. At the apex of this substantive protection is the right of children to live with their close family members. *See Moore v. City of E. Cleveland*, 431 U.S. 494, 504 (1977). Familial association is “perhaps the oldest of the fundamental liberty interests” protected by the substantive component of due process. *Troxel v.*

Granville, 530 U.S. 57, 65 (2000); see also *Santosky v. Kramer*, 455 U.S. 745, 753 (1982) (holding that close family member have a constitutional right to live together without government interference); *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.”); *Wisconsin v. Yoder*, 406 U.S. 205, 232 (1972) (“The history and culture of Western civilization” establishes the “strong tradition” of protecting families and allowing parents a primary role over “the nurture and upbringing of their children”; it is “an enduring American tradition.”); *Prince v. Massachusetts*, 321 U.S. 158, 166 (1944) (“It is cardinal ... that the custody, care and nurture of the child reside first in the parents.”); *Pierce v. Society of Sisters*, 268 U.S. 510, 535 (1925) (“The child is not the mere creature of the State.”).

68. Government action seeking to break the familial bond “offends some principle of justice so rooted in the traditions and conscience of our people as to be ranked as fundamental.” *Snyder v. Massachusetts*, 291 U.S. 97, 105 (1934). Whether the focus is on the child or the adult family member, the interest of both in familial association is fundamental: “the child and his parents share a vital interest in preventing erroneous termination of their natural relationship.” *Santosky v. Kramer*, 455 U.S. 745, 760 (1982). “[S]o long as a parent adequately cares for his or her children (i.e. is fit), there will normally be no reason for the State to inject itself into the private realm of the family....” *Id.* at 68. Even if a requirement of U.S-

issued identification documents might serve a valid government purpose some contexts, it does not disqualify a capable family member from custody over a child.

69. The Respondents' refusal to grant custody of the Petitioner to his mother, based on her lack U.S.-issued identification and after undue delay, is invalid under the Fifth Amendment. It unjustifiably prevents the mother from offering love, wisdom, and comfort to the Petitioner. The Petitioner is thus entitled to release under 28 U.S.C. § 2241.

COUNT IV

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

70. Petitioner incorporates and restates all previous paragraphs.

71. “[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. *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). Thus, as a matter of substantive due process, the Petitioner has a liberty interest in freedom from

institutional custody, even though minors are “always in some form of custody.”

Schall v. Martin, 467 U.S. 253, 265 (1984); see *Lucas R. v. Becerra*, No. 18-5741, 2022 WL 2177454, at *14 (C.D. Cal. Mar. 11, 2022).

72. The Petitioner’s interest in freedom from institutional custody is particularly pronounced as his detention lengthens. The Supreme Court has warned that institutional detention of adults for six-months or longer may deprive them of the liberty interest protected by due process unless the government supplies a detainee-specific justification. *Zadyvydas v. Davis*, 533 U.S. 678 (2001).

73. The Petitioner is a child facing detention of six months or more. As a child for whom six months may appear even longer than for adults, the substantive presumption from *Zadyvydas* applies at least as strongly to him.

74. Respondents have not identified a permissible justification specific to Petitioner, such as flight risk, dangerousness, or mental illness, that would justify separating him from his mother. *See id.*

75. Respondents continued detention of Petitioner under these circumstances violates his rights under the Due Process Clause of the Fifth Amendment, entitling him to release under 28 U.S.C. § 2241.

COUNT V

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

76. Petitioner incorporates and restates all previous paragraphs.

77. The right to due process also contains a procedural component that constrains the process by which the government may deprive a person of a legally protected liberty interest. *See Matthews v. Eldridge*, 424 U.S. 319, 332 (1976).

78. The fairness of any governmental decision-making process involves a familiar balancing test: assessing the private interests (the liberty of the Petitioner and his interest in family unity), the risk of an erroneous deprivation of that interest without added procedural safeguards, and the government's countervailing interest. *See Matthews v. Eldridge*, 424 U.S. at 332.

79. Based on the balancing of these three factors, the domestic-identity rule is invalid and the Petitioner should be released.

80. First, the Petitioner's liberty interest is profound and clear. It is based on his constitutional right to familial association and freedom from institutional detention. It is also rooted in the TVPRA's assignment of nondiscretionary duties to the Respondents: The Respondents must release Petitioner from institutional custody unless "a suitable family member is not available to provide care." 8 U.S.C. § 1232(c)(2)(A). They must also "promptly place[]" each child in the least restrictive setting that is in the child's the "best interest." *Id.* When, as here, constitutional and statutory dictates contain "specified substantive predicates" eliminating agency discretion, *see Kentucky Dep't of Corr. v. Thompson*, 490 U.S. 454, 463 (1989), the beneficiaries—like the Petitioner—have a protected liberty interest.

81. Second, the risk of an erroneous deprivation of that protected interest—the disqualification of an otherwise suitable sponsor—based on the rule

that the sponsor furnish a domestic-based document of identification is high. The domestic-identity rule essentially guarantees that the government will never grant custody to the Petitioner's mother, even though her identity, relationship to the Petitioner, and ability to care for the Petitioner is not in doubt.

82. Finally, the government's interest in retaining custody of the Petitioner at this point is low. By law, the interest is *not* in enforcing immigration policy against others. Its only interest is in the well-being of Petitioner. But the government has or can vindicate that interest by through DNA testing. Thus, the remaining government's interest in the Petitioner's well-being requires reuniting him with his mother.

83. The Respondents detention of Petitioner based on the procedural requirement of a sponsor's domestic-identity document denies him a prompt and accurate resolution of his claims for release. The detention thus violates the Petitioner's rights to due process under the Fifth Amendment. he is entitled to release under 28 U.S.C. § 2241.

COUNT VI

Violation of the Fifth Amendment (Deprivation of Equal Protection)

84. Petitioner incorporates and restates all previous paragraphs.

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

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

87. The Respondent's refusal to grant custody of the Petitioner to his otherwise suitable parent sponsor, based on the sponsor's lack U.S.-issued identification, where they would grant custody if the sponsor had U.S.-issued identification, is irrational. It is irrational because the government can and does validate identification based on foreign-issued identification in a wide variety of immigration-related contexts. The government would accept or even require foreign-issued identity documents from any alien—including the sponsor of Petitioner—if she sought temporary protected status, non-immigrant visas, permanent residence, asylum, or an individual taxpayer identification number. Given the universal acceptance of foreign-issued documents elsewhere, the refusal to accept them here is irrational.

88. Because the rule is irrational, it violates the Petitioner's Fifth Amendment rights, entitling him to release under 28 U.S.C. § 2241.

REQUESTS FOR RELIEF

Petitioner respectfully urge that this court:

1. Assume jurisdiction over this matter;
2. Declare that Petitioner's current detention is unlawful;
3. Issue a writ of habeas corpus ordering Respondents to release Petitioner from custody to the custody of their sponsors;

4. Prohibit the Respondents from transferring Petitioner from the district without the court's approval, from requiring domestic-identity documents from sponsors, and from including immigration-enforcement officials in the vetting process;

5. Award Petitioner's his attorney's fees and costs under the Equal Access to Justice Act, and on any other basis justified under law; and

6. Grant any further relief this court deems just and proper.

Respectfully submitted,

/s/ Charles Roth

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Date: March 5, 2026