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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
EASTERN DIVISION

C.S.M., a minor, by and through M.P.S.M., as Next Friend of Minor,

Petitioners,

v.

RUBY HERNANDEZ, Federal Field Specialist, Office of Refugee Resettlement; NIKY HYMEL, Federal Field Specialist Supervisor, Office of Refugee Resettlement; ALEX J. ADAMS, Assistant Secretary of the Administration for Children and Families; ANGIE SALAZAR, Acting Director of the Office of Refugee Resettlement; and ROBERT F. KENNEDY, JR., Secretary of the U.S. Department of Health and Human Services,

Respondents.

Case No. 5:26-CV-1144

VERIFIED PETITION FOR WRIT OF HABEAS CORPUS

INTRODUCTION

1. Petitioner, C.S.M. [1], is an unaccompanied child[2] ("UC") who, upon entry to the United Sates on September 2, 2025, was transferred to the custody of the Office of Refugee Resettlement ("ORR").

2. Petitioner has been detained by ORR since September 3, 2025. Petitioner has an adult United States Citizen sister in the United States who is available and willing to assume her custody and care. Pursuant to ORR Rule 2.2.1, Identification of Qualified Sponsors, Petitioner's sibling is classified as "Category 2A: [a] brother; sister; grandparent or other immediate relatives (e.g., aunt, uncle, first cousin) who previously served as the child's primary caregiver. This includes biological relatives, relatives through legal marriage, and half-siblings." Office of Refugee Resettlement, *ORR Unaccompanied Alien Children Bureau Policy Guide: Section 2*, available at https://acf.gov/orr/policy-guidance/unaccompanied-children-program-policy-guide-section-2#2.2.

3. Petitioner's sister has submitted the documentation that ORR requires to be considered a sponsor for an unaccompanied child and attempted to complete the Family Reunification Packet ("FRP") to the best of her ability. However, ORR has allowed Petitioner's FRP to languish without further movement on vital tasks for an FRP to be deemed completed and submitted for final decision. Whenever counsel for Petitioners reach out on behalf of Petitioner, the response from ORR is that the application is "pending DNA testing."

4. Even after Petitioner's mother passed away on March 1, 2026, in home country, ORR did not respond to undersigned counsel's call to ask if an exception

[1] Petitioners are referred to herein by their initials, in compliance with Fed. R. Civ. P. 5.2(a)(3), which requires the use of a "minor's initials" on any filing made before the court.

[2] An "unaccompanied child" is a child with no lawful immigration status in the United States, who is under the age of eighteen, and who has arrived in the U.S. or at the border without a parent or guardian and without legal status. 6 U.S.C. § 279(g)(2).

could be granted such that Petitioner could be released to mourn with her family. ORR has still not informed Petitioner's counsel when said DNA testing will be scheduled or how Petitioner's sponsor can otherwise satisfy that requirement. ORR fails to meet its mandate to *promptly* place Petitioner in the least restrictive setting.

5. These ongoing delays have resulted in continued, unnecessary detention and emotional distress for Petitioner, due to her continued separation from her family. Petitioner has shared her frustration about having no updates on her reunification and how it has affected her ability to think about anything else including school and her immigration proceedings. Petitioner is currently also in mourning due to the passing of her mother and needs family comfort more than ever.

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

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

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

9. Petitioners further seek an order from this Court requiring ORR to immediately release Petitioner to her sister's care and declare the prolonged detention an unlawful violation of their statutory and Constitutional rights.

JURISDICTION

10. This Court has subject matter jurisdiction over this matter pursuant to 28 U.S.C. § 2241 (habeas corpus); 28 U.S.C. § 1651 (All Writs Act); 28 U.S.C. § 2201 (Declaratory Judgment Act); 28 U.S.C. § 1361 (writ of mandamus); and 28

U.S.C. § 1331 (federal question). This Court also has jurisdiction pursuant to Art. I, § 9, cl. 2 of the United States Constitution (Suspension Clause).

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

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

13. 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.

VENUE

14. Venue is proper in the United States District Court for the Central District of California because Petitioner is detained at MWC in Riverside, California.

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

PARTIES

I. Petitioners

16. Petitioner C.S.M. is a 14-year-old UC. Petitioner is currently detained at MWC in Riverside, California. Petitioner C.S.M. is in the custody, and under the direct control, of Respondents and their agents.

17. Petitioner C.S.M.'s Next Friend, M.P.S.M.[3] is Petitioner C.S.M.'s sister and the individual applying to be Petitioner C.S.M.'s sponsor and have C.S.M. released into her custody. Petitioner C.S.M. appears by and through Next Friend, M.P.S.M.

II. Respondents

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

19. Respondent Niky Hymel is sued in her official capacity as an ORR FFS Supervisor. FFS Supervisors are the government officials responsible for the care and custody of children in ORR facilities and supervise FFSs. In this role, FFS Supervisor Hymel is responsible for determining Petitioners' placements and has authority to approve their respective releases to an appropriate sponsor's care. Respondent FFS Supervisor Hymel is thereby a legal custodian of Petitioner.

20. Respondent Alex J. Adams is sued in his official capacity as the Assistant Secretary of the Administration for Children and Families ("ACF"). ACF is comprised of 23 offices, including ORR, responsible for the welfare of children and families. Respondent Adams is thereby responsible for Petitioners' continued detention and custody and is a legal custodian of Petitioner.

[3] As Next Friend of Petitioner C.S.M., the use of M.P.S.M.'s initials further ensures C.S.M..'s privacy. *See* Fed. R. Civ. P. 5.2(a), (c), (h) (mandating use of a minor's initials, providing for limited access to files in proceedings related to immigration detention "unless the court orders otherwise," and noting that failure to redact personal information in the first instance constitutes a waiver of that protection); *see also* 28 U.S.C. § 2242 (authorizing next friend status in the habeas context).

21. Respondent Angie Salazar is sued in her official capacity as the Acting Director of ORR, the component of the U.S. Department of Health and Human Services ("HHS") responsible for implementing the Department's obligations to unaccompanied minors who are immigrants. ORR is the government entity directly responsible for the continued detention of Petitioners and has the authority to release them. Respondent Salazar is thereby a legal custodian of Petitioner.

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

STATEMENT OF FACTS

III. Petitioner C.S.M

23. Petitioner C.S.M., is a 14-year-old girl. Petitioner was designated an unaccompanied child by DHS upon her arrival in the United States on September 2, 2025. On September 3, 2025, C.S.M. was placed in ORR custody and transferred to MWC.

24. On September 5, 2025, the ORR facility case manager facilitated a call between C.S.M. and M.P.S.M. The same day, the case manager sent out the sponsor information referral to [Division of Sponsor Vetting] Referrals.

25. On September 24, 2025, the following items were noted as still pending:

- [Household Members] IDs received, Sponsor ID received, LOD received, and sponsor's [ARI] received;
- DSA FFS provided the sponsor with the ARI for HHMS/ACG;
- Sponsor has an appointment to fingerprint on 9/29/2025;
- Most of the sponsor assessment is completed, pending some portions;
- MH: Doing alright, having trouble with peer relationships/making connections with them, has had ups/downs with mother's illness/feels sad, more phone calls with sister were approved.

26. The "Case Review" from Petitioner's ORR file notes, "12/30/2025: case remains pending DNA appointment and ID Verification. ... Dec 23, 2025, [Division of Sponsor Vetting] FFS Lucibel Gast contacted the sponsor to let her know that there are no new updates regarding the appointment."

27. On December 23, 2025, Petitioner's counsel sent a demand letter to ORR urging them to make a decision on the release of the Petitioner as further detention and separation from her violated her right to be placed in the least restrictive environment under the TVPRA and the ORR Foundational Rule, and also violated their Constitutional Right to Due Process. This demand was unanswered by Acting Director Angie Salazar.

28. To date, the Reunification Updates provided to undersigned counsel on a weekly basis provide the same information since November 9, 2025; which stated that a request for DNA was submitted on November 6, 2025, and that the case was pending DNA approval.

29. On March 5, 2026, undersigned counsel was informed that Petitioner's mother had passed away on March 1, 2026, in home country.

30. On March 5, 2026, undersigned counsel's legal assistant spoke with Petitioner to offer condolences for the loss of her mother, and to provide any support that Petitioner might need. During the meeting, Petitioner was overwhelmed and emotionally distraught by the fact that she and her sister were having to continue with the daily tasks of reunification and her immigration case when they were both grieving and dealing with the loss of her mother. She thought it was unfair and heartbreaking.

31. On March 9th, 2026, DSV-FFS Gast called to inform me that sponsor, M.P.S.M., would be scheduled for a DNA test this week, and would be getting a call that same day to inform her of her DNA appointment. There was no update on when Petitioner would be scheduled for testing.

32. On March 9th, 2026, undersigned counsel communicated with M.P.S.M. to inform her to expect a call from ORR as they would be calling her to schedule her DNA appointment.

33. On March 10th, 2026, M.P.S.M. had still not received a call regarding the DNA test.

34. The impending passing of her mother has been at the front of C.S.M.'s mind since her arrival to the United States. ORR subcontracted staff and therapists note that Petitioner is "struggling with family issues .... waiting for bad news from mom." "Therapist also supported child in processing feelings related to her mother's illness and preparing for loss." Petitioner has been noted as "stable, sad, anxious."

35. It does not appear that ORR is promptly working on scheduling the remaining requirements, so C.S.M can be reunified with her sister, M.P.S.M.

36. The reunification between C.S.M. and M.P.S.M. therefore remains indefinitely delayed. This ongoing delay has resulted in continued, unnecessary detention and emotional distress for C.S.M. due to her continued separation from her sister. C.S.M. has shared feeling frustrated about how long reunification is taking despite her sister being ready and able to care for her. This situation has taken a serious toll on C.S.M. and has prevented their ability to meaningfully discuss immigration relief to defend herself in removal proceedings. C.S.M. feels sad and hopeless about reunifying with her family. C.S.M. and M.P.S.M. also shared frustration with ORR in the lack of communication with them regarding any updates on reunification or why the remaining requirements have not been scheduled.

LEGAL FRAMEWORK

I. Law and Procedure Governing this Habeas Petition

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

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

39. The Court must grant the petition for writ of habeas corpus or issue an order to show cause (OSC) to Respondents "forthwith," unless Petitioners are not entitled to relief. 28 U.S.C. § 2243. If an OSC is issued, this Court must require Respondents to file a return "within *three days* unless for good cause additional time,

not exceeding twenty days, is allowed." *Id.* (emphasis added). The writ or OSC shall be directed to the person having custody of the person detained. *Id.*

II. Legal Framework Governing the Care and Custody of Unaccompanied Children

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

A. The *Flores* Settlement Agreement (FSA)

41. The FSA arose from a lawsuit filed by a group of immigrant children challenging their detention and seeking to be released to family members or sponsors within the United States. *See Flores v. Sessions*, 862 F.3d 863, 869 (9th Cir. 2017) (discussing history of the *Flores* litigation). In 1997, the plaintiff children entered into a consent decree with the federal government to create a nationwide policy governing the custody and release of immigrant children. *See* Stipulated Settlement Agreement, *Flores v. Reno*, No. CV-85-4544 (C.D. Cal. Jan. 17, 1997).[4]

42. The FSA remains under the supervision of U.S. District Judge Dolly M. Gee in the Central District of California. *See Flores v. Bondi*, No. CV 85-4544-DMG (AGRx).[5]

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[4] Available at: https://www.aclu.org/sites/default/files/assets/flores_settlement_final_plus_extension_of_settlement011797.pdf.

[5] Following the promulgation of the ORR Foundational Rule, described *infra*, the FSA was partially terminated as to children in HHS custody. Flores v. Garland, 2024 WL 3467715, CV 85-4544-DMG (AGRx) (C.D. Cal. Jun. 28, 2024).

B. The Homeland Security Act of 2002 (HSA)

43. Enacted in 2002, the HSA divided responsibilities for the processing and treatment of unaccompanied children between ORR – a sub-department of the Department of Health and Human Services – and the then-newly created Department of Homeland Security.[6] *See* 6 U.S.C. § 279(a). ORR was assigned functions including "coordinating and implementing the care and placement" of unaccompanied children in appropriate custody. 6 U.S.C. § 279(b).

C. The Trafficking Victims Protection Reauthorization Act (TVPRA)

44. Enacted in 2008,[7] the TVPRA requires federal officials to screen unaccompanied immigrant children for certain vulnerabilities upon their arrival in the United States. *See* 8 U.S.C. § 1232(a)(4). It mandates that custody of an unaccompanied child be transferred to the HHS Secretary within 72 hours of their arrival in the United States.[8] 8 U.S.C. § 1232(b)(3).

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

D. The ORR Foundational Rule

46. In 2024, after a notice and comment period, HHS adopted a final rule intended to further codify key aspects of the framework governing care and

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[6] Prior to the creation of DHS, all matters related to the custody, detention, and deportation of immigrant children was managed by the Immigration and Naturalization Service (INS), which was abolished simultaneously with the creation of DHS.

[7] The TVPRA is a reauthorization of the Trafficking Victims Protection Act of 2000 (TVPA), intended to combat the trafficking of persons. *See* Pub. L. No. 106-386, 114 Stat. 1464 (Oct. 28, 2000). Through the 2008 Reauthorization, Congress established certain rights for unaccompanied children navigating the immigration process, recognizing that they are a "particularly vulnerable population" to whom the country "owes a special obligation" to treat "humanely and fairly." 154 Cong. Rec. S10866 (daily ed. Dec. 10, 2008) (statement of Sen. Feinstein).

[8] In most cases, custody of an unaccompanied child is transferred to HHS, and ultimately ORR, from DHS, which houses Immigration and Customs Enforcement (ICE) and Customs and Border Protection (CBP).

placement of unaccompanied children as required by the HSA and TVPRA, and implement the substantive requirements of the FSA. *See generally* Unaccompanied Children Foundational Rule (Jul. 1, 2024) (hereinafter "Foundational Rule"). 45 C.F.R. Part 410.

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

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

49. Further, the Foundational Rule provides guidance on how ORR is to evaluate the suitability of a potential sponsor who seeks to assume the care and custody of an unaccompanied child. 45 C.F.R. § 410.1202. Such evaluation may

require a home study, wherein ORR "investigat[es] the living conditions in which the unaccompanied child would be placed" prior to their release. 45 C.F.R. § 410.1204.

50. Absent "an unexpected delay," ORR is mandated to adjudicate a completed sponsor application for a relative who has previously been the child's primary caregiver "within 10 calendar days of receipt of the completed sponsor application," and to adjudicate applications by relatives who were not previously the child's primary caregiver within 14 calendar days. 45 C.F.R. § 410.1205(b).

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

52. In addition to the above, ORR supervisory staff "who supervise field staff" are required to conduct "automatic review of all pending sponsor applications . . . within 90 days of an unaccompanied child entering ORR custody." 45 C.F.R. § 410.1207(a).

E. Substantive and Procedural Due Process

53. It is axiomatic that civil immigration detention is limited by both substantive and procedural due process protections, which apply "to all 'persons' within the United States, including [noncitizens], whether their presence here is lawful, unlawful, temporary, or permanent." *Zadvydas*, 533 U.S. at 693. Indeed,

freedom "from imprisonment – from government custody, detention, or other forms of physical restraint – lies at the heart of the liberty" that the Due Process Clause protects. *Id.* at 690.

54. In addition, courts in this District have found that unaccompanied children have protected property interest in their statutory entitlements under the TVPRA. See e.g., Immigrant Defs. L. Ctr. v. U.S. Dep't of Homeland Sec., No. CV 21-0395 FMO (RAOX), 2025 WL 1191572, at *15 (C.D. Cal. Mar. 14, 2025) (finding "statutory entitlements [under the TVPRA] are constitutionally protected property interests") (collecting cases); Lucas R. v. Azar, No. CV 18-5741-DMG (PLAx), 2018 WL 7200716, at *9 (C.D. Cal. Dec. 27, 2018) (noting that a statute can create "a substantive interest protected by the Due Process Clause by using 'mandatory language' that imposes an obligation on government officials, and referring to such mandatory language in the TVPRA) (citing 8 U.S.C. §1 232(c)(2)(A): a UC "shall be promptly placed in the least restrictive setting that is in the best interest of the child") (emphasis in original). 1232(c)(2)(A): a UC "*shall* be promptly placed in the least restrictive setting that is in the best interest of the child")(emphasis in original).

ARGUMENT

A. Petitioners' Claims are Cognizable as a Habeas Action, and Administrative Exhaustion is Not Required.

55. Petitioners seek habeas relief pursuant to the TVPRA and both the substantive and procedural components of the Due Process Clause of the Fifth Amendment. These claims may properly sound in habeas, as "challenges to the statutory framework authorizing detention, questions of law raised in the application or interpretation of statutes, and constitutional claims, such as claims that the discretionary process itself was

constitutionally flawed," have been found to "fit comfortably" within the scope of the habeas statute. *E.g.*, *Alam v. Keeton*, 2020 WL 5439513, CV-19-05538-PHX-MTL (CDB), at *4 (D. Ariz. 2020) (quoting *Jennings v. Rodriguez*, 583 U.S. 281, 296 (2018); *Leonardo v. Crawford*, 646 F.3d 1157, 1160 (9th Cir. 2011); *Singh v. Holder*, 638 F.3d 1196, 1202 (9th Cir. 2011)) (internal quotation marks omitted).

56. In addition, Petitioners are not required to exhaust administrative remedies, as exhaustion in the habeas context is prudential, rather than jurisdictional. *See Laing v. Ashcroft*, 370 F.3d 994, 997 (9th Cir. 2004); *Hernandez v. Sessions*, 872 F.3d 976, 988 (9th Cir. 2017). Even prudential exhaustion is not required if "administrative remedies are inadequate or not efficacious, pursuit of administrative remedies would be a futile gesture, [or] irreparable injury will result." *Laing*, 370 F.3d at 1000; *see also Hernandez*, 872 F.3d at 988. In any event, where Petitioner's sister – who would be eligible to appeal a denial of her application under controlling regulations – has received no decision from ORR on their sponsorship applications, there is no administrative remedy available for Petitioners to pursue.

57. Here, the ORR Program holding Petitioner, MWC, has confirmed in Petitioner's case that her FRP has not been completed or submitted. Petitioner's case continues to await the scheduling of a DNA appointment after 6 months of detention.

58. Despite compliance to the best of M.P.S.M.'s ability with ORR's requirements, the ongoing delay – well beyond the *prompt* timeframe outlined in ORR's own guidance – has resulted in Petitioner and her sister being left in a state of limbo. Indeed, to date, Petitioner has been languishing in ORR custody for 6 months.

59. Without a final decision by ORR, Petitioner's sponsor, who would be eligible to pursue ORR's internal appeal process, is unable to seek agency review of any potential denial.

60. Requiring exhaustion would also cause Petitioner irreparable harm in the form of additional detention at MWC and continued separation from their readily available sponsor, her siblings. *See Cortez v. Sessions*, 318 F. Supp. 3d 1134, 1139 (N.D. Cal. 2018) (habeas petitioner "suffers potentially irreparable harm every day that [they] remain[] in custody without a hearing, which could ultimately result in [their] release from detention").

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

61. The TVPRA was designed to provide "special protections" for unaccompanied minors, in light of their status as a "particularly vulnerable group." *Saravia v. Sessions*, 280 F. Supp. 3d 1168, 1178 (N.D. Cal. 2017). Crucially, the TVPRA mandates release from ORR custody to an appropriate sponsor unless the federal government makes a finding that the minor is a danger to themselves or the community, or a flight risk. *See id.* at 1196.

62. Indeed, the "focus on care and placement – rather than on detention – is evident" from both the text of the TVPRA and the HSA. *Flores v. Sessions*, 862 F.3d at 876.

63. As demonstrated by the fact that Petitioner has been detained in ORR Programs with no security without absconding since her arrival into ORR custody, Petitioner evidently is not a flight risk. Moreover, there is no evidence indicating

Petitioner has ever engaged in conduct causing harm to herself or the community, clearly establishing she is not a danger to anyone.

64. Petitioner's continued detention despite the availability of her sister to assume her care is also clearly at odds with the TVPRA's mandate that ORR focus on care and placement. Respondents disregard their responsibility to Petitioner by allowing her to languish in unfamiliar facilities full of strangers for months on end, while failing to provide any reason why their sponsor's applications to assume their care have not been approved.

65. By failing to timely resolve her sponsor's applications to assume her care and custody, Respondents flout their mandate to protect Petitioner, instead allowing her to languish inside ORR facilities for months on end, without answers, and away from family and any semblance of a normal life.

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

66. Petitioner's detention, spanning six (6) months, violates her substantive due process rights. Substantive due process "forbids the government to infringe certain 'fundamental' liberty interests *at all*, no matter what process is provided, unless the infringement is narrowly tailored to serve a compelling state interest." *Reno v. Flores*, 507 U.S. 292, 302 (1993) (emphasis in original). In *Reno*, the Supreme Court held that where an unaccompanied child had no "parent, close relative, or legal guardian," keeping them in government custody to "promot[e] the welfare of the child" was "not punitive since it [was] not excessive in relation to that valid purpose." *Id.* at 303. By extension, where, as here, Petitioner *does* have a close

family member available to assume their care, continuing to detain her in government custody is needlessly punitive.

67. In this context, courts in this District have emphasized the well-established nature of the "substantive due process right to family integrity or to familial association." *Lucas R.*, 2018 WL 7200716, at *9 (quoting *Rosenbaum v. Washoe City*, 663 F.3d 1071, 1079 (9th Cir. 2011)); *Ms. L. v. U.S. Immigration and Customs Enforcem.*, 310 F. Supp. 3d 1133, 1148 (S.D. Cal. 2018), *modified sub nom, Ms. L. v. U.S. Immigr. & Customs Enf't,* 330 F.R.D. 284 (S.D. Cal. 2019) (finding the government needed to achieve its stated purpose "in a way that preserves the class members' constitutional rights to family association and integrity"). The court found that minors with Cat 2, close relative sponsors, "also have a Constitutional interest in associating with their family members… and possess a significant interest in the right to familial association." 2:18-cv-05741-DMG-PLA, Dkt. No. 376, at 37 (Order Re Cross-Motions for Summary Judgment [263, 271]) (March 11, 2022). (*Moore v. City of East Cleveland, Ohio*, 431 U.S. 494, Ours is by no means a tradition limited to respect for the bonds uniting the members of the nuclear family. The tradition of siblings, uncles, aunts, cousins, and especially grandparents sharing a household along with parents and children has roots equally venerable and equally deserving of constitutional recognition.

68. These principles apply with heightened force when, as here, a child remains separated from her sister after the death of her mother despite ORR's confirmation of her identity, relationship, and willingness to assume custody. By holding the child in detention while failing to move along the reunification process, Respondents burden both sides of this constitutionally protected close family member relationship.

69. In addition, a statute may create a substantive interest protected by the Due Process Clause by using "mandatory language" that imposes an obligation on government officials. *Lucas R.*, 2018 WL 7200716, at *9. Courts in this District have held that the TVPRA's mandatory language gives rise to such a substantive right in the unaccompanied children for whose benefit the statute was enacted. See e.g., Immigrant Defs. L. Ctr. v. U.S. Dep't of Homeland Sec., No. CV 21-0395 FMO (RAOX), 2025 WL 1191572, at *15 (C.D. Cal. Mar. 14, 2025) (finding "statutory entitlements [under the TVPRA] are constitutionally protected property interests"). Here, Petitioners again can individually establish that their substantive rights pursuant to the TVPRA are being violated by Respondents.

70. Petitioner C.S.M.'s detention of 6 months violates her substantive due process rights.

71. Here, C.S.M. can establish her substantive rights pursuant to the TVPRA are being violated by Respondents. To date, C.S.M. has been detained at MWC for 6 months. M.P.S.M.'s application to assume C.S.M.'s custody and care has been delayed by ORR for months, and M.P.S.M. has not been notified as to what additional information she must provide to ensure approval of her application.

72. Because of the strength of these liberty interests, C.S.M.'s continued detention is needlessly punitive, and infringes on her rights to family unity.

D. C.S.M.'s Continued Detention Violates Procedural Due Process Because She Has No Effective Means by Which to Challenge her Continued Detention and Separation from M.P.S.M.

73. All individuals in immigration detention have a protected liberty interest in their release, "*inherent* in the Due Process Clause." *R.D.T.M. v. Wofford*, 2025 WL 2617255, 1:25-cv-01141-KES-SKO (HC), at *4 (E.D. Cal. Sept. 9, 2025)

(quoting *Guillermo M.R. v. Kaiser*, 2025 WL 1983677, 25-cv-05436-RFL, at *4 (N.D. Cal. Jul. 17, 2025)) (emphasis in original). In addition, this Court has held that the substantive family unity interest described above may underlie a procedural due process claim. *Lucas R.*, 2018 WL 7200716, at *9.

74. Procedural due process claims are evaluated under the well-established standard in *Mathews v. Eldridge*, which requires a reviewing court to evaluate (1) the nature of the private interest affected; (2) the comparative risk of erroneous depravation 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. 424 U.S. 319, 335 (1976).

75. In the context of immigration detention writ large, the Ninth Circuit has found it "well-settled" that due process "requires adequate procedural protections to ensure the government's asserted justification for physical confinement outweighs the individual's constitutionally protected interest in avoiding physical restraint." *Hernandez*, 872 F.3d at 990 (internal citations and quotations omitted). Thereby, C.S.M.'s "constitutionally protected interest" in release from ORR should be considered with the utmost solemnity.

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

77. First, Petitioner has a strong private interest in their liberty, as well as a substantive interest in being reunified with, and ultimately raised by, her adult sister.

78. Second, Respondent has allowed Petitioner to remain stuck in ORR's custody for an extended period of time, without providing her with any sense of what additional information ORR might need in order to approve her application. Respondents have therefore erroneously deprived Petitioner of her due process rights, including by denying her sponsor the opportunity to appeal a potential denial of their FRP, given that no decision has ever been issued as to their sponsorship application.

79. Lastly, Respondents have not provided Petitioner's counsel with any countervailing reason why the sponsorship applications in question have not been approved, much less ruled on at all.

80. Accordingly, C.S.M. clearly has a cognizable claim for relief sounding in procedural due process under the *Mathews* test.

CLAIMS FOR RELIEF

COUNT ONE

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

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

82. An unaccompanied immigrant child in the custody of HHS "shall be *promptly* placed in the least restrictive setting that is in the best interest of the child." 8 U.S.C. § 1232(c)(2) (emphasis added). When a potential sponsor has been identified for an unaccompanied child, the HHS Secretary must make a "determination that the proposed custodian is capable of providing for the child's physical and mental well-being," by evaluating "the custodian's identity and

relationship to the child," as well as making "an independent finding that the individual has not engaged in any activity that would indicate a potential risk to the child."[9] 8 U.S.C. § 1232(c)(3)(A).

83. Here, Respondents have flouted their mandate to verify that Sponsor meets the requirements set forth in U.S.C. § 1232(c)(2) and (3)(A).

84. Despite no safety concerns regarding M.S.P.M., Petitioner C.S.M. faces continued detention at MWC with no DNA appointment from ORR for M.P.S.M. to submit and obtain final approval of an FRP.

85. Petitioner C.S.M.'s prolonged detention at MWC is thus a clear violation of the TVPRA's foundational requirement that unaccompanied children be "promptly placed in the least restrictive setting that is in the best interest of the child." U.S.C. § 1232(c)(2).

86. Respondents' failure to act promptly, and ORR's ongoing and prolonged detention of Petitioner C.S.M., bear no reasonable relation to any government purpose. Petitioner C.S.M. has committed no crime and is not a danger to anyone. Further, Petitioner M.P.S.M. has demonstrated that she is a capable and willing sponsor according to the requirements of the law.

87. Accordingly, Respondents' failure to release Petitioner C.S.M. into the custody and care of Petitioner M.P.S.M. violates the TVPRA.

COUNT TWO

Violation of Fifth Amendment: Substantive Due Process

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

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

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

90. Here, C.S.M.'s continued detention is untethered to any legitimate government interest because she is neither a flight risk nor a danger to the community, and she has an appropriate sponsor – her sister – available and eager to care for her outside of detention. C.S.M. is fourteen years old, has no criminal history here in the United States or anywhere in the world, and there is no evidence that she has engaged in any conduct causing harm to herself or others.

91. Further, both C.S.M. and M.P.S.M. have a substantive liberty interest in family integrity and, as a 14-year-old child separated from her family for 6 months, C.S.M. is suffering grave harm due to her continued detention by ORR.

92. Respondents' actions, as set forth above, have infringed upon C.S.M.'s substantive liberty interest to be free from detention and her liberty interest in family integrity.

93. Accordingly, Respondents' continued detention of C.S.M. violates her substantive due process rights.

COUNT THREE

Violation of the Fifth Amendment: Procedural Due Process

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

95. The Due Process Clause of the Fifth Amendment provides that the government shall not "deprive any person of life, liberty, or property without due process of law." U.S. CONST. AMEND. V.

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

97. Petitioner's interest in their liberty and in being reunited with her sister is unquestionably strong. *See Mathews*, 424 U.S. at 335.

98. Petitioner has been erroneously deprived of her liberty due to ORR's failure to timely adjudicate her sponsorship application, much less even provide her sponsor or counsel as to why their attempts to reunite remain at a standstill. This lack of any decision also prohibits Petitioner's sister from availing herself of ORR's own internal appeal process should their FRP theoretically be denied.

99. In contrast to Petitioner's robust interests in her liberty and family reunification, the government's interest in continuing to detain Petitioners, despite the availability of her sister to assume her custody and care, is minimal at best.

100. Accordingly, Respondents' failure to timely resolve M.P.S.M.'s sponsorship application for C.S.M. within the mandated time frame – or even provide M.P.S.M. with any guidance on what additional information would be necessary to obtain an approval – violates C.S.M.'s procedural due process rights.

PRAYER FOR RELIEF

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

(1) Assume jurisdiction over this matter;

(2) Issue a writ of habeas corpus compelling Respondents to immediately release Petitioner C.S.M. to Petitioner M.P.S.M.;

(3) Declare that Petitioner C.S.M.'s detention violates the Due Process Clause of the Fifth Amendment, 8 U.S.C. § 1232, and/or 45 C.F.R. § 410.1001 *et seq.*;

(4) Award Petitioners attorney's fees and costs under the Equal Access to Justice Act, 28 U.S.C. § 2412, and on any other basis justified under law; and

(5) Grant any further relief this Court deems just and proper.

Dated: March 11, 2026

Respectfully Submitted,
/s/ Stephanie Periban Palacios
Stephanie Periban Palacios

Attorney for Petitioner

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

I represent Petitioner, C.S.M, 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 11 day of March, 2026.

Dated: 03/11/2026

Respectfully Submitted,

/s/ Stephanie Periban Palacios
Stephanie Periban Palacios

Attorney for Petitioner