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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,

Petitioner,

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 of Children and Families; ANGIE SALAZAR, Acting Director of the Office of Refugee Resettlement; and ROBERT F. KENNEDY, Secretary of the U.S. Department of Health and Human Services,

Respondents.

Case No. 5:26-CV-01144

PETITIONER'S REPLY IN SUPPORT OF PETITION FOR WRIT OF HABEAS CORPUS

Honorable John W. Holcomb
United States District Judge

Magistrate Judge Angela C. Viramontes

INTRODUCTION

This case involves Respondents' violation of the rights of the most vulnerable among us—an unaccompanied minor child. Respondents unlawfully held Petitioner, a fourteen-year-old girl, in custody for 198 days despite the undisputed availability of her sister, a U.S. Citizen, as a sponsor ready and willing to care for Petitioner and the absence of any safety or flight-risk finding. Respondents released Petitioner from their custody *only* when they were compelled to do so by this Court.

This controversy remains live and relief available. Petitioner seeks declaratory relief for Respondents' violations of her rights under the Constitution and the TVPRA—relief that remains available and meaningful notwithstanding Petitioner's release.

Respondents Answer raises no defenses to their unlawful detention of Petitioner (nor could it), instead it argues because they complied with the Court-ordered release of Petitioner from their custody this case is now moot. The mootness doctrine does not operate that way, particularly where vulnerable children are concerned. Accepting Respondents' theory creates a troubling incentive structure: unlawful detention, delay compliance, act only when ordered, and then argue that judicial intervention erased the controversy. Respondents' attempt to treat court-compelled compliance as a jurisdictional escape hatch fails under settled law.

Respondents also fail to carry their heavy burden under the voluntary-cessation doctrine by relying on their litigation-driven release of Petitioner and mere assurances.

Importantly, Petitioner's injuries do not disappear upon release: she was unlawfully detained as a child for 198 days. Respondents' violation of her rights carries enduring consequences. Even more concerningly, the government's own asserted practices leave similarly situated children exposed to repetition while evading meaningful review.

Because this controversy remains live, the Court should reject Respondents' mootness argument and proceed to adjudicate the merits, including issuing declaratory relief.

STATEMENT OF FACTS

Petitioner C.S.M. is a 14-year-old child who arrived in the United States on September 2, 2025. ECF No. 2-1, Declaration of Stephanie Periban Palacios ("Periban Decl.") ¶4. She was designated by the Department of Homeland Security ("DHS") as an unaccompanied child[1] and transferred to the custody of Office of Refugee Resettlement ("ORR") the next day. *Id.* C.S.M. traveled here to be with her

[1] An "unaccompanied child" is a child with no lawful immigration status in the United States, who is under the age of eighteen, and who 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).

sister, M.P.S.M., because their mother was terminally ill, and M.P.S.M. is her only available relative to care for her. *Id.*

The day after C.S.M. arrived, M.P.S.M. immediately started ORR's sponsor vetting process on September 3, 2025. ECF No. 12-2, Declaration of M.P.S.M. ("M.P.S.M. Decl.") ¶3. M.P.S.M. identified herself as C.S.M.'s biological sister[2] and was willing and able to care for her sister's physical and mental well-being. *Id.* ¶4. M.P.S.M. promptly completed ORR's cumbersome and lengthy sponsor vetting process. *Id.* ¶5. That included:

- September 23, 2025 - M.P.S.M. completed the Authorization for Release of Information ("ARI") form and attended her fingerprint appointment. ECF No. 10-1, Declaration of Toby Biswas ("Biswas Decl.") ¶19.
- On September 30, 2025 - M.P.S.M.'s fingerprints cleared. *Id.*
- On October 14, 2025, the household members ("HHM") who reside with M.P.S.M. and the alternative care giver ("ACG") submitted their ARIs to ORR.[3] *Id.* ¶20.
- On October 15, 2025, M.P.S.M submitted her Sponsor Application.[4] *Id.* ¶21.

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[2] Respondents' Answer mistakenly claims M.P.S.M. represented herself as C.S.M.'s aunt. Answer at 6:27-28. This is not factually accurate. C.S.M. addressed this issue at the TRO hearing. ORR erroneously identified M.P.S.M. as C.S.M.'s aunt. *See* ECF No. 20. M.P.S.M. is the biological sister to C.S.M. and never identified herself as an aunt. Decl. Of M.P.S.M. ¶ 4.

[3] ORR requires all potential sponsors, household members (HHMs) age 18 and older, and alternate caregivers (ACGs) age 18 and older identified in the sponsor care plan or associated with a *Sponsor Application* to provide proof of SSN or ITIN *See* ORR Unaccompanied Alien Children Bureau Policy Guide("UAC Policy Guide") §2.2.4, *available at* https://acf.gov/orr/policy-guidance/unaccompanied-children-bureau-policy-guide.

[4] All potential sponsors must complete an application in order for a child to be released to them from ORR custody (the "Sponsor Application"). UAC Policy Guide §2.2.3.

- On October 16, 2025 – HHM attended his fingerprint appointment and same-day results "appear[ed] clear." *Id.* ¶22.
- On October 22, 2025 – the second HHM attended his fingerprint appointment and same-day results "appear[ed] clear." *Id.* ¶23.
- On October 30, 2025 – the final HHM attended his fingerprint appointment and next-day results "appear[ed] clear." *Id.* ¶24.

On November 6, 2025, M.P.S.M. completed her Family Reunification Packet[5] ("FRP") with ORR. M.P.S.M. Decl. ¶5. Absent "an unexpected delay," ORR is mandated to adjudicate applications by relatives, like M.P.S.M., within 14 calendar days. *See* 45 C.F.R. § 410.1205(b). ORR never adjudicated M.P.S.M.'s reunification packet.

Despite having concrete evidence that C.S.M. and M.P.S.M. are sisters,[6] ORR demanded DNA tests to confirm their familial relationship on November 6, 2025. Biswas Decl. ¶25; see ECF No. 12-1, Supplemental Declaration of Stephanie Periban Palacios ("Suppl. Periban Decl.") ¶3. But, ORR did not schedule the DNA tests.

[5]Now referred to as Sponsorship Application Packet (SAP), consists of the application and supporting documentation which must be completed by a potential sponsor who wishes to have an unaccompanied alien child released from ORR to their care. UAC Policy Guide §2.2.3.

[6] Respondents state that "M.P.S.M. initially identified herself as C.S.M.'s maternal aunt." Answer at 6:27-28. M.P.S.M. never held herself out as the aunt. *See* Decl. Of M.P.S.M. ¶ 4. ORR manufactured this inaccuracy to excuse C.S.M.'s prolonged detention. Moreover, ORR had concrete evidence of the sisters' familial relationship. ORR had the sisters' birth certificates confirming they have the same last name and share parents. ECF No. 20 at 6:16-21.

Between November 2025 and March 2026, M.P.S.M. repeatedly contacted the Division of Sponsor Vetting – Federal Field Specialist (DSV FFS) assigned to C.S.M.'s case to schedule the DNA tests[7] and reunify with her sister. M.P.S.M. Decl. ¶6.

On December 23, 2025, C.S.M., through her counsel, sent a demand letter to the ORR Acting Director demanding that C.S.M. be released to M.P.S.M. or that a final decision be issued noting the unscheduled DNA testing. Suppl. Periban Decl. ¶4. ORR never responded to the C.S.M.'s demand letter.

On March 1, 2026, while C.S.M. was still in ORR's custody, her mother died. M.P.S.M. Decl. ¶9. C.S.M. and M.S.P.M. were forced to mourn the loss of their mother separately. Suppl. Periban Decl. ¶19. On March 11, 2026, Petitioner's counsel filed a Habeas Petition and an *ex parte* application for a temporary restraining order for the immediate release of C.S.M. from ORR's custody. *See* ECF No. 1, Verified Petition for Writ of Habeas Corpus ("Pet."); ECF No. 2 Petitioner's *Ex Parte* Motion For Temporary Restraining Order ("Pet. TRO"). The next day, ORR scheduled M.P.S.M. for a DNA test and collected the sample on March 13, 2026.

[7] Counsel for Petitioner also attempted to help in scheduling the DNA tests. On March 5, 2026, Petitioner's counsel called and left a voicemail for DSV FFS Gast to renew the urgency of reunification for C.S.M. Suppl. Periban Decl. ¶8. On March 9, 2026, DSV FFS Gast informed petitioner's counsel that M.P.S.M. would be scheduled for a DNA test that day. Id ¶4, Biswas Decl. ¶29. On March 10, 2026, M.P.S.M. informed petitioner's counsel that she had not been contacted by ORR regarding the DNA test. Suppl. Periban Decl. ¶10.

M.P.S.M. Decl. ¶12., Biswas Decl. ¶31. A few days later, it collected C.S.M.'s DNA sample for testing. Biswas Decl. ¶32.

On March 19, 2026, DNA results confirmed that M.P.S.M. and C.S.M. are biological sisters. *See* ECF No. 19-2 Ex. B. At the TRO hearing held on March 20, 2026, Respondents claimed they needed more time to complete the DNA tests. ECF No. 20 at10:11- 11:7. After weighing the evidence, including testimony from C.S.M. and M.P.S.M., the Court granted the TRO finding likely success on the merits of C.S.M.'s due process claim and ordered she be released to her sister forthwith. ECF No. 14, TRO Minute Order. C.S.M. was released from ORR custody to M.P.S.M. later that same day.

At the time of this filing, C.S.M. remains in immigration proceedings. C.S.M.'s immigration proceedings were continued four times because ORR had not placed with a sponsor. ECF No. 20 at 21:3-7.

PROCEDURAL HISTORY

Petitioner, C.S.M., filed this habeas action on March 11, 2026.[8] *See generally* Pet. The Petition sought C.S.M.'s immediate release to M.P.S.M., declaratory relief that Respondents violated C.S.M.'s rights under the Due Process Clause of the Fifth Amendment and the Trafficking Victims Protection Act ("TVPRA"), attorneys fees,

[8] Respondents erroneously state "[…] C.S.M. thought [sic] her sister, filed a Habeas Petition." *See* Answer at 8:17. This is inaccurate. This Petition was filed by C.S.M., not her sister.

and any further relief the Court deemed proper. *Id.* C.S.M. concurrently filed an *ex parte* application for a temporary restraining order ("TRO") releasing C.S.M. from ORR custody. Pet. TRO.

On March 20, 2026, the Court granted the TRO, finding likely success on the merits. ECF No. 14, TRO Minute Order. The Court ordered that ORR "release C.S.M. into the custody of M.P.S.M. FORTHWITH". *Id.* The Parties filed a joint stipulation on March 26, 2026. ECF No. 17, Joint Stipulation and [Proposed] Order to Vacate Preliminary Injunction Hearing ("Joint Stipulation"). Through the joint stipulation, the parties agreed to vacate the preliminary injunction hearing. *Id.* And, C.S.M. expressly reserved her position that her release did not moot the habeas claims, request for attorneys' fees, and all rights, defenses, and arguments of both parties. *Id.* ¶¶ 4–6. The Court granted the joint stipulation and vacated the preliminary injunction hearing. ECF No. 18. Respondents filed an answer on April 29, 2026. ECF No. 23 ("Answer"). On April 30, 2026, the Court issued a scheduling order requiring Petitioner to file a Reply to Respondent's Answer no later than May 7, 2026. ECF No. 25.

LEGAL STANDARD[9]

Federal courts' power to adjudicate disputes extends only to "cases" and "controversies." U.S. Const. art. III, § 2. A case becomes moot—and therefore no longer a "case" or "controversy" for purposes of Article III—when the issues presented are no longer "live" or the parties lack a legally cognizable interest in the outcome. *Rosebrock v. Mathis*, 745 F.3d 963, 971 (9th Cir. 2014) (citing *Already, LLC v. Nike, Inc.*, 568 U.S. 85, 90 (2013)). "A defendant's voluntary cessation of allegedly unlawful conduct ordinarily does not suffice to moot a case." *Friends of the Earth, Inc. v. Laidlaw Env't Servs. (TOC), Inc.*, 120 S. Ct. 693, 700 (2000). The standard for determining whether a case has been mooted by the defendant's voluntary conduct is "stringent: A case might become moot if subsequent events make it absolutely clear that the allegedly wrongful behavior could not reasonably be expected to recur." *Id.* This requires the "defendant [to] demonstrate that 'there is no reasonable expectation that the wrong will be repeated." *United States v. W. T. Grant Co.*, 73 S. Ct. 894, 897(1953). This is a heavy burden. *Id.*

[9] The legal framework governing Petitioner's merits claims is set forth in the Petition (*see* Pet. at 9:13-14:19) and Respondents' Answer (2:3-6:10) and is incorporated herein by reference.

ARGUMENT

I. THIS CONTROVERSY REMAINS LIVE

Respondents' Answer provides no defense to their violation of C.S.M.'s rights. Instead, it raises a single jurisdictional argument: that this case became moot once the Court ordered C.S.M.'s release through a Temporary Restraining Order ("TRO"). Answer at 9:15-13:14. Respondents contend that because "the express and only relief pled" was release from ORR custody, and because reunification occurred "mere hours if not days after the TRO was issued," there is "no further relief the Court can provide." *Id.* at 1:18-23. Respondents are wrong.

A. This Court Can Still Grant Effectual Relief

Respondents' mootness argument rests on the premise that this case sought *only* release from custody and that the Court's issuance of a Temporary Restraining Order mooted all claims. Answer at 9:14-13:15. That premise is incorrect.

The Petition did not seek release alone. It challenged Respondents' violations of the Fifth Amendment and the TVPRA and expressly requested declaratory relief establishing that C.S.M.'s prolonged detention in ORR custody was unlawful. Pet. ¶ 9; *see also* Prayer for Relief ¶ 3. Petitioner also seeks attorneys' fees and further relief as appropriate. *Id.* The Court therefore retains the power to grant "effectual relief," and the controversy remains live.

The Supreme Court has long held that a case "becomes moot only when it is impossible for a court to grant any effectual relief whatever to the prevailing party". *Knox v. Serv. Emps. Int'l Union, Loc. 1000,* 567 U.S. 298, 307, (2012). And a case is not moot "as long as the parties have a concrete interest, however small, in the outcome of the litigation." *Id.* Even where the plaintiff's immediate injury has abated, courts may decide the legality of past conduct to define constitutional boundaries going forward. *Super Tire Eng'g Co. v. McCorkle*, 416 U.S. 115, 122–23 (1974). District courts in this Circuit routinely retain jurisdiction in immigration and detention cases where petitioners seek declaratory relief for completed statutory or constitutional violations. *Hoang Trinh v. Homan*, 333 F. Supp. 3d 984, 991 (C.D. Cal. 2018) (finding petitioners claims were not moot because he did "not seek release from detention alone . . . [he also sought] declaratory relief" and so, the court could still provide petitioner relief.)

Here, declaratory relief is not advisory. It resolves a concrete dispute about whether ORR violated federal law and the Constitution by holding C.S.M. in their custody for months without decision, findings, or justification. That question remains unanswered and squarely before the Court. Respondents assert that Petitioner's "procedural and substantive due process claims and the statutory claim in the Petition have been resolved by the Court's TRO and by ORR's completion of

the sponsorship application process." Answer at 10:20-22. That assertion conflates compliance with the Court's temporary order with adjudication on the merits. A TRO ordering release does not determine whether Respondents violated governing law. Declaratory relief is designed to resolve precisely that question.

i. THE COURT SHOULD DECLARE RESPONDENTS VIOLATED C.S.M.'S DUE PROCESS RIGHTS

The Petition alleges—and Respondents do not dispute—that C.S.M. remained in ORR custody for approximately six months despite the availability of her adult sister as a sponsor and without any formal denial, findings of danger, or determination of flight risk. Petition ¶¶ 2–5, 61–64; Answer at 6:12-8:15. During that time, the agency repeatedly represented that the case remained "pending DNA testing" of the sisters without explaining the delay or issuing a decision. Petition ¶¶ 3, 28; Answer at 7:20-7:26.

The timeline of ORR action shows the DNA testing requirement was mere pretext to hold C.S.M. in prolonged custody. Beginning November 6, 2025, the DNA tests were pending allegedly to confirm M.P.S.M. and C.S.M. are sisters, but ORR never scheduled the tests. M.P.S.M. Decl. ¶6. Eager to reunify with her young sister, M.P.S.M. contacted ORR multiple times to schedule the DNA tests. *Id.* ORR still did not schedule the tests. In December 2025, Petitioner sought relief through a demand letter to ORR requesting her release or to resolve the application noting the

DNA tests. Suppl. Periban Decl. ¶4. ORR never responded. M.P.S.M. and counsel for C.S.M. continued to contact ORR to schedule the tests. *See Generally* Suppl. Periban Decl. and M.P.S.M. Decl.

Three months later, C.S.M. and M.P.S.M.'s mother died. M.P.S.M. Decl. ¶9. Grieving and languishing alone in ORR custody, C.S.M. sought judicial relief by filing her petition and *ex parte* TRO on March 11, 2026. Pet.; Pet. TRO. ORR scheduled the DNA tests the next day. M.P.S.M. Decl. ¶12., Biswas Decl. ¶31. It collected M.P.S.M.'s DNA sample two days after she filed this action, and C.S.M.'s DNA three days after that. *Id.*, Biswas Decl. ¶32. ORR had the DNA test results confirming M.P.S.M. and C.S.M. are sisters on March 19, 2026. *See* ECF No. 19-2 Ex. B. Still, at the TRO hearing on March 20, 2026, Respondents asked this Court for more time to receive the DNA test results. ECF No. 20 at 10:11- 11:7. At the hearing, the Court found likely success on the merits of C.S.M.'s due process violation claims and granted her immediate release. ECF No. 14.

The Due Process Clause protects a child's "freedom from imprisonment" and her interest in family integrity. *See Zadvydas v. Davis*, 533 U.S. 678, 690 (2001); *Lucas R. v. Azar*, No. CV 2018 WL 7200716, at *9 (C.D. Cal. Dec. 27, 2018); *see also* Pet. ¶¶ 53, 66–68. Where, as here, the government detains a child despite the availability of a qualified sponsor and without providing a meaningful process to

challenge that detention, both substantive and procedural due process are implicated. *Id.* ¶¶ 73–80.

Respondents do not—and cannot—contend that they made any constitutionally required determination justifying C.S.M.'s continued detention. Instead, they argue only that those claims are now moot. Answer at 9:23. But, release pursuant to court order does not retroactively cure months of unconstitutional detention without process. A declaratory judgment is necessary to determine whether Respondents' actions complied with the Fifth Amendment. They did not.

That determination remains live and necessary. Without it, Respondents' position would permit prolonged detention of children without decision, followed by release only after judicial intervention—without ever resolving whether the Constitution was violated. Article III does not require that result.

ii. THIS COURT SHOULD DECLARE RESPONDENTS VIOLATED C.S.M.'S RIGHTS UNDER THE TVPRA

The Petition further alleges that Respondents violated the TVPRA's core mandate 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)(2); *see also* Petition ¶¶ 82–85. Congress did not leave that "prompt placement" requirement undefined. The TVPRA directs ORR to implement procedures ensuring timely release to qualified sponsors (*see* 8 U.S.C. § 1232(c)(2)) and ORR has since codified

those requirements as the Foundational Rule governing the care and release of unaccompanied children. *See* 45 C.F.R. Part 410. Under that framework, ORR must adjudicate a completed family reunification packet for a close relative within **14 days**, absent an "unexpected delay." 45 C.F.R. § 410.1205(b); *see also* Petition ¶¶ 50–52. Furthermore, ORR must conduct supervisory review of *any* pending application within **90 days** of a child entering custody to ensure that any outstanding issues are identified and resolved. 45 C.F.R. § 410.1207(a). Together, the statute and its implementing regulations provide a concrete timing framework—not an open-ended standard—for what "prompt" placement requires.

Here, Petitioner's sister—an adult United States citizen—timely came forward to care for her sister as a sponsor. M.P.S.M. Decl. ¶4. M.P.S.M. completed her sponsor application on October 10, 2025. Petition ¶¶ 2–3. She submitted her completed family reunification packet on November 6, 2025. M.P.S.M. Decl. ¶5. Despite the 14-day mandate to adjudicate her packet, ORR allowed it to languish for months without decision, repeatedly citing pending DNA testing while failing to schedule or complete that requirement. Suppl. Periban Decl. ¶3; see also Petition ¶¶ 3, 28, 50. During that time, Petitioner remained detained despite no finding that she was a danger or flight risk. Petition ¶¶ 63–64. Even after receiving the DNA results, ORR did not release C.S.M. to her sister. *See* ECF No. 19-2 Ex. B. It was only after

this Court issued the TRO requiring release, that Respondents finally released C.S.M. to M.P.S.M. ECF No. 14.

It is clear ORR exceeded the regulatory timelines governing prompt release of C.S.M. many times over, and the record reflects no "unexpected delay" that would justify such a departure from ORR's own rules. Respondents themselves acknowledge they did not make determination on M.P.S.M.'s family reunification packet. Answer at 10:18-25. Release only occurred after the Court issued its TRO, further underscoring that no timely adjudication occurred. ECF No. 14.

Respondents do not contend that this timeline complied with the TVPRA's prompt-placement requirement or with ORR's own regulatory deadlines. Instead, they argue the claim is now moot because reunification has occurred. Answer at 10:18–25. But the question whether Respondents adhered to Congress's mandate of prompt placement is a completed legal question—one that is unaffected by subsequent compliance.

Declaratory relief would resolve whether ORR's months-long delay in determining M.P.S.M.'s family reunification packet without decision or explanation, while holding C.S.M. in their custody, violated the TVPRA. Moreover, that determination would clarify the agency's legal obligations going forward and

provide guidance necessary to ensure that similarly situated children are not subjected to the same prolonged and unexplained detention.

iii. ATTORNEYS' FEES REMAIN AT ISSUE

Respondents ignore Petitioner's request for attorneys' fees under the Equal Access to Justice Act (EAJA). But the availability of fees confirms—not defeats—jurisdiction. Where the Court can still grant effectual relief, a case is not moot. *Church of Scientology,* 506 U.S. at 12. Determining whether Petitioner is a prevailing party for purposes of attorneys' fees requires a resolution of the merits, which remains live here. *See Carbonell v. INS*, 429 F.3d 894, 901–03 (9th Cir. 2005). Because Petitioner seeks relief beyond release—including declaratory relief and attorneys' fees—the Court can still grant effective relief, and the case is not moot.

B. The Court's Issuance Of The TRO Does Not Extinguish Jurisdiction

Respondents' argue that the Court's issuance of the TRO ordering Petitioner's release extinguished jurisdiction. Answer at 9:14-13:14. That argument fails.

A TRO is, by definition, *temporary*. It preserves the status quo to prevent ongoing, irreparable harm while the merits remain unresolved. A TRO does not adjudicate the lawfulness of the challenged conduct, resolve claims for declaratory relief, or terminate jurisdiction. The Supreme Court has made clear that Article III jurisdiction persists so long as the Court can grant "any effectual relief whatever,"

even where interim compliance has occurred. *Church of Scientology*, 506 U.S. at 12–13.

The Supreme Court emphasized that release pursuant to temporary judicial relief does not extinguish jurisdiction where the claims remain unresolved. *Nielsen v. Preap*, 586 U.S. 392, 403 (2019). The Ninth Circuit applies the same principle in detention cases. Court-compelled compliance with a TRO does not moot a case where the legality of that detention remains unresolved. *See W.T. Grant Co.*, 345 U.S. at 632–33 (cessation does not moot absent clear showing conduct will not recur); *Laidlaw*, 528 U.S. at 189 (same); *Rosemere Neighborhood Ass'n v. EPA*, e, 581 F.3d at 1173–75 (same).

Respondents' own litigation conduct confirms the limited nature of the TRO. After C.S.M.'s Court-ordered release, the parties did not stipulate to dismissal. Instead, the parties jointly stipulated to vacate the scheduled preliminary injunction hearing. Joint Stipulation ¶ 3. The stipulation expressly preserved Petitioner's position that her release did not moot her claims, her right to seek attorneys' fees, and preserved all rights, defenses, and arguments of both parties. *Id.* ¶¶ 4–6. Respondents cannot now recast that procedural agreement as a concession that the TRO resolved the merits (it did not). To the contrary, the Joint Stipulation reflects a

shared understanding that the TRO addressed immediate custody—not the legality of past conduct.

Respondents' cite no cases that support finding mootness here. Answer at 12:11–13:6. The cases cited involve materially different circumstances, or no record of court-compelled release combined with remaining claims for declaratory relief. *Ghebreslassie v. Janecka*, No. 5:25-cv-03447-JWH-DTB, (C.D. Cal. Jan. 22, 2026) (dismissing case after failure to timely respond to an OSC based on petitioner's lack of a "legally cognizable interest in the outcome"); *Hezardastan v. Noem*, No. 5:25-cv-03424-AB-DTB, Dkt. No. 13, at *1 (C.D. Cal. Jan. 6, 2026) (dismissing case as moot pursuant to parties' stipulation without further explanation); *Woldegabriel v. Noem*, No. 5:25-cv-03369-ODW-PVC, Dkt. No. 11, at *2 (C.D. Cal. Dec. 29, 2025) (stating court took "no immediate position" on whether release rendered habeas petition moot); *Hashemi v. Noem*, No. 2:25-cv-10335-HDV-SP, Dkt. No. 19, at *8–12 (C.D. Cal. Jan. 7, 2026) (noting respondents expressly confirmed petitioner would not be redetained absent due process and compliance with INA regulations); *Trujillo v. Janecka*, No. 5:25-cv-03002-FMO-SSC, Dkt. No. 17, at *1–2 (C.D. Cal. Jan. 12, 2026) (finding case was moot based on "speculative" and "hypothetical" risk of repetition); *Petrosyan v. Bondi*, No. 5:25-cv-03240, Dkt. No. 11, at *4 (C.D. Cal. Dec. 31, 2025) (declining preliminary injunction for failure to show likelihood

of harm while concluding release did not moot habeas petition); *J.E.C.M. by & through Saravia v. Lloyd*, 352 F. Supp. 3d 559, 576–77 (E.D. Va. 2018) (finding claims moot after voluntary release where plaintiffs "received the relief they were seeking" and had "not stated claims for retrospective relief that could preserve their claims even after release.")

Courts addressing cases in this posture have repeatedly rejected Respondents' position. Where release results from a TRO, courts hold that the case is not moot because a TRO is inherently temporary, does not resolve the merits, and does not eliminate the underlying dispute. See, e.g., *Ortiz Martinez v. Wamsley*, 2025 WL 2899116, at *3 (finding under "Supreme Court and Ninth Circuit precedent, temporary relief, up to and including a petitioner's release, does not render a case moot"); *Cruz v. Lyons*, 2025 WL 3443146, at *2 (same); *Carlos v. Noem*, 2025 WL 2998184, at *4 (same); *Marin v. Noem*, 2025 WL 3152261, at *2 (same). Treating compliance with a TRO as mooting a habeas petition would collapse the distinction between preliminary relief and final judgment—and would insulate unlawful detention from judicial review. Article III does not require that result.

II. RESPONDENTS CANNOT CARRY THEIR HEAVY BURDEN UNDER THE VOLUNTARY-CESSATION DOCTRINE

A defendant's voluntary cessation of a challenged practice does not deprive a federal court of its power to determine the legality of the practice." *City of Mesquite v. Aladdin's Castle, Inc.*, 455 U.S. 283, 289 (1982). For this exception to apply a defendant must show it is "absolutely clear that the allegedly wrongful behavior could not reasonably be expected to recur." *Friends of the Earth, Inc.*, 528 U.S. at 189. That burden is "formidable," and rests squarely on the party asserting mootness. *Id.*; see also *United States v. W. T. Grant Co.*, 73 S. Ct. 894, 897(1953). Respondents fail to meet their heavy burden for two independent reasons.

A. Respondents' Release of C.S.M. from ORR Custody Was Court-Compelled—Not Voluntary

Respondents did not voluntarily stop the challenged conduct. They released C.S.M. only after this Court found a likelihood of success on the merits and ordered her immediate release. ECF No. 14. That ends the voluntary-cessation inquiry. Compliance compelled by judicial order is not voluntary cessation. *United States v. W.T. Grant Co.*, 345 U.S. at 632–33. The Ninth Circuit has repeatedly held that cessation of challenged conduct during litigation does not extinguish jurisdiction. *See Fikre v. FBI*, 904 F.3d 1033, 1037–38 (9th Cir. 2018); *cf. J.E.C.M. by & through Saravia v. Lloyd*, 352 F. Supp. 3d 559, 577 (E.D. Va. 2018) (finding mootness where

plaintiffs' release was voluntary and plaintiffs' recurrence theory was "underdeveloped" and speculative).

Respondents' theory would invert the voluntary-cessation doctrine: detain a child unlawfully, delay for months without decision, comply only when ordered, and then argue the Court's intervention erased the case. *See City of Mesquite,* 455 U.S. at 289(reasoning a defendant "cannot automatically moot a case simply by ending its unlawful conduct once sued," otherwise, a defendant could "engage in unlawful conduct, halt it to avoid judicial review, and then resume the same conduct after the case is dismissed."). The mootness doctrine does not operate that way even when considering release from custody. *See Ms. L. v. U.S. Immigration & Customs Enforcement*, 302 F. Supp. 3d 1149, 1156 (S.D. Cal. 2018) (citing *City of Mesquite*, 455 U.S. at 289)(holding that reunification achieved after litigation commenced did not satisfy defendant's burden that "the challenged conduct cannot be reasonably expected to start up again.") Courts exist to determine whether the law was followed—not merely whether compliance eventually occurred. Because Respondents altered their conduct only after judicial intervention, they cannot satisfy their burden under voluntary cessation.

B. Respondents Retain Authority to Repeat This Conduct—and Have Done So

Even if Respondents' conduct were considered voluntary, mootness fails for a second reason: Respondents have not shown that recurrence is impossible. To the contrary, both law and practice confirm that the same conduct can happen again—to this child or others.

i. RESPONDENTS RETAIN AUTHORITY TO RE-DETAIN CHILDREN AND TO RE-VETT SPONSORS

Respondents argue that voluntary cessation applies because ORR "does not have the authority" to reassume custody and has "no intention, presently or in the future," to do so. Answer at 10:15-17 (citing Biswas Decl. ¶ 5). Respondents are incorrect as a matter of law.

Under the Homeland Security Act and the TVPRA, the federal government retains ongoing authority over unaccompanied children while their immigration proceedings remain pending, including authority to take them back into custody and place them with ORR. 6 U.S.C. § 279(a), (b)(1); 8 U.S.C. § 1232(b)(3), (c). The TVPRA expressly contemplates that children may cycle through custody, transfer, and placement decisions while proceedings are ongoing. *Id.* The Ninth Circuit has recognized this reality. See *Saravia v. Sessions*, 905 F.3d 1137, 1145–48 (9th Cir. 2018) (holding the court did not abuse its discretion in finding ORR procedures

inadequate to protect noncitizen minors who had been released to parent or sponsor from being erroneously taken away from their sponsors after they were rearrested and placed in detention pending removal).

Here, C.S.M. remains in ongoing immigration proceedings and continues to be designated an unaccompanied child ("UC"). As a result, she remains subject to the federal statutory scheme governing the care and custody of UCs, including Respondents' authority over placement, transfer, and custody determinations while those proceedings are pending. Respondents' representation of their present "intent" does not eliminate that legal authority.

ii. RESPONDENTS HAVE EXERCISED THEIR AUTHORITY TO RE-DETAIN CHILDREN AND RE-VET SPONSORS

C.S.M.'s risk of returning to languish in ORR custody is not hypothetical. Courts are currently confronting the very practice at issue here.

In *M.A. v. Molina*, the court ordered ORR to release petitioner, an unaccompanied minor child, to his mother based on violations of his due process rights. No. 4:26-cv-00415, 2026 WL 741623 (N.D. Ohio Mar. 17, 2026). M.A. was first released from ORR custody after his mother was vetted and approved as a sponsor. *Id.* M.A. was later arrested by DHS, returned to ORR custody, and detained for eight months while the government reassessed the *same* sponsor's suitability. *Id.*

The court ordered M.A.'s release because ORR re-detained him for months while delaying adjudication of his mother's sponsor application—even though she had previously been approved and had again satisfied ORR's requirements—thereby violating procedural due process through prolonged, unexplained delay. *Id.*; *see also Saravia v. Sessions*, 905 F.3d 1137, 1145–48 (9th Cir. 2018) (upholding district court findings where children released to sponsors were later re-arrested and returned to restrictive custody, requiring new process before continued detention could occur.).

This case illustrates the practical reality underlying Respondents' asserted "lack of authority." Even after a child is released to a qualified family member, the government retains and exercises authority to: re-detain the child through DHS; re-refer the child to ORR custody; subject the same sponsor to renewed adjudication; and delay reunification even when that same sponsor satisfies ORR's requirements.

Nothing in Respondents' Answer disavows this practice. Nothing in the record establishes that C.S.M.—who remains in immigration proceedings as a UC—could not again be taken into custody and placed into the same procedural limbo she experienced here. Because Respondents retain both the legal authority and the demonstrated practice of re-detaining children and re-adjudicating previously approved sponsors they cannot make the required showing that recurrence is impossible. Therefore, their voluntary cessation argument fails.

III. RESPONDENTS' CONDUCT IS CAPABLE OF REPETITION YET EVADES REVIEW

A case is not moot where "(1) the challenged action is in its duration too short to be fully litigated prior to cessation or expiration, and (2) there is a reasonable expectation that the same complaining party will be subjected to the same action again." *Spencer v. Kemna*, 523 U.S. 1, 17 (1998). This exception applies with particular force where the government's conduct predictably ceases only after litigation begins, preventing judicial review while leaving the underlying practice intact.

This case fits squarely within this mootness exception. The challenged conduct—prolonged detention of a child without decision while a sponsor application remains pending—is inherently time-limited in a way that makes full judicial review difficult before the government acts to moot the case through release. At the same time, as discussed above, Respondents retain both the authority and demonstrated practice of re-detaining children and re-adjudicating sponsor determinations while immigration proceedings remain ongoing.

For months, a fourteen-year-old child remained in government custody while her sister did everything the law requires to reunite with her. M.P.S.M. Decl. ¶3-5. No denial issued. No findings were made. No explanation was given. Release

occurred only after emergency judicial intervention. ECF No. 14. Without review, the same sequence can—and has—recurred. Article III does not require courts to ignore disputes that are predictably short-lived in form but recurring in substance.

IV. COLLATERAL CONSEQUENCES PRESERVE A LIVE CONTROVERSY

Court-ordered release of C.S.M. does not erase the completed constitutional injuries inflicted by Respondents' conduct nor does it moot this case. A habeas petition remains live where "collateral consequence[s]" of unlawful detention persists after release and is redressable by the Court. *Abdala v. INS*, 488 F.3d 1061, 1064 (9th Cir. 2007). Those consequences must be actual or imminent, not conjectural or hypothetical. *Id.* Prolonged civil detention—particularly of a child—inflicts completed injuries to liberty and family integrity interests that survive release.

That is precisely what occurred here. C.S.M. was detained in ORR custody for nearly 200 days at the young age of fourteen-year-old despite the efforts of her sister, a qualified U.S.-citizen, to become her sponsor without any formal finding justifying continued detention. M.P.S.M. Decl. ¶¶1-5. For over six months, Respondents' inaction did not merely delay reunification—it fractured it. While ORR delayed reunification for months without explanation, C.S.M.'s mother died

while she was still in custody. M.P.S.M. Decl. ¶9. During one of the most consequential periods of her life, C.S.M. was unlawfully held apart from her sister M.P.S.M., instead of grieving their loss together as a family. Suppl. Periban Decl. ¶19. Those injuries are concrete, completed, and not remedied by release alone.

C.S.M.'s prolonged detention in ORR custody also constitutes a grave deprivation of liberty with enduring consequences. Freedom from physical restraint is the core protection of the Due Process Clause, and its violation is most acute when imposed on a minor without justification or process. Months of confinement during adolescence disrupts development, education, and emotional stability, while undermining the child's ability to participate in her own case. Confinement here was compounded by loss: while still detained, C.S.M.'s mother died. Government custody prevented shared grief, support from family, and any semblance of stability at a moment of profound vulnerability. Release does not repair that harm. The injury flows directly from unlawful detention and remains redressable through declaratory relief.

Moreover, C.S.M.'s time in detention weakened her ability to mount her defense in her immigration removal proceedings. C.S.M.'s counsel has contributed significant time to securing her reunification with her sister. This cost significant

legal resources and time. C.S.M. has been forced to continue her immigration case multiple times while pursuing reunification. ECF No. 20 at 21:3-7. This creates a clear legal consequence flowing from her unlawful detention. Because the challenged injuries and collateral consequences remain ongoing and redressable, this case is not moot.

CONCLUSION

This case is not moot. Respondents' mootness argument fails because Petitioner seeks declaratory relief for completed constitutional and statutory violations, and Respondents offer no substantive defense to that conduct. Nor do they meet the burden for any exception to mootness. Their Answer confirms the case is ready for adjudication. This Court should reject Respondents' mootness argument and proceed to adjudicate the Petition, including issuing declaratory relief and any other relief it deems proper.

Dated: May 7, 2026

Respectfully Submitted,

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WORD COUNT CERTIFICATION

The undersigned, counsel of record for Petitioners certifies that this brief contains 6,177 words, which complies with the word limit of L.R. 11-6.1.