UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

EASTERN DIVISION

C.S.M.,

Petitioner,

v.

RUBY HERNANDEZ, *et al.*,

Respondents.

Case No. 5:26-cv-01144-JWH-ACCV

REPORT AND RECOMMENDATION OF UNITED STATES MAGISTRATE JUDGE

This Report and Recommendation is submitted to the Honorable John W. Holcomb, United States District Judge, pursuant to 28 U.S.C. § 636 and General Order 05-07 of the United States District Court for the Central District of California. For the reasons set forth below, the Court recommends that Petitioner's request for habeas relief in the Petition be granted.

I. FACTS AND PROCEDURAL HISTORY

Petitioner C.S.M. ("Petitioner"), by and through M.P.S.M. as next friend of minor, filed a Petition for Writ of Habeas Corpus ("Petition") on March 11, 2026, against Ruby Hernandez, Niky Hymel, Alex J. Adams, Angie Salazar, and Robert F. Kennedy, Jr. (Dkt. No. 1, Pet.) Petitioner was in the custody of the Office of Refugee Resettlement ("ORR"). (Dkt. No. 1, Pet. at 2.)

In this habeas action, Petitioner claims that her prolonged detention violated the Trafficking Victims Protection Reauthorization Act ("TVPRA"), 8 U.S.C. § 1232, and the Fifth Amendment's substantive and procedural due process protections. (*Id.* at 21-24.)

Petitioner, a 14-year-old girl, entered the United States on September 2, 2025, and was designated an unaccompanied child by the Department of Homeland Security ("DHS") upon her arrival. (*Id.* at 6.) The following day, Petitioner was placed in ORR custody and transferred to Marsell Wellness Center[1] in Riverside, California. (*Id.*)

The same day as the Petition, Petitioner filed an Ex Parte Application for Temporary Restraining Order ("Application"). (Dkt. No. 2.) The Court granted Petitioner's Application at a hearing held on March 20, 2026. (Dkt. Nos. 14, Ord. Grant. App. at 1; 20, Hearing Transcript at 30-33.) Respondents released Petitioner to her sister and sponsor M.P.S.M. later that day. (Dkt. No. 16, Status Rep. at 2.)

Respondents filed their Answer to the Petition on April 29, 2026. (Dkt. No. 23, Answer.) Petitioner filed her Traverse on May 7, 2026. (Dkt. No. 26, Traverse.) In their Answer, and a separate Response filed on April 29, 2026 ("Response"), Respondents assert that the Petition should be dismissed as moot. (Dkt. Nos. 23, Answer at 9-11; 24, Resp. at 2.) The Court addresses Respondents' suggestion of mootness as well as the Petition below.

II. DISCUSSION

The Court finds that this case is not moot. While Petitioner was released from custody pursuant to the District Court's order granting Petitioner's

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[1] According to Respondents, Marsell Wellness Center-Riverside is an "ORR Transitional Foster Care provider in Fullerton, California." (Dkt. No. 23, Answer at 1.)

Application, that relief is by definition temporary and provides no lasting protection against re-detention. Because Petitioner may remain subject to immigration proceedings, she maintains a concrete interest in further habeas relief. Accordingly, it is recommended that the District Court grant the Petition and prevent Respondents from re-detaining Petitioner again in the future without following the requisite procedures.

As for her Petition, Petitioner argues that her detention violates the TVPRA and the Fifth Amendment's due process protections. (Dkt. No. 1, Pet. at 14-24.) Consistent with recent decisions by this District and others, the Court finds that Petitioner's due process rights were violated. It is therefore recommended that the District Judge grant the Petition.

A. This Case is not Moot.

Petitioner was released from custody on March 20, 2026, pursuant to the District Court's grant of the Application. (Dkt. No. 19, Status Report at 1.) Respondents assert that the Petition is moot. (Dkt. No. 23, Answer at 10.)

Courts in this District have reached differing conclusions on whether a petitioner's release from custody pursuant to a TRO or preliminary injunction moots the habeas petition, with the majority finding that preliminary relief does not moot the petition. *Compare Hernandez Trujillo v. Janecka*, No. 25-cv-3002 FMO-SSC, 2026 WL 84314, at *1 (C.D. Cal. Jan. 12, 2026) (finding case moot due to petitioner's release) *with Cruz v. Lyons*, No. 5:25-CV-02879-MCS-MBK, 2025 WL 3443146, at *2 (C.D. Cal. Dec. 1, 2025) (finding case is not moot); *M.V.F. v. Santacruz*, No. 2:25-cv-11700-MEMF-E, 2026 WL 127740, at *3-4 (C.D. Cal. Jan. 6, 2026) (same, and collecting cases). As this Court has previously found, the Court believes that the majority position best adheres to mootness principles and governing law. *See Y.L.S. v. Santacruz, Jr., et al.*, No. 5:25-cv-02927-CV-MBK, 2026 WL 734586, at *3 (C.D. Cal. Feb. 5, 2026), *adopted*, 2026 WL 710388 (C.D. Cal. Mar. 13, 2026).

"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." *Already, LLC v. Nike, Inc.*, 568 U.S. 85, 91, 133 S. Ct. 721, 184 L. Ed. 2d 553 (2013) (cleaned up). However, "[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.*, 528 U.S. 167, 174, 120 S. Ct. 693, 145 L. Ed. 2d 610 (2000). "Otherwise, a defendant could engage in unlawful conduct, stop when sued to have the case declared moot, then pick up where he left off, repeating this cycle until he achieves all his unlawful ends." *Already, LLC*, 568 U.S. at 91. "Given this concern, our cases have explained that 'a defendant claiming that its voluntary compliance moots a case bears the formidable burden of showing that it is absolutely clear the allegedly wrongful behavior could not reasonably be expected to recur.'" *Id.* (quoting *Friends of the Earth, Inc.*, 528 U.S. at 190).

Both the Supreme Court and Ninth Circuit have found habeas petitioners' claims remain live even after their court-ordered release. *See Nielsen v. Preap*, 586 U.S. 392, 403, 139 S. Ct. 954, 203 L. Ed. 2d 333 (2019) ("[u]nless that preliminary injunction was made permanent and was not disturbed on appeal, these individuals faced the threat of re-arrest and mandatory detention."); *Clark v. Martinez*, 543 U.S. 371, 376 n.3, 125 S. Ct. 716, 160 L. Ed. 2d 734 (2005) (holding that the petitioner's release "on a 1–year parole" did not moot his detention claims because his release was "not only limited to one year, but [also] subject to the Secretary's discretionary authority to terminate"); *Rodriguez v. Hayes*, 591 F.3d 1105, 1117 (9th Cir. 2010) (holding that the petitioner's release on an order of supervision did not moot his detention claims because he was subject to ICE's discretionary authority to revoke his release) (citing *Clark*, 543 U.S. at 376 n.3); *Rodriguez Diaz v. Garland*, 53 F.4th 1189, 1195 n.2 (9th Cir. 2022) (holding that

the "government's compliance with the district court's order" granting a habeas petition and requiring release of a petitioner "does not moot its appeal").

Here, Respondents have ceased their allegedly unlawful conduct and released Petitioner, not of their own accord, but because the District Court ordered it. But the District Court's temporary restraining order, by definition, affords no permanent relief. If this case is dismissed as moot without further relief, Respondents will no longer be prohibited from re-detaining Petitioner without compliance with due process requirements.

Respondents assert that "ORR does not have the authority to reassume custody of C.S.M. and ORR has no intention, presently or in the future, to reassume custody of her from her family." (Dkt. No. 23, Answer at 10 (emphasis in original).) Such assertions are not a guarantee that Petitioner will not be re-detained. As Petitioner points out, C.S.M. remains subject to ongoing immigration proceedings. (Dkt. No. 26, Traverse at 23.) Notably, "HHS has exclusive authority over the care, custody, and placement of UACs. 8 U.S.C. § 1232(b)(1). Indeed, any other agency holding a UAC must transfer the UAC to HHS custody within seventy-two hours of learning the alien is a UAC." *S.R. v. Al Cannon*, No. 2:19-CV-482-DCN-MGB, 2019 WL 13262645, at *1 (D.S.C. Apr. 19, 2019) (citing 8 U.S.C. § 1232(b)(3)); *see also J.E.C.M. ex rel. Saravia v. Lloyd*, 352 F. Supp. 3d 559, 571-74 (E.D. Va. 2018) (outlining the network of statutes, policy documents, inter-agency agreements, and other legal authorities developed specifically for the treatment of UACs). Given that Petitioner is subject to ongoing immigration proceedings, the potential for Petitioner's re-detention exists.

As Petitioner points out, ORR can and has reassumed custody of a UAC after he had been released to his mother. *See M.A. v. Molina*, No. 4:26-CV-00415, 2026 WL 741623 (N.D. Ohio Mar. 17, 2026). Respondents appear to acknowledge that re-detention could occur like in *M.A. v. Molina* when they state that "even if the Court could assume that the Department of Homeland Security could re-detain

C.S.M. as UAC, and then transfer her back to ORR custody, ORR will perform a *de novo* consideration of whether the minor should be released." (Dkt. No. 23, Answer at 11.) While Respondents may be correct that they would take *de novo* review, the mootness doctrine does not turn on whether the government would approach any re-detention of Petitioner as a *de novo* review.

Under these circumstances, it is not absolutely clear that Respondents' unlawful conduct will not recur. Accordingly, for the reasons discussed above, it is recommended that the District Court find that Petitioner's claims are not moot.

B. Petitioner's Detention Violates Due Process.

The Court begins with Petitioner's procedural due process claim. For the reasons that follow, the Court concludes that Petitioner's detention violates due process and thus recommends that the District Judge enter an order granting the Petition and order that she not be re-detained without ensuring compliance with her due process rights and federal regulations.

Petitioner argues that Respondents violated her procedural due process rights when she was detained for over six months while a sponsor application was pending. (Dkt. No. 1, Pet. at 19-21, 23-24.) In their response, Respondents assert that C.S.M.'s release following this Court's order moots the Petition. (Dkt. No. 23, Answer at 9-13.) As a part of that argument, Respondents argue that the voluntary cessation doctrine should apply to the Court's review of the Petition. (*Id.* at 11-12.)

"A procedural due process claim has two distinct elements: (1) a deprivation of a constitutionally protected liberty or property interest, and (2) a denial of adequate procedural protections." *Brewster v. Bd. of Educ. of Lynwood Unified Sch. Dist.*, 149 F.3d 971, 982 (9th Cir. 1998). The Due Process Clause of the Fifth Amendment to the United States Constitution prohibits the deprivation "of life, liberty, or property, without due process of law[.]" U.S. CONST. amend. V. The right to due process extends to noncitizens in the United States. *See*

Zadvydas, 533 U.S. at 693 ("[T]he Due Process Clause applies to all 'persons' within the United States, including aliens, whether their presence here is lawful, unlawful, temporary, or permanent."); *Wong Wing v. United States*, 163 U.S. 228, 238, 163 S. Ct. 977, 41 L. Ed. 140 (1896) ("It must be concluded that all persons within the territory of the United States are entitled to the protection guarant[e]ed by [the Fifth Amendment], and that even aliens shall not . . . be deprived of life, liberty, or property without due process of law."); *Trump v. J. G. G.*, 604 U.S. 670, 673, 145 S. Ct. 1003, 221 L. Ed. 2d 529 (2025) ("It is well established that the Fifth Amendment entitles aliens to due process of law in the context of removal proceedings.") (citation modified).

It is also well-established that freedom from government detention is a protected liberty interest. *See Zadvydas v. Davis*, 533 U.S. 678, 690, 121 S. Ct. 2491, 150 L. Ed. 2d 653 (2001) ("Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty [the Due Process Clause] protects."). Due process rights extend to noncitizens present in the United States. *Id.* at 693-94 ("[T]he Due Process Clause applies to all persons within the United States, including aliens, whether their presence here is lawful, unlawful, temporary, or permanent." (citation modified)). Petitioner's case fits this description. (Dkt. Nos. 14, Ord. Grant. App. at 1; Hearing Transcript at 30-33.)

The Court applies the three-part test established in *Mathews v. Eldridge* to determine whether the government's procedures were constitutionally sufficient. *Mathews v. Eldridge*, 424 U.S. 319, 335, 96 S. Ct. 893, 47 L. Ed. 2d 18 (1976). The *Mathews* test balances three factors: (1) "the private interest that will be affected by the official action;" (2) "the risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional or substitute procedural safeguards;" and (3) "the Government's interest, including the function involved and the fiscal and administrative burdens that the additional

or substitute procedural requirement would entail." 424 U.S. at 335. The Court finds that each of the *Mathews* factors support Petitioner's procedural due process claim.

First, Petitioner, a child, has a substantial liberty interest in remaining out of custody and being reunified with her sister. (Dkt. No. 1, Pet. at 21.) Accordingly, Petitioner's private interest in retaining her liberty is significant.

Second, the Court finds that the risk of erroneous deprivation of liberty is high. Here, Petitioner was in ORR custody for over half a year while a sponsor application was pending, despite regulations requiring more prompt review of sponsor applications. 45 C.F.R. § 410.1205-1207. Petitioner is a minor who recently lost her mother and was in custody during the time of her mother's passing rather than with her family. (Dkt. No. 1, Pet. at 2.) As the Court noted at the March 20, 2026 hearing, "[t]his has taken far too long." (Dkt. No. 20, Hearing Transcript at 16.)

It also appears Petitioner remained detained despite Respondents receiving the DNA test results demonstrating that Petitioner's sponsor was her biological sister. (Dkt. No. 19, Status Report at 2-3.) Respondents' counsel represented at the March 20, 2026 Hearing that the DNA test results were the "last piece" that was required before Petitioner could be released. (Dkt. No. 20, Hearing Transcript at 11.) It appears, however, that Respondents already received the DNA test results and confirmation that Petitioner's sponsor is her biological sister, on March 19, 2026. (Dkt. No. 19-1, Felix Decl. at 4.) Not only does the Court find this information troubling, but it also further supports the Court's conclusion that the risk of erroneous deprivation is high.

Third, the Court finds that the government has a low interest in keeping Petitioner detained. To determine the Government's interest, the Court must look at the function involved and the fiscal and administrative burdens imposed by the additional procedures. Here, the Court finds that the Government's interest in

detaining Petitioner without a decision on the sponsor application—despite regulations requiring prompt review, 45 C.F.R. § 410.1205-1207, and despite having the information required to make such a decision—is minimal.

Therefore, the Court concludes that all of the *Mathews* factors weigh in favor of granting the Petition on procedural due process grounds.

C. Petitioner's Remaining Claims

Because the Court concludes that the Petition is granted on procedural due process grounds, it declines to address Petitioner's alternative arguments. Nothing prevents Petitioner from raising these claims again in the future, should the Government re-detain her.

III. RECOMMENDATION

For the foregoing reasons, the Court concludes that minor Petitioner's detention for over six months while a sponsor application was pending violated due process. Accordingly, it is recommended that the District Court issue an Order: (1) approving and accepting this Report and Recommendation; (2) directing that Judgment be entered granting the Petition; (3) issuing a writ of habeas corpus prohibiting Petitioner's re-detention absent compliance with procedural protections and compliance with relevant regulations discussed herein, and declaring that Respondents violated Petitioner's procedural due process rights.

DATED: May 13, 2026

HON. ANGELA C. C. VIRAMONTES
United States Magistrate Judge