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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
EASTERN DIVISION**

J.V.C.D., and A.M.C.D., Minors,
and A.S.C.D., as Next Friend
of Minors,

Case No.

Petitioners,

**VERIFIED PETITION FOR WRIT
OF HABEAS CORPUS**

v.

ANA BABUDAR, 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; ROBERT F.
KENNEDY, Secretary of the U.S.
Department of Health and Human
Services; TODD M. LYONS, Acting
Director of U.S. Immigration and
Customs Enforcement;
MARKWAYNE MULLIN, Secretary
of the U.S. Department of Homeland
Security.

Respondents.

INTRODUCTION

1
2 1. Petitioners J.V.C.D and A.M.C.D¹ (“Petitioners”) are siblings and
3 unaccompanied children² (“UC”) who, upon entry to the United States on September
4 10, 2025, were transferred to the custody of the Office of Refugee Resettlement
5 (“ORR”). J.V.C.D. is thirteen years old. A.M.C.D. is six years old and has Down
6 Syndrome. He is nonverbal.

7 2. Petitioners have been detained by ORR since September 11, 2025.
8 Petitioners have an adult United States Citizen biological half-sister who is available
9 and willing to assume their custody and care. Pursuant to ORR Rule 2.2.1,
10 Identification of Qualified Sponsors, Petitioners’ sibling is classified as “Category
11 2A: [a] brother; sister; grandparent or other immediate relatives (e.g., aunt, uncle,
12 first cousin). This includes biological relatives, relatives through legal marriage, and
13 half-siblings.” Office of Refugee Resettlement, *ORR Unaccompanied Alien*
14 *Children Bureau Policy Guide: Section 2*, available at [https://acf.gov/orr/policy-](https://acf.gov/orr/policy-guidance/unaccompanied-children-program-policy-guide-section-2#2.2)
15 [guidance/unaccompanied-children-program-policy-guide-section-2#2.2](https://acf.gov/orr/policy-guidance/unaccompanied-children-program-policy-guide-section-2#2.2).

16 3. Immediately upon Petitioners’ placement in ORR custody, A.S.C.D.
17 initiated the reunification process and submitted her Family Reunification Packet
18 (“FRP”) on November 17, 2025 after completing a background check and
19 submitting her identification, proof of income, and fingerprints. From that date
20 forward, ORR was required under the Trafficking Victims Protection
21 Reauthorization Act (“TVPRA”) and its implementing regulations to adjudicate the
22 sponsorship application and pursue reunification promptly and without
23 unnecessary delay.

24
25 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.

26 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).

1 4. Instead, Petitioners have remained detained for months after
2 submission of the FRP due solely to ORR's failure to timely complete its own
3 reunification process. A.S.C.D. has continued to diligently comply with ORR's
4 requests including completing two home studies with positive recommendations.

5 5. Inexplicably, ORR did not schedule DNA testing until four months
6 after the FRP was submitted, and only after a Demand Letter was sent from
7 Undersigned Counsel's office on March 17, 2026, even though it could have done
8 so approximately seven months earlier when A.S.C.D. was first identified as the
9 sponsor, or at minimum, approximately five months earlier when she had
10 submitted her FRP.

11 6. Despite the sponsor having submitted a complete FRP approximately
12 five months ago, ORR has indicated that once the DNA results come in, release
13 may be delayed even further and will be conditioned on further administrative
14 hurdles, including issuance of a "Sponsor Suitability Determination" and
15 completion of a "Medical Safety Plan," – despite the fact that both home studies
16 were positive, including one that specifically addressed A.M.C.D.'s medical needs,
17 and despite the fact that the ORR appointed Child Advocate with the Young Center
18 for Immigrant Children's Rights has assessed that swift reunification with their
19 sister is in both children's best interest, and provided this recommendation to ORR
20 over two weeks ago on March 27, 2026. *See* Exhibit 1, Young Center³ Best Interest
21 Determination. This prolonged detention has caused Petitioners significant and
22 escalating harm. Both children suffer from persistent separation anxiety and
23 emotional distress arising from months of confinement and uncertainty regarding
24 reunification.

25 ³ 8 U.S.C. § 1232(c)(6)(A). The Secretary of Health and Human Services is authorized to appoint independent child
26 advocates for child trafficking victims and other vulnerable unaccompanied children. A child advocate is charged
with making recommendations regarding the best interests of the child.

1 7. For A.M.C.D., a six-year-old child with Down Syndrome, continued
2 detention has been particularly destabilizing; since being placed in ORR custody,
3 he has engaged in self-injurious behavior, including headbanging, a recognized
4 indicator of distress in children with developmental disabilities.

5 8. J.V.C.D. has likewise experienced worsening anxiety that manifests
6 physically, including persistent itching when interacting with others, and interferes
7 with her ability to function and focus. These harms have intensified as detention
8 has continued, and each additional day of confinement compounds the risk of
9 lasting emotional and developmental injury. Exh. 1.

10 9. ORR failed to act with the promptness required by the TVPRA,
11 delayed necessary steps for months, and repeatedly extended Petitioners' detention
12 despite the absence of any safety concerns. Petitioners' continued confinement is
13 not the result of danger, flight risk, or sponsor unsuitability, but rather ORR's
14 failure to reunify them within the timeframe established by law.

15 10. Absent intervention by this Court, Petitioners face a substantial risk of
16 continued detention in violation of their statutory and constitutional rights and to
17 the continuing detriment of their health, development, and well-being.
18 Respondents continue to add additional "requirements" to the reunification process
19 and it is not clear at this time when, if ever, ORR will deem the process "complete"
20 and release the children as the law requires.

21 11. Petitioners, therefore, seek an order from this Court requiring their
22 immediate release by ORR to their sister's care and declaring their prolonged
23 detention an unlawful violation of their statutory and Constitutional rights.
24 Petitioners request an immediate hearing be set on this matter if this Court deems a
25 hearing necessary to resolve the petition.

1 12. Even if released from ORR custody, Petitioners face a foreseeable risk
2 that their liberty may be further restricted or deprived absent judicial intervention.
3 Recent cases reveal a disturbing trend in which children who have been previously
4 released from ORR custody to vetted and approved sponsors are later re-referred to
5 ORR by immigration authorities and subjected to renewed prolonged detention,
6 including in circumstances where ORR sponsors are required restart the
7 sponsorship application process following re-referral. *See Diego N. v. U.S. Dep't of*
8 *Health & Hum. Servs.*, No. 1:26-cv-00577, at 27–31 (D.D.C. Feb. 2026).

9 13. In other instances, children recently released from ORR custody have
10 been re-detained and held in ICE custody, including children with pending habeas
11 petitions before a Court in the Central District of California. In *I.A.R. v. Cantu*, for
12 example, a five-year-old minor was detained by immigration authorities with her
13 parent and transferred to an ICE detention center just days after her release from
14 ORR custody. *See Application For Order to Show Cause*, ECF No. 30, *I.A.R. v.*
15 *Cantu*, No. 5:26-cv-01068-ODW-ACCV (C.D. Cal. Mar. 2026). Petitioners remain
16 at risk of further deprivation of their liberty in the absence of safeguards put in
17 place before the government decides to further restrict their liberty, including
18 through possible re-detention. Accordingly, to vindicate Petitioners' constitutional,
19 statutory, and regulatory rights, this Court should grant the instant petition for a
20 writ of habeas corpus.

21 14. Petitioners further seek an order from this Court enjoining
22 Respondents from re-imposing Petitioners' detention absent a determination that
23 materially changed circumstances justify such detention, and without first
24 providing J.V.C.D., A.M.C.D. and A.S.C.D. with pre-deprivation procedural due
25 process, including notice describing the basis for the proposed re-detention and a
26

1 meaningful opportunity to be heard prior to any continued or renewed deprivation
2 of liberty.

3 JURISDICTION

4 15. This Court has subject matter jurisdiction over this matter pursuant to
5 28 U.S.C. § 2241 (habeas corpus); 28 U.S.C. § 1651 (All Writs Act); 28 U.S.C. §
6 2201 (Declaratory Judgment Act); 28 U.S.C. § 1361 (writ of mandamus); and 28
7 U.S.C. § 1331 (federal question). This Court also has jurisdiction pursuant to Art. I,
8 § 9, cl. 2 of the United States Constitution (Suspension Clause).

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

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

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

18 VENUE

19 19. Venue is proper in the United States District Court for the Central
20 District of California because Petitioners are detained at Building Bridges Foster
21 Family Agency (“Building Bridges”) in San Bernardino, California.

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

PARTIES

I. Petitioners

21. Petitioner J.V.C.D. is a 13-year-old UC. Petitioner is currently detained at Building Bridges in San Bernardino, California. Petitioner J.V.C.D is in the custody, and under the direct control, of Respondents and their agents.

22. Petitioner A.M.C.D. is a 6-year-old UC. Petitioner is currently detained at Building Bridges in San Bernardino, California. Petitioner A.M.C.D is in the custody, and under the direct control, of Respondents and their agents.

23. Petitioners' Next Friend, A.S.C.D.⁴, is Petitioners' biological half-sister and the individual applying to be their sponsor and have Petitioners released into her custody. Petitioners J.V.C.D and A.M.C.D. appear by and through Next Friend, A.S.C.D.

II. Respondents

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

25. 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

⁴ As Next Friend of Petitioners J.V.C.D and A.M.C.D., the use of A.S.C.D.'s initials further ensures J.V.C.D. and A.M.C.D.'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).

1 Supervisor Hymel is responsible for determining Petitioners' placements and has
2 authority to approve their respective releases to an appropriate sponsor's care.
3 Respondent FFS Supervisor Hymel is thereby a legal custodian of Petitioner.

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

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

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

24 29. Respondent Todd M. Lyons is sued in his official capacity as Acting
25 Director of Immigration and Customs Enforcement ("ICE"). ICE is the component
26

1 part of DHS responsible for internal apprehensions of unaccompanied children and
2 their transfer to ICE facilities or to ORR. See 8 U.S.C. §§ 1225, 1226, 1232 1357;
3 6 U.S.C. § 279. Because Petitioners seek prospective and pre-deprivation injunctive
4 relief prohibiting re-imposed detention absent changed circumstances and
5 constitutionally sufficient process, Respondent Secretary Lyons is a proper
6 respondent.

7 30. Respondent Markwayne Mullin is sued in his official capacity as the
8 Secretary of the DHS. DHS is the federal agency responsible for the apprehension,
9 arrest, and detention of noncitizens under the Immigration and Nationality Act. See
10 8 U.S.C. §§ 1225, 1226, 1357. In the event of any continued or future detention
11 following Petitioners' release from ORR custody, DHS would be the agency to
12 exercise authority to apprehend and detain Petitioners prior to any statutorily
13 required transfer of custody to the Office of Refugee Resettlement ("ORR"). See 6
14 U.S.C. § 279; 8 U.S.C. § 1232(b)(3). Because Petitioners seek prospective and
15 pre-deprivation injunctive relief prohibiting re-imposed detention absent changed
16 circumstances and constitutionally sufficient process, Respondent Secretary Mullin
17 is a proper respondent.

18 **STATEMENT OF FACTS**

19 31. Petitioners J.V.C.D. and A.M.C.D. ("Petitioners") are unaccompanied
20 children who, upon entry to the United States on September 10, 2025, were
21 transferred to the custody of ORR.

22 32. As of the filing of this Petition, J.V.C.D. is thirteen (13) and A.M.C.D.
23 is six (6). A.M.C.D. has Down Syndrome. ORR records reflect that Respondents had
24 documented notice of A.M.C.D.'s disability upon his arrival into ORR custody.

1 33. On September 11, 2025, Petitioners were placed in ORR care at
2 Building Bridges.

3 34. On September 12, 2025, A.S.C.D., the adult half-sister of Petitioners
4 and a United States citizen, began the process of becoming their sponsor and timely
5 undertook each step required for sponsor identification and approval as those steps
6 were made available.

7 35. Prior to Petitioners' placement in ORR custody, A.S.C.D. maintained
8 a close and ongoing familial relationship with Petitioners, and both children
9 identify her as a trusted adult and primary source of emotional support. This bond
10 has continued during ORR custody through consistent visitation.

11 36. On May 15, 2025, ORR Promulgated Field Guidance 27, which, while
12 not provided for in statute or regulation, requires that all sponsors alleging a
13 biological relationship to the child undergo DNA testing.

14 37. On September 29, 2025, A.S.C.D. submitted government-issued
15 identification as part of ORR's sponsor identity verification procedures.

16 38. On October 17, 2025, ORR completed an FBI criminal history
17 background check on A.S.C.D., which returned clear.

18 39. On November 10, 2025, A.S.C.D. submitted income documentation
19 establishing her financial ability to provide care and support for Petitioners.

20 40. On November 17, 2025, A.S.C.D. completed and submitted the
21 Family Reunification Packet, the application through which ORR evaluates sponsor
22 eligibility and advances a case toward release.

23 41. On November 19, 2025, A.S.C.D. completed fingerprinting.
24
25
26

1 42. On December 22, 2025, ORR conducted a home study based on
2 A.M.C.D.'s medical and developmental needs. The home study resulted in a positive
3 recommendation supporting placement with A.S.C.D.

4 43. On December 29, 2025, the Young Center for Immigrant Children's
5 Rights was appointed as the federally designated Child Advocate for Petitioners.

6 44. On January 8, 2026, ORR completed an internet-based criminal history
7 check and sex abuse history check for A.S.C.D., which both returned clear. On
8 January 13, 2026, ORR submitted a Child Abuse and Neglect (CANS) check through
9 state child-welfare databases as part of sponsor safety screening.

10 45. On January 15, 2026, Building Bridges indicated that DNA testing and
11 ID verification were the only remaining steps required for reunification.

12 46. In January 2026, ORR implemented revised home study requirements.
13 As a result of this policy change, ORR required an additional home study,
14 notwithstanding the previously completed home study.

15 47. On February 3, 2026, ORR conducted the second home study pursuant
16 to the revised requirements, which again resulted in a positive recommendation
17 supporting placement of both Petitioners with A.S.C.D.

18 48. Between February 12 and March 10, 2026, the Child Advocate made
19 multiple written inquiries regarding DNA scheduling. Each time, ORR failed to
20 respond, despite representations that DNA testing and ID verification were the sole
21 remaining steps to reunification.

22 49. On or about March 11, 2026, ORR requested a copy of A.S.C.D.'s
23 Social Security card for the first time. A.S.C.D. promptly provided it.

24 50. On March 17, 2026, A.S.C.D. offered to pay for DNA testing out of
25 pocket ORR in an effort to expedite reunification. ORR declined this offer.

1 51. On March 17, 2026, undersigned counsel submitted a formal demand
2 letter to ORR requesting Petitioners' prompt release. ORR did not respond.

3 52. On March 27, 2026, the Child Advocate formally recommended the
4 children's swift reunification via a Best Interest Determination letter. Exh. 1.

5 53. On March 27, 2026, ORR scheduled DNA testing for the first time,
6 more than four months after submission of the Family Reunification Packet and
7 more than ten weeks after first representing that no other requirements remained,
8 and only after having received a demand letter from Counsel's office.

9 54. On April 1, 2026, A.S.C.D. completed her DNA test in connection with
10 sponsorship verification and on April 6, 2026, Petitioners underwent DNA testing.

11 55. On April 1, 2026, Child Advocate Perla Aragon, informed undersigned
12 counsel that, following receipt of DNA results, ORR still intended to require a
13 Sponsor Suitability Determination and a Medical Safety Plan, with no timeline
14 provided for completion.

15 56. On April 1, 2026, A.S.C.D. reached out to the office of her
16 congressional representative, Congressman Scott Peters, to seek assistance in
17 securing the release of her siblings.

18 57. As of April 13, 2026, Petitioners had been held in ORR custody for
19 approximately 214 days.

20 58. During the prolonged period of ORR custody, both Petitioners have
21 exhibited significant and worsening emotional distress associated with prolonged
22 separation and ongoing uncertainty regarding reunification.

23 59. J.V.C.D. has experienced escalating anxiety, which has manifested in
24 physical symptoms, including excessive and compulsive itching, persistent
25 scratching, and clammy hands when interacting with others. J.V.C.D.'s anxiety
26

1 temporarily subsides during in-person visits with A.S.C.D., but predictably escalates
2 as visits come to an end, particularly in light of the lack of information regarding
3 when reunification will occur.

4 60. After placement in ORR custody, A.M.C.D., a six-year-old child with
5 Down Syndrome, began engaging in self-injurious behavior not present prior to
6 detention. A.M.C.D. is non-verbal and communicates distress behaviorally,
7 including heightened agitation and clinging behavior with his sister J.V.C.D.

8 61. J.V.C.D. has consistently expressed a clear desire to be released from
9 ORR custody and reunited with her A.S.C.D. The conditions of prolonged custody
10 have resulted in J.V.C.D., a thirteen-year-old child, assuming a de facto caregiving
11 and emotional regulation role for her younger brother, despite her own escalating
12 anxiety and emotional harm.

13 62. Both Petitioners spent birthdays in government custody rather than
14 with family, compounding the emotional harm of prolonged separation.

15 63. A.S.C.D. has maintained weekly in-person visitation requiring
16 approximately four hours round trip travel. Because reunification has not occurred,
17 these visits are repeatedly followed by forced separation, which has exacerbated
18 Petitioners' separation anxiety and emotional distress.

19 64. On March 25, 2026, Building Bridges confirmed that both Petitioners
20 were medically cleared for release, based on consultation with the Division of
21 Health for Unaccompanied Children (DHUC) that had occurred approximately one
22 month earlier.

23 65. ORR has never identified any safety concerns related to A.S.C.D., the
24 proposed placement, or Petitioners' medical or developmental needs.

1 66. No individualized determination has been made that continued custody
2 is necessary to protect the safety, health, or welfare of Petitioners.

3 67. As of April 13, 2026, Petitioners remain in ORR custody because steps
4 within ORR's exclusive control have not yet been completed, despite completion of
5 all sponsor-controlled requirements, two positive home studies, and medical
6 clearance for release.

7 **LEGAL FRAMEWORK**

8 **I. Law and Procedure Governing this Habeas Petition**

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

13 69. A habeas court's role is at its "most extensive in cases of pretrial and
14 noncriminal detention," especially "where there ha[s] been little or no previous
15 judicial review of the cause for detention," as is the case here. *Boumediene v. Bush*,
16 553 U.S. 723, 780 (2008).

17 70. The Court must grant the petition for writ of habeas corpus or issue an
18 order to show cause (OSC) to Respondents "forthwith," unless Petitioners are not
19 entitled to relief. 28 U.S.C. § 2243. If an OSC is issued, this Court must require
20 Respondents to file a return "within *three days* unless for good cause additional time,
21 not exceeding twenty days, is allowed." *Id.* (emphasis added). The writ or OSC shall
22 be directed to the person having custody of the person detained. *Id.*

23 71. In addition to the timelines set forth by statute, on April 1, 2026, the
24 Central District of California adopted a General Order which "establishes a case
25 assignment and scheduling procedure to address the influx of petitions for writ of
26

1 habeas corpus filed by persons seeking immigration-related relief.” *General Order*
2 *26-05* (Apr. 1, 2026), *available at*
3 <https://www.cacd.uscourts.gov/sites/default/files/general-orders/GO%2026-05.pdf>.

4 72. The General Order requires that, within three days after the Clerk’s Office
5 issues a scheduling notice, Respondents must enter a Notice of Appearance, and within
6 seven days of the scheduling notice, Respondents must file an Answer, after which time
7 Petitioner has three days to file a Reply. *Id.* Any deviation from this schedule requires the
8 parties to meet and confer and file a stipulation or joint statement containing “the parties’
9 competing proposals for a briefing schedule.” *Id.*

10 **II. Legal Framework Governing the Care, Custody, and Release of** 11 **Unaccompanied Children**

12 73. Three key laws and agreements govern the federal government’s
13 treatment and custody of unaccompanied immigrant children: (1) the 1997 *Flores*
14 Settlement Agreement (FSA), largely codified into the federal regulatory scheme
15 through ORR’s promulgation of its Foundational Rule in 2024; (2) the Homeland
16 Security Act of 2002 (HSA); and (3) the Trafficking Victims Protection
17 Reauthorization Act (TVPRA) of 2008. Further, Petitioner A.M.C.D. is entitled to
18 protections under Section 504 of the Americans with Disabilities Act.

19 **A. The *Flores* Settlement Agreement (FSA)**

20 74. The FSA arose from a lawsuit filed by a group of immigrant children
21 challenging their detention and seeking to be released to family members or sponsors
22 within the United States. *See Flores v. Sessions*, 862 F.3d 863, 869 (9th Cir. 2017)
23 (discussing history of the *Flores* litigation). In 1997, the plaintiff children entered
24 into a consent decree with the federal government to create a nationwide policy
25 governing the custody and release of immigrant children. *See Stipulated Settlement*
26

1 Agreement, *Flores v. Reno*, No. CV-85-4544 (C.D. Cal. Jan. 17, 1997).⁵

2 75. The FSA remains under the supervision of U.S. District Judge Dolly M.
3 Gee in the Central District of California. *See Flores v. Bondi*, No. CV 85-4544-DMG
4 (AGRx).⁶

5 **B. The Homeland Security Act of 2002 (HSA)**

6 76. Enacted in 2002, the HSA divided responsibilities for the processing
7 and treatment of unaccompanied children between ORR – a sub-department of the
8 Department of Health and Human Services – and the then-newly created Department
9 of Homeland Security.⁷ *See* 6 U.S.C. § 279(a). ORR was assigned functions
10 including “coordinating and implementing the care and placement” of
11 unaccompanied children in appropriate custody. 6 U.S.C. § 279(b).

12 **C. The Trafficking Victims Protection Reauthorization Act (TVPRA)**

13 77. Enacted in 2008,⁸ the TVPRA requires federal officials to screen
14 unaccompanied immigrant children for certain vulnerabilities upon their arrival in
15 the United States. *See* 8 U.S.C. § 1232(a)(4). It mandates that custody of an
16 unaccompanied child be transferred to the HHS Secretary within 72 hours of their
17 arrival in the United States.⁹ 8 U.S.C. § 1232(b)(3).

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19
20 ⁵ Available at:

https://www.aclu.org/sites/default/files/assets/flores_settlement_final_plus_extension_of_settlement011797.pdf.

21 ⁶ Following the promulgation of the ORR Foundational Rule, described *infra*, the FSA was partially terminated as to
22 children in HHS custody. *Flores v. Garland*, 2024 WL 3467715, CV 85-4544-DMG (AGRx) (C.D. Cal. Jun. 28,
2024).

23 ⁷ 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.

24 ⁸ 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
25 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).

26 ⁹ 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).

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

5 **D. The ORR Foundational Rule Regarding Care and Placement**

6 79. In 2024, after a notice and comment period, HHS adopted a final rule
7 intended to further codify key aspects of the framework governing care and
8 placement of unaccompanied children as required by the HSA and TVPRA and
9 implement the substantive requirements of the FSA. *See generally* Unaccompanied
10 Children Foundational Rule (Jul. 1, 2024) (hereinafter “Foundational Rule”). 45
11 C.F.R. Part 410.

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

21 81. The Foundational Rule also provides a non-exhaustive list of 17 factors
22 that ORR may consider when evaluating what is the “least restrictive setting that is
23 in the best interest of the child,” including danger to self; danger to
24 community/others; runaway risk; trafficking or other safety concerns; age; gender;
25 LGBTQI+ status or identity; disability; specialized services or treatment requested
26

1 or required; criminal background; location of potential sponsor and safe, timely
2 release options; behavior; siblings in ORR custody; language access; whether they
3 are pregnant or parenting; location of apprehension; and length of stay in ORR
4 custody. 45 C.F.R. § 410.1103(a), (b).

5 82. Further, the Foundational Rule provides guidance on how ORR is to
6 evaluate the suitability of a potential sponsor. 45 C.F.R. § 410.1202. Such evaluation
7 may require a home study, wherein ORR “investigat[es] the living conditions in
8 which the unaccompanied child would be placed” prior to their release. 45 C.F.R. §
9 410.1204.

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

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

23 85. In addition to the above, ORR supervisory staff “who supervise field
24 staff” are required to conduct “automatic review of all pending sponsor applications
25
26

1 . . . within 90 days of an unaccompanied child entering ORR custody.” 45 C.F.R. §
2 410.1207(a).

3 **E. Disability Protections**

4 86. Under Section 504 of the Rehabilitation Act, 29 U.S.C. § 794, “[n]o
5 otherwise qualified individual with a disability . . . shall, solely by reason of her or
6 his disability, be excluded from the participation in, be denied the benefits of, or be
7 subjected to discrimination under any program or activity receiving Federal
8 financial assistance or under any program or activity conducted by any Executive
9 agency[.]” ORR’s placement, care, custody, sponsor reunification and release of
10 immigrant children constitutes a program or activity conducted by an Executive
11 agency and which receives Federal financial assistance. ORR cannot deprive a
12 child of the benefits of timely family reunification because of their disability or
13 otherwise discriminate against a child with a disability in the release process. 45
14 C.F.R. § 85.21(a), (b)(1); 45 C.F.R. § 410.1311. ORR must also make reasonable
15 modifications during the release process to accommodate children’s disabilities. 45
16 C.F.R. § 410.1311(e)(2).

17 87. The TVPRA requires a home study for a child with a disability. 8
18 U.S.C. § 1232(c)(3)(B). ORR considers a sponsor’s ability to provide for the
19 child’s disability-related needs in the sponsor vetting process. 45 C.F.R. §
20 410.1311(e)(1). ORR must simultaneously “consider the potential benefits to the
21 child of release to a community-based setting.” *Id.* Further, ORR must
22 “affirmatively support and assist otherwise viable potential sponsors in accessing
23 and coordinating appropriate post-release community-based services and supports
24 available in the community to support the sponsor’s ability to care for a child with
25 one or more disabilities.” *Id.* § 410.1311(e)(2).

F. Substantive and Procedural Due Process

88. 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.

89. 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. §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). 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.

90. 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 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).

91. 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 Petitioners’ 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.

92. Here, ORR’s inaction has stalled the reunification process entirely. Although A.S.C.D was identified as Petitioners’ proposed sponsor immediately upon

1 their placement in ORR custody, and DNA verification was a foreseeable
 2 requirement, ORR failed to initiate that process for several months until a Demand
 3 Letter was sent, and has never issued a Sponsor Suitability Determination or
 4 reunification decision. As a result, Petitioners remain detained not because of any
 5 deficiency in sponsor compliance, but because ORR has failed to complete steps
 6 necessary to trigger release or administrative review.

7 93. Without a final decision by ORR, Petitioners' sister, A.S.C.D, who
 8 would be eligible to pursue ORR's internal appeal process, is unable to seek agency
 9 review of any potential denial.

10 94. Requiring exhaustion would also cause Petitioners irreparable harm in
 11 the form of additional detention at Building Bridges and continued separation from
 12 their readily available sponsor, her siblings. *See Cortez v. Sessions*, 318 F. Supp. 3d
 13 1134, 1139 (N.D. Cal. 2018) (habeas petitioner "suffers potentially irreparable harm
 14 every day that [they] remain[] in custody without a hearing, which could ultimately
 15 result in [their] release from detention").

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

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

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

4 97. As demonstrated by the fact that Petitioners have been detained with no
5 security without absconding since their arrival into ORR custody, Petitioners
6 evidently are not a flight risk. Moreover, there is no evidence indicating Petitioners
7 have ever engaged in conduct causing harm to themselves or the community, clearly
8 establishing they are not a danger to anyone. The head-banging behavior that six-
9 year-old petitioner A.M.D.C. has engaged in, while harmful to himself, is a direct
10 result of his continued detention.

11 98. ORR has continued to confine Petitioners for months after their
12 sponsor completed all sponsor-controlled requirements, received two positive
13 home study recommendations, and after Petitioners were deemed medically
14 cleared for release. Rather than effectuating placement in a least restrictive,
15 family-based setting, Petitioners remained in ORR custody for an extended period
16 due solely to ORR’s failure to complete remaining steps, contrary to the statutory
17 emphasis on prompt release.

18 99. By failing to timely resolve Petitioners’ sponsors’ applications to
19 assume their care and custody, Respondents flout their mandate to protect
20 Petitioners, instead allowing them to languish inside ORR facilities for months on
21 end, without answers, and away from family and any semblance of a normal life.

C. Respondents' Continued Detention of A.M.C.D. Violates Section 504 of the Rehabilitation Act and Unlawfully Results in Unnecessary Institutionalization.

100. Section 504 of the Rehabilitation Act provides that “[n]o otherwise qualified individual with a disability in the United States ... shall, solely by reason of her or his disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity ... conducted by any Executive agency.” 29 U.S.C. § 794(a).

101. ORR’s placement, care, custody, sponsor reunification, and release of unaccompanied immigrant children constitute programs and activities conducted by an Executive agency receiving federal financial assistance. Accordingly, ORR “shall not, on the basis of disability, exclude from participation in, deny the benefits of, or otherwise subject to discrimination” any qualified individual with a disability, and may not “utilize criteria or methods of administration which have the effect of subjecting qualified handicapped persons to discrimination.” 45 C.F.R. § 85.21(a), (b)(1).

102. Federal regulations governing ORR expressly prohibit discrimination on the basis of disability in the release process and impose affirmative obligations when a child has a disability. ORR “must not deny the benefits of its programs or activities because of disability” and “must make reasonable modifications to its policies, practices, and procedures” to avoid such discrimination. 45 C.F.R. § 410.1311(a), (e)(2).

103. Petitioner A.M.C.D. is a six-year-old child with Down Syndrome, a qualifying developmental disability. Respondents have been aware of his disability since his entry into ORR custody and required a home study based on his medical

1 and developmental needs pursuant to 8 U.S.C. § 1232(c)(3)(B). That home study
2 resulted in a positive recommendation supporting placement with his sister,
3 A.S.C.D., who demonstrated the ability and willingness to meet his
4 disability-related needs and provide a safe family environment.

5 104. Federal regulations further require ORR, when evaluating release of a
6 child with a disability, to “consider the potential benefits to the child of release to a
7 community-based setting” and to “affirmatively support and assist otherwise viable
8 potential sponsors in accessing and coordinating appropriate post-release
9 community-based services and supports.” 45 C.F.R. § 410.1311(e)(1)–(2).

10 105. In this case, those obligations were triggered months ago when both
11 Petitioners were medically cleared for release. No medical condition or treatment
12 need was identified that would prevent safe release to their sister, who committed
13 to continuing all recommended medical and therapeutic services post-release.

14 106. Despite medical clearance and the availability of a suitable family
15 sponsor, Respondents continued to detain A.M.C.D. Since his placement in ORR
16 custody, A.M.C.D. experienced escalating disability-related harm. A.M.C.D. began
17 engaging in self-injurious head-banging, a recognized distress response and
18 self-soothing behavior in children with Down Syndrome. A.M.C.D. is exhibiting
19 heightened agitation, clinging behavior, and refusal of care unless his sister is
20 present.

21 107. These disability-specific harms have intensified as and separation
22 from family have persisted. The distress caused by out-of-home placement and
23 prolonged detention is heightened by A.M.C.D.’s disability, and his sister’s
24 presence functions as the primary means of calming and regulation. Continued
25
26

1 institutional custody has therefore deprived A.M.C.D. of the stability and support
2 necessary to mitigate his disability-related needs.

3 108. By continuing to detain A.M.C.D. instead of effectuating timely
4 release to a qualified family sponsor, Respondents have utilized “methods of
5 administration which have the effect of subjecting qualified handicapped persons
6 to discrimination,” denying a child with a disability the benefit of timely family
7 reunification and unnecessarily prolonging institutional care, in violation of
8 Section 504 of the Rehabilitation Act and its implementing regulations. 29 U.S.C.
9 § 794(a); 45 C.F.R. § 85.21(b)(1); 45 C.F.R. 410.1311(a), (e).

10 109. Continued institutional custody of a child with a disability, where a
11 less restrictive family-based placement has been determined appropriate and
12 available, constitutes disability-based discrimination under federal law. In these
13 circumstances, prompt release to A.S.C.D. is the reasonable modification required
14 by Section 504 and is consistent with the TVPRA’s mandate that unaccompanied
15 children be placed without unnecessary delay in the least restrictive setting that is
16 in their best interests. 8 U.S.C. § 132(c)(2)(A); 45 C.F.R. § 410.1201(a).

17 **D. Petitioners’ Continued Detention Violates Substantive Due Process**
18 **Because it is Unnecessarily Punitive and Needlessly Infringes Upon**
19 **Their Right to Family Unity.**

20 110. Substantive due process “forbids the government to infringe certain
21 ‘fundamental’ liberty interests *at all*, no matter what process is provided, unless the
22 infringement is narrowly tailored to serve a compelling state interest.” *Reno v.*
23 *Flores*, 507 U.S. 292, 302 (1993) (emphasis in original). In *Reno*, the Supreme Court
24 held that where an unaccompanied child had no “parent, close relative, or legal
25 guardian,” keeping them in government custody to “promot[e] the welfare of the
26

1 child” was “not punitive since it [was] not excessive in relation to that valid
2 purpose.” *Id.* at 303. By extension, where, as here, Petitioners *do* have a close family
3 member available to assume their care, continuing to detain them in government
4 custody is needlessly punitive.

5 111. In this context, courts in this District have emphasized the well-
6 established nature of the “substantive due process right to family integrity or to
7 familial association.” *Lucas R.*, 2018 WL 7200716, at *9 (quoting *Rosenbaum v.*
8 *Washoe City*, 663 F.3d 1071, 1079 (9th Cir. 2011)); *Ms. L. v. U.S. Immigration and*
9 *Customs Enforcem.*, 310 F. Supp. 3d 1133, 1148 (S.D. Cal. 2018), *modified sub nom*,
10 *Ms. L. v. U.S. Immigr. & Customs Enf’t*, 330 F.R.D. 284 (S.D. Cal. 2019) (finding
11 the government needed to achieve its stated purpose “in a way that preserves the
12 class members’ constitutional rights to family association and integrity”). The court
13 found that minors with CAT 2, close relative sponsors, “also have a Constitutional
14 interest in associating with their family members... and possess a significant interest
15 in the right to familial association.” 2:18-cv-05741-DMG-PLA, Dkt. No. 376,
16 at 37 (Order Re Cross-Motions for Summary Judgment [263, 271]) (March 11,
17 2022). (*Moore v. City of East Cleveland, Ohio*, 431 U.S. 494, 504–05 (1977)
18 (recognizing that the Constitution protects familial relationships not limited to the
19 parent-child relationship, including siblings, grandparents, and other close relatives).

20 112. These principles apply with heightened force when, as
21 here, children remain separated from their sister despite ORR’s confirmation of her
22 identity, relationship, and willingness to assume custody. By holding children in
23 detention, Respondents burden both sides of this constitutionally protected close
24 family member relationship.

1 113. In addition, a statute may create a substantive interest protected by the
2 Due Process Clause by using “mandatory language” that imposes an obligation on
3 government officials. *Lucas R.*, 2018 WL 7200716, at *9. Courts in this District have
4 held that the TVPRA’s mandatory language gives rise to such a substantive right in
5 the unaccompanied children for whose benefit the statute was enacted. *See e.g.*,
6 *Immigrant Defs. L. Ctr. v. U.S. Dep’t of Homeland Sec.*, No. CV 21-0395 FMO
7 (RAOX), 2025 WL 1191572, at *15 (C.D. Cal. Mar. 14, 2025) (finding “statutory
8 entitlements [under the TVPRA] are constitutionally protected property interests”).

9 114. Here, Petitioners can establish that Respondents are violating their
10 substantive rights under the TVPRA and the Due Process Clause. Unlike the
11 circumstances described as permissible in *Reno*, Petitioners have an adult sibling
12 who has been identified by ORR as their proposed sponsor, and is available and
13 willing to immediately assume custody and care. To date, Petitioners have remained
14 confined for approximately seven months, despite their sister’s timely completion of
15 all sponsor-controlled requirements, receipt of two positive home study
16 recommendations, and confirmation that Petitioners are medically cleared for
17 release. The ORR-appointed Child Advocate has assessed that swift reunification
18 with their sister is in their best interest, and provided this recommendation to ORR
19 over two weeks ago on March 27, 2026. Continued detention nevertheless persists.

20 115. Because of the strength of the liberty interests at stake, Petitioners’
21 continued detention is needlessly punitive, and infringes on their rights to family
22 unity.

E. Petitioners' Continued Detention Violates Procedural Due Process Because They Have No Effective Means by Which to Challenge their Continued Detention and Separation from A.S.C.D.

116. 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.

117. Procedural due process claims are evaluated under the 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 deprivation 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).

118. 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, Petitioner’s “constitutionally protected interest” in release from ORR should be considered with the utmost solemnity.

119. Courts in this Circuit have found a cognizable claim for due process relief in the context of earlier family separation policies, emphasizing that the

1 “absence of established procedures” for ensuring prompt reunification left families
2 “in a vacuum, without knowledge of the well-being and location of their children . .
3 . result[ing] in a number of different scenarios, all of which are negative – some
4 profoundly so.” *Ms. L. v. U.S. Immigration and Customs Enforcem.*, 310 F. Supp. 3d
5 1133, 1144 (S.D. Cal. 2018). Here, the risk of negative impact on Petitioners, in both
6 the short and long term, is equally apparent.

7 120. Petitioners have a strong private interest in their liberty, as well as a
8 substantive interest in being reunified with, and ultimately raised by, their adult
9 sister.

10 121. Respondents have allowed Petitioners to remain stuck in custody for an
11 extended period, without any timeline or decision on their sister’s FRP. This
12 open-ended delay has left Petitioners in prolonged detention without a reviewable
13 determination, thereby depriving Petitioners of procedural due process and
14 foreclosing their sister’s ability to pursue ORR’s administrative appeal process.

15 122. Accordingly, Petitioners clearly have a cognizable claim for relief
16 sounding in procedural due process under the *Mathews* test.

17 **CLAIMS FOR RELIEF**

18 **COUNT ONE**

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

20 123. The allegations in the above paragraphs are realleged and incorporated
21 herein.

22 124. An unaccompanied immigrant child in the custody of HHS “shall be
23 promptly placed in the least restrictive setting that is in the best interest of the child.”
24 8 U.S.C. § 1232(c)(2) (emphasis added). When a potential sponsor has been
25 identified for an unaccompanied child, the HHS Secretary must make a
26

1 “determination that the proposed custodian is capable of providing for the child’s
2 physical and mental well-being,” by evaluating “the custodian’s identity and
3 relationship to the child,” as well as making “an independent finding that the
4 individual has not engaged in any activity that would indicate a potential risk to the
5 child.”¹⁰ 8 U.S.C. § 1232(c)(3)(A).

6 125. Here, Respondents did not adjudicate A.S.C.D.’s FRP within the
7 timeframes required by U.S.C. § 1232(c)(2) and (3)(A).

8 126. Petitioners’ adult sister, A.S.C.D., a United States citizen, was identified
9 as their proposed sponsor immediately upon Petitioners’ placement in ORR custody
10 and timely completed all sponsor-controlled requirements.

11 127. Despite this, and despite the fact that DNA verification was a
12 foreseeable and inevitable step given the asserted sibling relationship and ORR’s
13 current policy mandating it, ORR did not initiate DNA testing until approximately
14 seven months after sponsor identification, thereby prolonging Petitioners’ detention
15 unnecessarily.

16 128. Petitioners’ prolonged detention at Building Bridges is thus a clear
17 violation of the TVPRA’s foundational requirement that unaccompanied children be
18 “promptly placed in the least restrictive setting that is in the best interest of the
19 child.” U.S.C. § 1232(c)(2).

20 129. Respondents’ failure to act promptly, and ORR’s ongoing detention of
21 Petitioners, bear no reasonable relation to any government purpose. Petitioners have
22 committed no crime and are not a danger to anyone. Further, A.S.C.D. is a capable
23 and willing sponsor according to the requirements of the law.

24
25
26 ¹⁰ The statute further authorizes a home study, if necessary. 8 U.S.C. § 1232(c)(3)(B).

1 130. Accordingly, Respondents' failure to release Petitioners into the
2 custody and care of Petitioner A.S.C.D. violates the TVPRA.

3 **COUNT TWO**

4 **Violation of Fifth Amendment: Substantive Due Process**

5 131. The allegations in the above paragraphs are realleged and incorporated
6 herein.

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

14 133. Here, Petitioners' continued detention is untethered to any legitimate
15 government interest because they are neither a flight risk nor a danger to the
16 community, and they have an appropriate sponsor – their sister – available and eager
17 to care for them outside of detention. Petitioner J.V.C.D is thirteen years old and
18 Petitioner A.M.C.D. is six years old, they have no criminal history anywhere in the
19 world, and there is no evidence that they have engaged in any conduct causing harm
20 to themselves others, other than head-banging on the part of A.M.C.D., which is a
21 stress response caused by detention itself.

22 134. Further, Petitioners' have a substantive liberty interest in family
23 integrity and, as young minors separated from their family for seven months, they
24 are suffering grave harm due to their continued detention by ORR.

1 135. Respondents' actions, as set forth above, have infringed upon
2 Petitioners' substantive liberty interest to be free from detention and their liberty
3 interest in family integrity.

4 136. Accordingly, Respondents' continued detention of Petitioners violates
5 their substantive due process rights.

6 **COUNT THREE**

7 **Violation of the Fifth Amendment: Procedural Due Process**

8 137. The allegations in the above paragraphs are realleged and incorporated
9 herein.

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

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

20 140. Petitioners' interest in their liberty and in being reunited with their sister
21 is unquestionably strong. See *Mathews*, 424 U.S. at 335.

22 141. Petitioners have been erroneously deprived of their liberty due to
23 ORR's failure to timely adjudicate their sisters' sponsorship application. This lack
24 of any decision also prohibits Petitioners' sister from availing herself of ORR's own
25 internal appeal process should her FRP theoretically be denied.

1 142. In contrast to Petitioners' robust interests in their liberty and family
2 reunification, the government's interest in continuing to detain Petitioners, despite
3 the availability of their sister to assume their custody and care, is minimal at best.

4 143. Accordingly, Respondents' failure to timely resolve A.S.C.D.'s
5 sponsorship application for Petitioners within the mandated time frame violates
6 Petitioners' procedural due process rights.

7 **COUNT FOUR**

8 **Violation of Section 504 of the Rehabilitation Act, 29 U.S.C. § 794**

9 144. The allegations in the above paragraphs are realleged and incorporated
10 herein.

11 145. Petitioner A.M.C.D. is a child with an intellectual and developmental
12 disability, including Down Syndrome, as defined in 42 U.S.C. § 12102(4)(A) and
13 29 U.S.C. § 705.

14 146. To state a claim under the Rehabilitation Act, a petitioner must show
15 that "(1) he is a qualified individual with a disability; (2) the defendant is subject to
16 one of the Acts; and (3) he was denied the opportunity to participate in or benefit
17 from the defendant's services, programs, or activities, or was otherwise
18 discriminated against by the defendant because of his disability." *Wishkin v. Potter*,
19 476 F.3d 180, 184 (3d Cir. 2007).

20 147. Respondents are federal Executive agencies within the meaning of the
21 Rehabilitation Act and are required to comply with the provisions of Section 504.

22 148. Respondents are legally responsible for all violations of Section 504
23 committed by their contractors and care providers arising from their operation of
24 ORR facilities and administration of reunification and release procedures. 6 C.F.R.
25 § 15.30(b)(1).

1 149. Release to a sponsor is a benefit of ORR's programs that may not be
2 denied to a child because of his disability. 29 U.S.C. § 794(a); 45 C.F.R. §§
3 410.1203, 410.1205, 410.1311; 45 C.F.R. § 84.68(b)(1)(ii), (iii), (iv), (vii). Despite
4 a positive disability-focused home study, medical clearance for release, and the
5 availability of a qualified sibling sponsor capable of meeting A.M.C.D.'s needs,
6 Respondents continued to detain A.M.C.D.

7 150. HHS regulations prohibit criteria or methods of administration that
8 discriminate on the basis of disability or "have the purpose or effect of defeating or
9 substantially impairing accomplishment of the objectives of the recipient's
10 program or activity with respect to handicapped persons." 45 C.F.R. § 84.68(b)(3).
11 By prolonging A.M.C.D.'s detention after reunification prerequisites were
12 satisfied, Respondents employed methods of administration that substantially
13 impaired the objective of ORR's release and reunification program for children
14 with disabilities.

15 151. Respondents' prolonged delay in releasing A.M.C.D. to his sponsor
16 unlawfully discriminates against him on the basis of disability by subjecting him to
17 continued detention and undue institutionalization, despite the availability of a less
18 restrictive community- and family-based placement appropriate to his needs.
19 *Olmstead v. L.C.*, 527 U.S. 581, 600-01 (1999).

20 152. A.M.C.D.'s Down Syndrome renders prolonged detention particularly
21 harmful and distressing. In prolonging his release, Respondents failed to account
22 for his "individualized needs, including those related to disability or other medical
23 or behavioral/mental health issues" as those needs relate to prompt release from
24 custody. 45 C.F.R. § 410.1202(f)(5). Respondents also failed to account for the best
25

1 interests of a child with a disability weighing heavily in favor of prompt release
2 from detention, in violation of the TVPRA. 8 U.S.C. § 1232(c)(2)(A).

3 **PRAYER FOR RELIEF**

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

6 (1) Assume jurisdiction over this matter;

7 (2) Issue a writ of habeas corpus compelling Respondents to
8 immediately release Petitioners J.V.C.D. and A.M.C.D. to A.S.C.D.;

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

12 (4) Enjoin Respondents from re-imposing Petitioners' detention
13 absent a determination that materially changed circumstances justify such
14 detention, and without first providing J.V.C.D., A.M.C.D. and A.S.C.D. with
15 pre-deprivation procedural due process, including notice describing the basis
16 for the proposed detention and a meaningful opportunity to be heard prior to
17 any continued or renewed deprivation of liberty;

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

21 (6) Grant any further relief this Court deems just and proper.
22

23 Dated: 04/13/2026

24 Respectfully Submitted,
25 /s/ Emily Sugarman
26 Emily Sugarman
27 Attorney for Petitioners

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

I represent Petitioners J.V.C.D. and A.M.C.D. and submit this verification on their 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: 04/13/2026

Respectfully Submitted,

/s/ Emily Sugarman
Attorney for Petitioners