

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

S.R.U.,

Petitioner,

v.

ROBERT F. KENNEDY, JR. in his official capacity as Secretary of Health and Human Services; ANGIE SALAZAR, in her official capacity as Acting Director of the Office for Refugee Resettlement; RYAN NATHAN in is official capacity as Federal Field Specialist, Office of Refugee Resettlement, and CRAIG LONGLEY in his official capacity as Chief Executive Officer of Catholic Guardian Services.

Respondents.

Case No.

**VERIFIED PETITION FOR
WRIT OF HABEAS CORPUS**

INTRODUCTION

Petitioner S.R.U. is a 16-year-old boy who has been held in Respondents' custody for nearly six months. He entered the United States on December 17, 2025 and was designated an "unaccompanied child." Under federal law, the Office of Refugee Resettlement ("ORR"), which controls Petitioner's custody, should have promptly released him to his adult sister and father in New York City once they completed the relevant sponsor vetting process. Despite doing their best to comply with that process, Petitioner remains detained for one reason: ORR has slow-walked his sister's sponsorship application under new policies and practices implemented by the Trump Administration. Even after conducting a fingerprints-based background check, a home inspection, sponsor interview and receiving various documentary evidence to demonstrate Petitioner's sister's qualifications to care for her brother, ORR keeps demanding more evidence and throwing up other unnecessary barriers to

thwart S.R.U.'s release. Indeed, some of the evidence requested exceeds ORR's own administrative guidance. Meanwhile, each passing day prolongs S.R.U.'s detention and jeopardizes his well-being.

Accordingly, S.R.U brings this Petition seeking his immediate release in the hopes of finally reuniting with his family.

PARTIES

1. Petitioner S.R.U. is a 16-year-old boy who has been designated as an "unaccompanied child" and is in the custody of the Office of Refugee Resettlement ("ORR"). He is detained by one of ORR's subcontractors, Catholic Guardian Services, in the Bronx, New York. He is trying to reunify with his sister and father in New York City.

2. Respondent Robert F. Kennedy Jr. is the Secretary of U.S. Department of Health and Human Services, a cabinet-level department of the United States Government. ORR is a component of HHS. As the Secretary of HHS, Respondent Kennedy is a custodian of Petitioner, with authority to produce and release him. Respondent Kennedy is sued in his official capacity. His address is U.S. Department of Health and Human Services, 200 Independence Avenue SW. Washington, DC 20201.

3. Respondent Angie Salazar is the Acting Director of ORR, the subagency HHS responsible for overseeing the care and custody of unaccompanied minors. ORR is the government entity directly responsible for the detention of S.R.U. As the Acting Director of ORR, Respondent Salazar is a custodian of Petitioner, with authority to produce and release him. Respondent Salazar is sued in her official capacity. Her address is Office of Refugee Resettlement, Administration for Children & Families, 330 C St SW, Room 5123 Washington, DC 20201.

4. Respondent Ryan Nathan is an ORR Federal Field Specialist in the Division of Sponsor Administration. Federal Field Specialist Nathan is the government official responsible for the care and custody of children that ORR has placed under the care of the Catholic Guardian Services. In this role,

Federal Field Specialist Nathan is responsible for determining S.R.U.'s placement and has authority to approve his release to an appropriate sponsor's care. Accordingly, Respondent Ryan Nathan is a custodian of Petitioner, with authority to produce and release him. Respondent Nathan is sued in his official capacity. His address is 26 Federal Plaza, Room 4114 (Regional Office) / Room 19-119, New York, NY 10278.

5. Respondent Craig Longley is the Chief Executive Officer ("CEO") of Catholic Guardian Services ("CGS") where S.R.U. is being held at the time of this petition. As CEO of CGS, Respondent Longley is a custodian of Petitioner, with authority to produce him. Respondent Longley is sued in his official capacity. His address is 488 Madison Avenue, 3rd Floor, New York, NY 10022.

JURISDICTION AND VENUE

6. Federal district courts have jurisdiction to hear habeas corpus claims by non-citizens challenging the lawfulness or constitutionality of their detention by ICE. *See, e.g., Demore v. Kim*, 538 U.S. 510, 516-17 (2003); *Zadvydas v. Davis*, 533 U.S. 678, 687 (2001).

7. This Court has jurisdiction under the U.S. Constitution. U.S. Const. art. I § 9, cl. 2 (the "Suspension Clause").

8. The Court also has jurisdiction under 28 U.S.C. § 1331 (federal question); 28 U.S.C. § 1651 (the All Writs Act); 28 U.S.C. § 2241 (habeas corpus); and 5 U.S.C. § 701 (the Administrative Procedure Act).

9. This Court has additional remedial authority under 28 U.S.C. §§ 2201 and 2202 (the Declaratory Judgment Act) and Fed. R. Civ. P. 65. It may also order interim release during the pendency of this case under *Mapp v. Reno*, 241 F.3d 221, 226 (2d Cir. 2001).

10. Venue is proper under 28 U.S.C. § 2241(d) because S.R.U. is detained within this district.

FACTUAL BACKGROUND

11. S.R.U. is a 16-year-old boy who the government alleges is a native and citizen of Guatemala. He entered the United States on December 17, 2025 and was designated an “unaccompanied child.” He has a fear of return to Guatemala.

12. S.R.U.’s adult sister and father live in New York City and are ready and able to care for him. S.R.U.’s older sister lives in New York City with their father, who himself was approved by ORR in a separate sponsorship application in 2024.

13. S.R.U.’s sister applied with ORR to serve as Petitioner’s sponsor from detention in December 2025 and signed a release form required as part of this process in early January 2026. Since then, she has been working with an ORR Federal Field Specialist who was assigned to assist her in collecting the documents required to process this application.

14. Petitioner’s sister has complied at every step of the process and submitted numerous documents to substantiate her qualifications. Since she submitted her sponsor application in December 2025, ORR has requested extensive documentation to demonstrate her suitability as Petitioner’s sponsor. The process itself was convoluted, and it was administered in piecemeal fashion such that Petitioner’s sister would submit evidence and then—after she complied—ORR would demand more, and then more still. Nevertheless, Petitioner’s sister did everything possible to comply. For example, she submitted a range of documentary evidence showing (i) that neither she nor her father have a criminal history; (ii) proof of income; (iii) proof of address; (iv) a document giving her power of attorney over Petitioner; (v) U.S.-government- issued identification cards for her and her father; and (vi) proof that she has an Individualized Tax Identification Number (“ITIN”) and that her father has submitted an ITIN application.

15. Petitioner’s sister has also complied with other intrusive forms of vetting. This includes

undergoing an in-person sponsor interview with DHS and a fingerprints-based background check for her and her father. And she has submitted herself to DNA testing and allowed Respondents to inspect her home.

16. This evidence is more than sufficient to demonstrate that the proposed sponsor—an immediate family member—is a suitable person to care for Petitioner.

17. Indeed, Respondents have not identified any concerns regarding her suitability as her brother's sponsor.

18. Despite all of this, Respondents still have not released Petitioner to his sister's care. Instead, they have thrown up another roadblock, this time claiming in late March 2026 for the first time that they need evidence of Petitioner's father's ITIN. Yet, such a document is not required by the ORR's own guidance as a prerequisite for release. Indeed, that guidance specifically contemplates that an ITIN number need not delay a sponsor's application by clarifying that "Sponsors, HHMs [household members age 18 and older], and ACGs [adult caregivers] who cannot provide proof of their SSN or ITIN may...apply for and *later provide their ITIN*, as appropriate, to complete the Sponsor Application and vetting process." See ORR Unaccompanied Alien Children Bureau Policy Guide ("UC Policy Guide"): Section 2.2.4, Required Documents for Submission with the Sponsor Application for Release, available at <https://acf.gov/orr/policy-guidance/unaccompanied-children-program-policy-guide-section-2#2.2> (last revised May 1, 2026; last accessed May 30, 2026) (emphasis added).

19. On April 9, 2026, within days of Respondents requesting this ITIN number for the first time, Petitioner's sponsor provided a copy of her father's signed application for an ITIN. Under Respondents' own guidance, proof of the application should have satisfied this requirement. See UC Policy Guide, Section 2.2.4 (stating that when a non-sponsor applies for an ITIN, they must provide

“proof of their application and all IRS correspondence pertaining to the request.”). Yet, Respondents asserted that a copy of the application submitted was insufficient, and instead required a receipt or other document issued by the IRS to prove the application’s submission. In addition, ORR’s requirement was impossible to satisfy, since the IRS does not issue receipt notices or any correspondence for said applications until the IRS completes its review of the application. *See* “How to apply for an ITIN”, IRS, available at <https://www.irs.gov/tin/itin/how-to-apply-for-an-itin> (stating that the process for applying involves submitting a form W-7 along with supporting documentation and then waiting approximately 7-11 weeks for a notice from the IRS issuing the ITIN, rejecting the application, or seeking more information) (last updated February 22, 2026; last accessed May 30, 2026).

20. On May 29, 2026, the Petitioner’s sponsor again contacted ORR regarding this proof of application and this time submitted correspondence from her father’s tax preparer confirming submission of the ITIN application. Again, ORR refused to accept this evidence, insisting that the required documentation must come from the IRS.

21. On June 1, 2026, Petitioner’s federally appointed child advocate from the Young Center filed a Best Interests Determination (“BID”) with ORR determining that it was in the Petitioner’s best interest to be released to his sister, noting the advocates concern with the Petitioner’s detention of over 160 days and that the sister has:

“submitted all required documentation and completed all necessary steps in the sponsorship process” and “the only remaining issue is the review and determination...regarding compliance with ORR policy related to the household member’s ITIN application. The household member has already submitted documentation demonstrating that an ITIN application has been filed.”

See Exh. A to Levenson Declaration, Best Interests Determination by Juan B. Pacheco, Esq.

22. As of the date of the filing of this petition, Petitioner's father's ITIN number (or proof acceptable to ORR of his ITIN application) is the sole outstanding evidence preventing reunification of Petitioner with his adult sister and father.

23. Throughout this time, Petitioner—who is only 16 years old—has remained in ORR custody and is in active ongoing removal proceedings where he is unrepresented. His next Immigration Court hearing is June 3, 2026.

LEGAL FRAMEWORK

A. The Care, Custody, and Release of Unaccompanied Immigrant Children: Statutory and Regulatory Framework

24. The care and custody of unaccompanied immigrant children is governed by a legal framework consisting primarily of two statutes—the Homeland Security Act of 2002 and the Trafficking Victims Protection Reauthorization Act—and a settlement agreement that is binding on the pertinent federal agencies.

25. Prior to 2002, the Office of Juvenile Affairs in the former INS was responsible for the custody of unaccompanied immigrant children in the United States. The *Flores* Settlement Agreement, originally signed by the INS in 1997, established national minimum standards for the treatment and placement of minors in immigration custody. Stipulated Settlement Agreement, *Flores v. Reno*, No. CV 84-4544-RJK(Px) (C.D. Cal. Jan. 17, 1997) ("*Flores* Settlement"). It remains under the supervision of U.S. District Judge Dolly M. Gee in the Central District of California. *Flores v. Bondi*, Case No. 803 F. Supp. 3d 1018 WL 2633183 (C.D. Cal 2025).

26. In 2002, Congress passed the Homeland Security Act ("HSA"), transferring functions of the former INS to other government entities. Pub. L. No. 107-296, 116 Stat. 2153 (2002). Specifically, the HSA transferred authority over the care and custody of unaccompanied immigrant children from the INS to ORR, housed within HHS. 6 U.S.C. § 279.

27. Congress' decision to transfer responsibility for the care and custody of unaccompanied children from the INS to ORR reflected Congress' determination that caring for children who arrive to the United States without their parent or legal guardian and immigration enforcement were incompatible roles for a single agency.¹ Within HHS, ORR is responsible for children's safety and welfare and is explicitly not a law enforcement agency. *See* Foundational Rule, 89 Fed. Reg. at 34399, 34423 ("it is not a law enforcement agency, unlike the former INS..."), 34591.

28. With strong bipartisan support, Congress then expanded protections for unaccompanied children in the Trafficking Victims Protection Reauthorization Act of 2008 ("TVPRA"), reaffirming Congress' intent to treat unaccompanied children differently than the manner in which adults are treated by the Department of Homeland Security ("DHS"), both in detention and in immigration proceedings. 8 U.S.C. § 1232 *et seq.*

29. The TVPRA requires federal officials who discover an unaccompanied child to transfer the child to the care and custody of HHS within 72 hours (absent exceptional circumstances). *Id.* § 1232(b)(3). The TVPRA also tasks ORR with ensuring that unaccompanied children are "promptly placed in the least restrictive setting that is in the best interest of the child." *Id.* § 1232(c)(2)(A). This is usually with a sponsor. *See, e.g., Saravia v. Sessions*, 905 F.3d 1137, 1142–43 (9th Cir. 2018). Congress enacted the TVPRA specifically to facilitate the safe, speedy release and minimally restrictive placement of unaccompanied children. *See, e.g.,* 154 Cong. Rec.

¹ *See, e.g.,* 148 Cong. Rec. S11295 (Nov. 18, 2002) (statement of Sen. Feinstein); 148 Cong. Rec. S8189 (Sept. 4, 2002) (reprinting letter from Sens. Kennedy and Brownback). *See also* 148 Cong. Rec. S5960 (Oct. 1, 2002) ("As we transfer and reshape the INS in this legislation, it is imperative to relieve the agency of its responsibility of the care and custody of unaccompanied children. Doing so would accomplish two ends: one, it would permit the INS to focus its energies, efforts, and attention on its core missions; and two, it would transfer the care and custody of these children to the Office of Refugee Resettlement, ORR, an office that is better suited and much more experienced in handling the complexities of the children's situations.")

S10886 (daily ed. Dec. 10, 2008) (statement of Sen. Feinstein, sponsoring senator).

30. Neither the HSA nor the TVPRA make any mention of a sponsor's potential immigration status as a prerequisite to receive an unaccompanied child into their custody. Similarly, neither statute gives ORR authority to: (1) inquire into immigration status as a condition for sponsorship; (2) collect information about potential sponsors for immigration or law enforcement purposes; or (3) share potential sponsor's immigration status with law enforcement or immigration enforcement entities.

31. In 2024, ORR promulgated regulations ("The Foundational Rule") codifying the "policies, standards, and protections for [unaccompanied children], consistent with the HSA and TVPRA, and to implement the substantive requirements of the [*Flores* Settlement Agreement] as they pertain to ORR." 89 Fed. Reg. at 34385 (promulgating 45 C.F.R. §§ 410.1000 *et seq.*). The Foundational Rule establishes the process through which ORR determines if a potential sponsor is suitable to take custody of a UC, which must be conducted "without unnecessary delay." 89 Fed. Reg. at 34439. The Foundational Rule is consistent with the agency's "strong belief that, generally, placement with a vetted and approved family member or other vetted and approved sponsor, as opposed to placement in an ORR care provider facility ... is in the best interests of unaccompanied children." *Id.* A sponsor's immigration status is not a determinative factor in the vetting process. Indeed, in response to comments on their proposed regulations, ORR explained that "[t]he HSA and the TVPRA do not make any mention of a sponsor's potential immigration status as a prerequisite to receive an unaccompanied child into their custody and do not imbue ORR with the authority to inquire into immigration status as a condition for sponsorship." *Id.* at 34442.

32. The Foundational Rule establishes that "ORR shall release a child from its custody without unnecessary delay" to sponsors in a specific order of preference with parents and legal

guardians taking first priority and other family members following. 45 C.F.R.

§ 410.1201(a). As required by the regulation, ORR must assess a sponsor's suitability to determine "whether the potential sponsor is capable of providing for the unaccompanied child's physical and mental well-being." 45 C.F.R. § 410.1202(b). This assessment must include background criminal and sex offender database checks based on public records and "may include": home investigation, verification of employment, interviews with members of the household, a home visit or home study, or a fingerprints-based background check. *Id.*

33. Under the Foundational Rule, "ORR shall adjudicate the completed sponsor application of a parent or legal guardian; brother, sister, or grandparent; or other close relative who has been the child's primary caregiver within 10 calendar days . . . absent an unexpected delay". *Id.* § 410.1205(b). Other completed sponsor applications by close relatives who were not the child's primary caregiver must be adjudicated within 14 days, absent unexpected delay. *Id.* § 410.1205(c).

34. ORR's subregulatory framework is laid out in the UC Policy Guide. The UC Policy Guide was first published publicly in 2015 and is available on ORR's website. Office of Refugee Resettlement, *Unaccompanied Alien Children Bureau Policy Guide* (2025) ("UC Policy Guide"), <https://acf.gov/orr/policy-guidance/unaccompanied-children-bureau-policy-guide> (last visited on May 29, 2026). The Policy Guide governs the placement, care, and release of unaccompanied children in ORR custody, consistent with ORR's legal authorities. *See* UC Policy Guide, Introduction.

35. Section 2 of the guide sets out ORR's policies with respect to securing the release of unaccompanied children in a "safe, efficient, manner without unnecessary delay" to "parents, guardians, relatives, or individuals designated by the child's parents, referred to as 'sponsors.'" UC Policy Guide, § 2.1. Under the Policy Guide, "[s]afe and timely release must promote public safety and ensure that sponsors are able to provide for the physical and mental well-being of the children." *Id.* The Policy

Guide describes the sponsor identification and application process in detail, including specific ORR requirements prior to application adjudication and approval. *Id.* at §§ 2.2-2.7.

B. New policies adopted since 2025 have caused delays in the release of children from ORR custody.

36. Beginning in 2025 with the Trump Administration, Respondents have drastically restricted the placement of children in ORR custody with sponsors by modifying the ORR regulations and adding new onerous requirements for sponsor vetting to the UC Policy Guide. As a result, the sponsor reunification process has slowed to a near-stop. *See, e.g.* KUT NEWS “The Trump administration has all but stopped reuniting detained migrant children with families.”, Dec. 19, 2025, available at <https://www.kut.org/crime-justice/2025-12-19/texas-trump-immigration-children-reunification> (last accessed May 31, 2025). The average length of time in ORR custody rose from an average of 33 days in December 2024 to 182 days in August 2025; *See* Neha Desai, et al., *The Unraveling of ORR: A Quick and Calculated Undoing of a System Intended to Protect Children*, The National Center for Youth Law, at 11, published Sept. 2025, available at https://youthlaw.org/wp-content/uploads/ncyl_the-unraveling-of-orr_sept2025_final.pdf (last accessed May 30, 2026). *see also* KIND, *A Timeline Spotlight: ORR’s Indefinite Detention of Unaccompanied Children Inflicts Trauma and Thwarts Due Process*, published March 2026, available at https://supportkind.org/wp-content/uploads/2026/04/26_Timeline-Spotlight-Indefinite-Detention-2.pdf (last accessed May 30, 2026).

37. Specifically, on March 25, 2025, the Administration promulgated an Interim Final Rule (IFR) to amend the ORR Foundational Rule and remove protections for undocumented sponsors of children in ORR custody. The amended rule now allows ORR to share sponsor immigration status information with law enforcement and immigration enforcement agencies and removes restrictions that previously prevented ORR from denying sponsors solely based on immigration status. This has

led to Respondents engaging in unprecedented immigration enforcement activity, including detaining sponsors when they go through the sponsor application process and sending law enforcement officers to the homes of sponsors after a child's release. *See See Desai et al, supra* at 3.

38. The Trump Administration has also made drastic changes to the ORR Policy Guide, heightening the sponsor vetting process. These changes include: narrowing documents accepted to prove identity, address, and relationship to those forms of documents largely available only to people with lawful immigration status; mandating that prospective sponsors appear for ORR interviews at which ICE agents have appeared and arrested prospective sponsors due to lack of lawful immigration status; requiring DNA testing for all claimed biological relationships; mandating home studies; expanding fingerprinting and background check requirements to all sponsors, adult household members, and alternate caregivers; and requiring that all sponsors adult household members, and alternate caregivers provide a Social Security Number or Individualized Taxpayer Identification Number ("ITN") or proof of ITIN application. These changes to the Policy Guide are subject to ongoing litigation in *Angelica S. v. HHS*, No. 25-CV-1405 (DLF), 2025 WL 1635369 (D.D.C. June 9, 2025) (granting a motion for class certification and enjoining the new sponsor documentation and income requirements for youth in ORR custody on or before April 22, 2025 and finding that "it is substantially likely that ORR acted arbitrarily and capriciously by not providing adequate justification for its new sponsor documentation requirements").

39. Several of these additional requirements have been added in a piecemeal fashion, creating a moving target for document-collection for sponsors seeking reunification with a child in ORR custody. For example, while the requirement for a U.S.-issued identification was added in March 2025, it was not until February 2026 that the SSN or ITIN requirement was added or until April 2026 that ORR confirmed that a home study was required in all cases, unless a very narrow exception

applied. *See e.g.* Feb. 27, 2026 Update to UC Policy Guide 2.2.4, “ORR Unaccompanied Alien Children Bureau Policy Guide: Record of Posting and Revision Dates” (introducing “requirements for all potential sponsors, adult household members, and alternate caregivers to provide proof of Social Security Number (SSN) or Individual Tax Identification Number (ITIN) with the Sponsor Application for Release”), available at <https://acf.gov/orr/policy-guidance/unaccompanied-children-program-policy-guide-record-posting-and-revision-dates> (last accessed June 1, 2026).

40. Courts across the country have concluded that these new sponsorship requirements are unlawful for various reasons. In terms of the overall delay caused by this process, “[s]everal courts have agreed that ‘significant’ and ‘unexplained delay[s] in responding to [a proposed sponsor’s] unification request’ violate due process.” *Molina*, 2026 WL 741623, at *6 (quoting *Lucas R. v. Becerra*, No. 18-CV-5741, 2022 WL 2177454, at *27 (C.D. Cal. March 11, 2022), and citing *J.E.C.M. v. Marcos*, 689 F. Supp. 3d 180, 197 (E.D. Va. 2023), *Maldonado v. Lloyd*, No. 18-CV-3089, 2018 WL 2089348, at *1 (S.D.N.Y. May 4, 2018), and *Santos v. Smith*, 260 F. Supp. 3d 598, 613-14 (W.D. Va. 2017) (alteration in original). Likewise, courts have found the U.S.-issued identification requirement to present due process concerns. *See E.F.E.L. v. Noem*, No. 26-CV-02507, 2026 WL 1045550, at *2 (N.D. Ill. Apr. 17, 2026) (ordering immediate release of unaccompanied minor held in ORR custody for five months for vetting where release was delayed due to a new Trump-era requirement that sponsor obtain a U.S.-issued identification card despite the fact that sponsor had previously been approved by ORR to receive the petitioner and describing these new vetting practices as “gross weaponization of the ORR process to further this administration’s immigration enforcement efforts”); *see also Angelica S. v. HHS*, No. 25-CV-1405 (DLF), 2025 WL 1635369 (D.D.C. June 9, 2025) (enjoining for a sub-class of youth in ORR custody on or before April 22, 2025 the new sponsor U.S. identification requirement).

41. In recent months, Respondents have begun invoking missing ITIN information as a reason for delaying a child’s release to an immediate family member—even when ORR has no evidence to suggest that the family member is unfit to serve as the child’s sponsor. This too has been successfully challenged. *See I.T. by & through Next Friend B.V.T.R. v. Kennedy*, No. 26-CV-02563 (JAV), 2026 WL 882917, at *2 (S.D.N.Y. Mar. 31, 2026) (granting preliminary relief where “ORR acknowledge[d]” a mother’s sponsorship application was complete and “the only step that remain[ed] before a determination can be made [was] ORR’s internal consideration of the waiver of the requirement that B.V.T.R. submit an ITIN.”); *M.A. v. Molina*, No. 4:26-CV-415, 2026 WL 741623, at *6 (N.D. Ohio March 17, 2026) (ordering the immediate release of unaccompanied minor in ORR custody and holding that the petitioner’s due process rights were violated when he was detained nearly eight months after his immediate family member sponsor submitted a sponsorship application where, among other delays, the government compelled the sponsor to apply for an ITIN despite previously approving her as a sponsor without said ITIN).

C. Legal Background of Prolonged Detention of Unaccompanied Immigrant Children

42. The Due Process Clause of the Fifth Amendment forbids the government from depriving any person of liberty without due process of law. U.S. Const. amend. V. *See generally Reno v. Flores*, 507 U.S. 292 (1993); *Zadvydas v. Davis*, 533 U.S. 678 (2001); *Demore v. Kim*, 538 U.S. 510 (2003).

43. “[T]he interest in being free from physical detention” by the state is “the most elemental of liberty interests[.]” *Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004). A child’s interest in being free from confinement is no narrower than that of an adult. *In re Gault*, 387 U.S. 1, 13 (1967) (“neither the Fourteenth Amendment nor the Bill of Rights is for adults alone”); *see also Reno v. Flores* at 316 (O’Connor, J. and Souter, J., concurring), quoting *Gault*, 387 U.S. at 13 (“[The Supreme

Court] ha[s] consistently [...] rejected the assertion that ‘a child, unlike an adult, has a right ‘not to liberty but to custody.’”). Further, “incarceration is rarely if ever a necessary condition for raising the living standards of those capable of surviving safely in freedom, on their own or with the help of family or friends.” *O’Connor v. Donaldson*, 422 U.S. 563, 575 (1975). Therefore minors, like adults, have a substantial liberty interest “in avoiding unjustified physical restraint.” *M.A. v. Molina*, 2026 WL 741623 at *3 (“[a]lthough minors, unlike adults, are “always in some form of custody,” minors still “retain a strong interest in being free from unnecessary government interference with their liberty.”, quoting *Saravia v. Sessions*, 280 F. Supp. 3d at 1195; *see also J.E.C.M. v. Marcos*, 689 F. Supp. 3d 180 at 198 (explaining that age “does not negate a minor’s interest in being free from restraints”); *Lucas R. v. Becerra*, 2022 WL 2177454, at *14; *see also, e.g., Parham v. J.R.*, 442 U.S. 584, 600 (1979) (children, like adults, have substantial liberty interest in not being confined in medical setting); *cf. Diego N. et al. v. U.S. Dept. Health and Human Svcs. et al.*, 2026 WL 1179706 (D.D.C. Apr. 30, 2026) (recognizing children’s legitimate liberty interests in family integrity, freedom from unwarranted imprisonment, and release).

44. Moreover, the constitutional right to family integrity or to familial association is well established. *See Tenenbaum v. Williams*, 193 F.3d 581, 600 (2d Cir. 1999) (observing that a family has, “in general terms, a substantive right under the Due Process Clause ‘to remain together without the coercive interference of the awesome power of the state’ ”) (quoting *Duchesne v. Sugarman*, 566 F.2d 817, 825 (2d Cir.1977)); *see also Santosky v. Kramer*, 455 U.S. 745, 753 (1982) (holding that parents and children have a well-elaborated constitutional right to live together without government interference); *Angelica S. v. U.S. Dep’t. of Health and Hum. Svcs.*, 786 F.Supp.3d 158, 175 (D.D.C. 2025) (“Courts have found that family separation and prolonged detention qualify as irreparable injury.”) (citing *Jacinto-Castanon de Nolasco*, 319 F. Supp. 3d 491, 502 (D.D.C. 2018).

45. Numerous courts have also held that a child's right to familial association is not limited to parents. *See Moore v. City of East Cleveland*, 431 U.S. 494, 504 (1977) ("The tradition of uncles, aunts, cousins, and especially grandparents sharing a household along with parents and children has roots equally venerable and equally deserving of constitutional recognition."); *Duchesne v. Sugarman*, 566 F.2d at 825 (the right to familial association is shared by all members of the family, who enjoy "reciprocal rights" to preserve their family's integrity.); *J.E.C.M. v. Lloyd*, 352 F. Supp. 3d 559, 585 (E.D. Va. 2018) (rejecting argument that child's interest in family unity is unique to parents, and finding "siblings, aunts or uncles, grandparents, or first cousins" are family "captured in ORR's second-level category of would-be sponsors" and also "constitutionally significant"); *Aristotle P. v. Johnson*, 721 F. Supp. 1002, 1006 (N.D. Ill. 1989) (children have "constitutionally protected right to associate with their siblings").

46. The serious harm of prolonged detention of unaccompanied children is well documented. *See Lucas R.*, 2022 WL 2177454 at *17 ("Numerous child welfare experts have expounded on the harm that detention causes children, particularly young children" and "[i]t is undisputed that being separated from family members is inimical to a child's well-being."). Similar to now, in 2018 under the first Trump Administration, ORR also made policy changes which caused unaccompanied children's length of custody in ORR to increase significantly, with children spending months in congregate care designed to hold children for only a few weeks. *See, e.g.*, Dep't of Health and Hum. Servs., Office of the Inspector Gen., *Care Provider Facilities Described Challenges Addressing Mental Health Needs of Children in HHS Custody*, 13 (Sept. 2019), <https://perma.cc/YLT7-R3HP> ("HHS OIG Report") ("[C]hildren's average length of stay in ORR custody increased markedly after ORR implemented the new fingerprinting policy in June 2018," from 61 days in June 2018 to 93 days in November 2018 and then decreased after ORR ended fingerprinting

requirements for adult household members and then for parents, reaching 48 days in April 2019). The then-Assistant Secretary for the Administration for Children and Families later conceded that the policy did not “add [] anything to the protection and safety of the children.”² Extended lengths of stay in ORR custody harmed children’s mental health and wellbeing. *See, e.g.*, HHS OIG Report, 13 (After implementing new restrictive reunification policies, “[ORR f]acilities reported that it became more difficult to identify sponsors willing to accept children after the new fingerprinting requirements were implemented, which delayed placing children with sponsors, adding further stress and uncertainty.”); *see also id.* at 12–13 (“According to facility staff, longer stays resulted in higher levels of defiance, hopelessness, and frustration among children, along with more instances of self-harm and suicidal ideation.”).

47. The substantive component of due process forbids the Government from infringing in any way upon fundamental liberty interests unless the infringement is narrowly tailored to serve a compelling state interest. *United States v. Salerno*, 481 U.S. 739, 749 (1987). In the immigration context, whether the infringement is narrowly tailored to serve a compelling governmental interest is determined by evaluating whether the infringement on liberty: 1) is impermissible punishment or permissible regulation; and 2) is excessive in relation to the regulatory goal Congress sought to achieve. *Id.* at 747; *see also Zadvydas v. Davis*, 533 U.S. at 690 (“[G]overnment detention violates [the Due Process] Clause . . . [except] in certain special and narrow nonpunitive circumstances, where a special justification, such as harm-threatening mental illness, outweighs the individual’s constitutionally protected interest in avoiding physical restraint.” (internal citations omitted)); *Hernandez v. Sessions*, 872 F.3d 976, 990 (9th Cir. 2017).

² *See* John Burnett, *Several Thousand Migrant Children In U.S. Custody Could Be Released Before Christmas*, NPR (Dec. 18, 2018), available at <https://perma.cc/6WHS-BNR6>; *J.E.C.M. v. Lloyd*, 352 F. Supp. 3d at 583 (citing amicus brief filed by Human Trafficking Legal Center).

48. Only a compelling government interest can justify the deprivation of a fundamental interest in family integrity and even then, only for a brief time without judicial process. *Kia P. v. McIntyre*, 235 F.3d 749, 759 (2d Cir. 2000) (holding Constitution allowed child to be withheld from her mother for only a “short time,” in that case “a day or two,” while government actors determined if her placement with her mother was safe); *Southerland v. City of New York*, 680 F.3d 127, 154 (2d Cir. 2012) (holding that due process permits brief removal of child from his or her parents prior to judicial proceeding); *see also Reno*, 507 U.S. at 310 (“Our society and this Court's jurisprudence have always presumed [parents] to be the preferred and primary custodians of their minor children.”).

49. The government must show a compelling interest in withholding a child from his immediate family. *See Quilloin v. Walcott*, 434 U.S. 246, 255 (1978) (“[T]he Due Process Clause would be offended if a State were to attempt to force the breakup of a natural family ... without some showing of unfitness”); *United States v. Loy*, 237 F.3d 251, 269-70 (3d Cir. 2001) (“[W]here there is insufficient evidence to support a finding that children are potentially in danger from their parents, the state's interest cannot be said to be ‘compelling,’ and thus interference in the family relationship is unconstitutional.”). Absent any evidence of a parent's unfitness, keeping a child from a parent is egregious and serves no compelling interest. *Silveira Paixao*, 2018 WL 10436696 at 1 (issuing temporary restraining order directing immediate release of child to his mother given the likelihood his continued detention violated her due process rights); *Souza*, 2018 WL 10436697 at *2 (same).

50. As a federal court in the Southern District of California found, when “government actors responsible for the ‘care and custody’ of migrant children ... become their persecutors ... that arbitrarily tears at the sacred bond between parent and child, and is emblematic of the ‘exercise of power without any reasonable justification in the service of an otherwise legitimate governmental objective.’” *Ms. L. v. U.S. ICE*, 310 F.Supp.3d 1133 (S.D. Cal. June 26, 2018) (quoting *Cty. Of*

Sacramento v. Lewis, 523 U.S. 833, 846 (1998) and finding likely substantive due process violation stemming from “zero tolerance” policy of family separation.

51. As for what process is due, the Second Circuit has held that the *Mathews v. Eldridge* balancing test is applicable to determine the adequacy of process in the context of civil immigration confinement. *Velasco Lopez v. Decker*, 978 F.3d 842, 851 (2d Cir. 2020) (citing *Mathews v. Eldridge*, 424 U.S. 319 (1976)). The *Mathews* test requires balancing of: “[f]irst, the private interest that will be affected by the official action; second, 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 finally, the Government’s interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail.” *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976).

52. Courts have found that delays in reunifying unaccompanied minors with family members who are otherwise fit to look after them violates their procedural due process rights. *See, e.g. D.B. v. Cardall*, 826 F.3d 721, 741 (4th Cir. 2016) (holding that the procedural due process afforded to a mother seeking reunification with her minor child in ORR custody did not meet the test set out in *Mathews* and granting immediate release); *Paixao v. Sessions*, No. 18 CV 4591, 2018 WL 10436696, at *1 (N.D. Ill. July 5, 2018) (granting injunctive relief and ordering the immediate release of a minor upon finding that there was insufficient post-deprivation process applied where ORR delayed release to a parent due to pending background checks of other adult family members in the home and finding that “ the process to date has established that Paixao is fit and available, additional process only serves to interfere in the family's integrity with little to no benefit to the government's interests.”); *see also Souza v. Sessions*, No. 18 CV 4412, 2018 WL 10436697, at *1 (N.D. Ill. June 28, 2018) (similar).

53. Applying the first *Mathews* factor, courts have recognized that a person deprived of

their liberty and separated from family has a significant liberty interest that is infringed upon. *See, e.g. Lucas R. v. Becerra*, 2022 WL 2177454, at *14 (C.D. Cal. Mar. 11, 2022) (recognizing that minors, like adults, have a substantial liberty interest “in avoiding unjustified physical restraint”); *see also D.B. v. Cardall*, 826 F.3d 721, 740 (4th Cir. 2016) (Just as parents possess a fundamental right with respect to their children, children also enjoy a “familial right to be raised and nurtured by their parents”).

54. In assessing the second *Mathews* factors—the sufficiency of safeguards—ORR has a statutory and regulatory responsibility to determine the safety and suitability of the sponsor without unnecessary delay in order to adequately protect against the risk of erroneous deprivation. Where there is delay in processing reunification requests or an unreasonable burden placed on sponsors, courts have found that inadequate process has been afforded. *See, e.g. Lucas R. v. Becerra*, 2022 WL 2177454, at *27 (C.D. Cal. Mar. 11, 2022) (citing *Santos v. Smith*, 260 F. Supp. 3d 598, 613-14 (W.D. Va. 2017) (“‘significant’ and ‘unexplained delay[s] in responding to a [a proposed sponsor’s] unification request’ violate due process irrespective of other procedural defects.”); *Santos v. Smith*, 260 F. Supp. 3d 598, 613 (W.D. Va. 2017) (finding that ORR placed an improper burden on the parent sponsor to disprove ORR’s initial determination and justify reunification); *see also Maldonado v. Lloyd*, No. 18 CIV. 3089 (JFK), 2018 WL 2089348, at *7 (S.D.N.Y. May 4, 2018) (“With respect to the second *Mathews* factor, it is appropriate to review the process that has been provided to Petitioners so far.”).

55. Finally, under the third *Mathews* factor, the government has an interest in not only the safety of the public but also the welfare of the child, as well as the safe release of the unaccompanied child consistent with ORR’s mandate under the TVPRA. *See Saravia*, 280 F. Supp. 3d at 1199–1200 (recognizing the government’s asserted interests in “public safety and welfare, including the welfare of the minor”); *Santos*, 260 F. Supp. 3d at 614-15; *Maldonado*, No. 18 CIV. 3089 (JFK), 2018 WL

2089348, at *10 (“The most obvious Government interests here are protecting the welfare of children and the safety of the public.”).

CLAIMS FOR RELIEF

FIRST CLAIM

VIOLATION OF DUE PROCESS

56. Petitioner restates and realleges all paragraphs above as if fully set forth herein.

57. The government may not deprive a person of life, liberty, or property without due process of law. U.S. Const. amend. V. Due process protects “all ‘persons’ within the United States, including [non-citizens], whether their presence here is lawful, unlawful, temporary, or permanent.” *Zadvydas v. Davis*, 533 U.S. at 698. A child’s interest in being free from confinement is no narrower than that of an adult. *In re Gault*, 387 U.S. at 13; *Reno v. Flores* 507 U.S. at 316 (O’Connor, J. and Souter J., concurring) (“[The Supreme Court] ha[s] consistently [...] rejected the assertion that ‘a child, unlike an adult, has a right ‘not to liberty but to custody.’”). This includes the right of a child to familial association. *Duchesne v. Sugarman*, 566 F.2d at 825 (the right to familial association is shared by all members of the family, who enjoy “reciprocal rights” to preserve their family’s integrity.); *E.C.M. v. Lloyd*, 352 F. Supp. 3d 559, 585 (E.D. Va. 2018) (rejecting argument that child’s interest in family unity is unique to parents, and finding “siblings, aunts or uncles, grandparents, or first cousins” are family “captured in ORR’s second-level category of would-be sponsors” and also “constitutionally significant”).

58. Due process requires that the government may not deprive an individual of their constitutional rights without meaningful notice and an opportunity to be heard before a neutral arbiter to protect against the risk of erroneous deprivation. *Mathews v. Eldridge*, 424 U.S. at 335.

59. Due process also requires that government action be rational and non-arbitrary (*see*

U.S. v. Trimble, 487 F.3d 752, 757 (9th Cir. 2007)) and that only a compelling government interest can justify the deprivation of fundamental interests in liberty and family integrity. *See Kia P. v. McIntyre*, 235 F.3d at 759.

60. Respondents have deprived S.R.U. of his freedom from confinement and his right to family integrity without constitutionally sufficient due process for nearly six months and counting. Indeed, Respondents have subjected Petitioner's sponsor to a seemingly interminable process in which each evidentiary submission is met with yet another request for more—the latest being their request for further evidence of his father's ITIN application, even though (i) he has already provided the only available evidence and (ii) an ITIN number is not a prerequisite for a child's release under ORR's own guidance. The result is a deficient process in which evidence collection is conducted piecemeal with new evidence requirements imposed on a rolling basis. Meanwhile, S.R.U. is forced to remain separated from his family. As such, Respondents have deprived Petitioner of his right to due process.

SECOND CLAIM FOR RELIEF
VIOLATION OF THE TRAFFICKING VICTIMS PROTECTION REAUTHORIZATION
ACT (TVPRA), 8 U.S.C. § 1232

61. Petitioner restates and realleges all paragraphs above as if fully set forth herein.

62. Respondents have a non-discretionary duty under the TVPRA to promptly place S.R.U. “in the least restrictive setting” that is in [his] best interests, usually with “a suitable family member.” 8 U.S.C. § 1232(c)(2)(A).

63. Respondents have failed to promptly place Petitioner in the least restrictive setting, namely with his sister who has applied to serve as his sponsor.

64. S.R.U.'s sister is capable, proper, and fit, and S.R.U. does not present any flight risk or danger to the community. Therefore, Respondents have failed to place S.R.U. in the least restrictive setting that is in his best interests.

65. Respondents' policies and actions described above, which have resulted in S.R.U.'s unnecessary prolonged detention and separation from his suitable sponsor, violate Section 235 of the TVPRA, 8 U.S.C. § 1232.

THIRD CLAIM FOR RELIEF

VIOLATION OF THE ADMINISTRATIVE PROCEDURES ACT (APA), 5 U.S.C. §§ 701 *et seq.*

66. Petitioner restates and realleges all paragraphs above as if fully set forth herein.

67. Respondents' refusal to release S.R.U.'s to his vetted sponsor constitutes final agency action. So too is their decision to reject evidence submitted by Petitioner's father demonstrating that he has applied for an ITIN. Such actions have caused S.R.U. to suffer severe "legal consequences" in the form of continued detainment and separation from his family members, in violation of S.R.U.'s fundamental right to be free from detention and family integrity. *Bennett v. Spear*, 520 U.S. 154, 177-78 (1977) (agency action that is reviewable under the APA must be a final action from which "legal consequences" would flow). Accordingly, S.R.U. is entitled to judicial review of ORR's actions under 5 U.S.C. §§ 702 and 704.

68. Respondents' detention of S.R.U. and their failure to release S.R.U. to his fit sponsor is arbitrary, capricious, and not in accordance with the law. 5 U.S.C. § 706(2)(A).

69. S.R.U. has no recourse to judicial review other than by this action.

FOURTH CLAIM FOR RELIEF

VIOLATION OF THE *ACCARDI* DOCTRINE; FOUNDATIONAL RULE, 45 C.F.R. §§ 410.1000 *et seq.*, AND THE ORR UC POLICY GUIDE

70. Petitioner restates and realleges all paragraphs above as if fully set forth herein.

71. Federal agencies and their officials are required to follow their own "existing valid regulations." *See United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260, 268 (1954). When an

agency fails to comply with binding regulations, such actions are “not in accordance with law.” *See Vitarelli v. Seaton*, 359 U.S. 535, 545 (1959). *Accardi* is not “limited to rules attaining the status of formal regulations.” *Montilla v. INS*, 926 F.2d 162, 167 (2d Cir. 1991). This requirement to abide by agency rules extends to agency guidance. *See Morton v. Ruiz*, 415 U.S. 199, 235 (1974) (“Where the rights of individuals are affected, it is incumbent upon agencies to follow their own procedures . . . even where the internal procedures are possibly more rigorous than otherwise would be required.”).

72. According to ORR’s administrative guidance, an ITIN is not required as a prerequisite for release, but rather can be applied for “during the pendency of their sponsorship application.” *See* UC Policy Guide, Section 2.2.3. The guide goes on to say that “Sponsors, HHMs [household members age 18 and older], and ACGs [adult caregivers] who cannot provide proof of their SSN or ITIN may request a new copy of their SSN card or apply for and *later* provide their ITIN, as appropriate, to complete the Sponsor Application and vetting process.” (emphasis added).

73. Yet, ORR and Respondents purport to prolong Petitioner’s detention by claiming that they cannot approve his sister’s sponsorship application until proof of a valid ITIN or IRS-issued proof of an application for an ITIN is provided for on behalf of Petitioner’s father—who is not even seeking to serve as Petitioner’s sponsor. This requirement plainly flouts ORR’s own agency guidance which allows release processing upon application of an ITIN.

74. Moreover, under 45 C.F.R. § 410.1003(f), commonly referred to as the “Foundational Rule,” Respondents have a non-discretionary duty to promptly place S.R.U. in the least restrictive setting that is in [his] best interests. To that end, ORR is also required to make and record prompt and continuous efforts towards a child’s release. *Id.* § 410.1203(a). Under this rule, ORR shall adjudicate an application by an immediate family member or other close relative within 10 calendar days . . . absent an unexpected delay.” *Id.* § 410.1205(b). Other completed sponsor applications by close

relatives who were not the child's primary caregiver must be adjudicated within 14 days, absent unexpected delay. *Id.* § 410.1205(c).

75. ORR has failed to make prompt and continuous efforts towards Petitioner's release and is instead delaying the processing of Petitioner's sponsor's application by insisting on legally immaterial evidence, such as Petitioner's father's ITIN, or failing to inform the sponsor of the requirements needed on a timely basis. Indeed, they have engaged in piecemeal review by requesting evidence at various intervals in a process that seems never-ending and, as noted above, most recently rejected proof of a signed application for an ITIN by the sponsor's father—even though more proof beyond that is unnecessary according to ORR's own guidance.

76. These actions and delays are in violation of their own regulations and guidance, and therefore violate the *Accardi* doctrine.

FIFTH CLAIM FOR RELIEF:
VIOLATION OF THE FLORES SETTLEMENT AGREEMENT

77. The *Flores* Settlement Agreement authorizes any minor who disagrees with ORR's placement or custodial determination to seek review in "any United States District Court with jurisdiction and venue over the matter to challenge that placement determination . . ." *Flores* Settlement Agreement ("FSA"), ¶ 24B. Paragraphs 28A (incorporating by reference Paragraph 14), 32, and 33 of the *Flores* Settlement Agreement continues to apply, and these paragraphs together with Paragraph 21.A continues to apply to ORR secure, heightened supervision, and out-of-network facilities. *Flores v. Garland*, 2024 WL 3467715 *5-6, 9 (C.D. Cal. June 28, 2024).

78. The *Flores* Settlement Agreement requires that if a child is not a flight risk or a danger to the community, they be released "without unnecessary delay" to a sponsor. FSA ¶ 14. Petitioner is neither a flight risk nor a danger, and yet Respondents have effectively decided to keep him in their custody—despite the obvious alternative, namely allowing him to reside with his father and a sister

who is willing and able to look after him.

**SIXTH CLAIM FOR RELIEF:
RELEASE PENDING ADJUDICATION**

79. Petitioner repeats and re-alleges the allegations contained in all preceding paragraphs of this Petition as if fully set forth herein.

80. Pursuant to *Mapp v. Reno*, this Court has the “inherent authority” to set bail pending the adjudication of a habeas petition when the petition has raised (1) substantial claims and (2) extraordinary circumstances that (3) “make the grant of bail necessary to make the habeas remedy effective.” 241 F.3d 221, 226 (2d Cir. 2001).

81. Petitioner present substantial claims, as noted above. Moreover, extraordinary circumstances are also present, given the unjustified nature of Petitioner’s ongoing confinement and the length of time that he has already been separated from his family.

82. Petitioner requests immediate release pending adjudication of the instant petition.

PRAYER FOR RELIEF

Petitioner prays that the Court assume jurisdiction over this Petition and Complaint and grant the following relief:

- I. Issue a Writ of Habeas Corpus compelling Respondents to release S.R.U. to the custody and care of his adult sister and proposed sponsor;
- II. Order release on bail pending adjudication of this petition under his Court’s inherent authority, as authorized by *Mapp v. Reno* 241 F.3d 221, 226 (2d Cir. 2001);
- III. A declaratory judgement that Respondents have violated S.R.U.’s constitutional and statutory rights;
- IV. An injunction prohibiting S.R.U.’s continued custody by ORR because a suitable sponsor is available, as required by federal statutes, the Foundational Rule, the *Flores* Settlement

Agreement, and the U.S. Constitution;

- V. An order under Section 706 of the Administrative Procedure Act that vacates Respondents' decision refusing to release Petitioner to his sponsor;
- VI. An award of costs and reasonable attorneys' fees under the Equal Access to Justice Act, and any other applicable statute or regulation; and
- VII. Any other relief the Court deems just and proper.

Dated: June 1, 2026

Respectfully submitted,

/s/ Harold A. Solis

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**Application for admission forthcoming*

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

I represent Petitioner S.R.U. and submit this verification on his behalf. I hereby verify that the factual statements made in the foregoing Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated this 1st day of June, 2026.

Respectfully Submitted,

/s/ Harold A. Solis
Harold A. Solis, Esq.

Attorney for Petitioner