U.S. Department of Justice

United States Attorney
Eastern District of New York

271 Cadman Plaza East
Brooklyn, New York 11201

June 11, 2026

By ECF

Honorable Eric R. Komitee
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: *R.G.M. v. Kennedy, et al.*
Civil Action No. 26-cv-3322 (Komitee, J.)

Dear Judge Komitee:

This Office represents Respondents Secretary of Health and Human Services Robert F. Kennedy, Jr., Acting Director of the Office of Refugee Resettlement ("ORR") Angie Salazar, and Secretary of the U.S. Department of Homeland Security ("DHS") Markwayne Mullin (collectively, the "Federal Respondents") in the above-referenced action. On June 8, 2026, the Court directed the Federal Respondents to respond to Petitioner R.G.M.'s motion for a temporary restraining order ("TRO Motion") by noon on June 11, 2026.

In response, the Federal Respondents respectfully write to notify the Court that this Petition, has been overtaken by events: Petitioner R.G.M. was transferred out of ORR custody on the evening of June 10, 2026. Petitioner's counsel separately confirmed, in an email sent that same evening, that Petitioner is now with his grandmother, who is identified in the Amended Petition as Petitioner's next friend, Claudia Marin Chavez. Respondents respectfully ask that both TRO and habeas action be denied.

I. Relevant Background

By way of background, the Amended Petition that Petitioner filed on June 8, 2026 alleged, among other things, that Petitioner was detained at the U.S.-Mexico border in November 2025, designated an unaccompanied alien child ("UAC"), and taken into ORR's custody. *See* Am. Pet., ¶ 16. Petitioner further alleged that he had acquired U.S. citizenship at birth by operation of law, and thus, ORR's custody over Petitioner was unlawful. *See* Am. Pet., ¶ 1. Accordingly, Petitioner sought issuance of a writ of habeas corpus "compelling Respondents to immediately release Petitioner from custody without any restrictions on liberty." *See* Am. Pet., Prayer for Relief (¶ B). In connection with the Amended Petition, Petitioner filed the TRO Motion, which seeks Petitioner's "immediate release." *See* ECF No. 6-1, at 6.

Additional information is contained in the Declaration of Toby Biswas, dated June 11, 2026 ("Biswas Decl."), which is enclosed with this letter. In pertinent part, Petitioner first entered ORR's custody on November 23, 2025, when DHS referred him to ORR after determining that he was a UAC encountered at the border. *See* Biswas Decl., ¶¶ 25-27.

ORR made repeated attempts to find an appropriate sponsor for Petitioner between November 2025 and May 2026. *See* Biswas Decl., ¶ 30. However, Petitioner's purported mother disclaimed interest in sponsoring him, *see* Biswas Decl., ¶ 34, and Ms. Marin Chavez failed to submit the required sponsorship material in the six-month span between November 2025 and May 2026, *see* Biswas Decl., ¶¶ 35-38. Indeed, there seemed to be conflict within the family, and calls needed to be, at least for a time, monitored. *See* Biswas Decl., ¶¶ 30-31

On May 29, 2026, over half a year after holding him. ORR was first alerted to Petitioner's claim to U.S. citizenship when a legal representative for Petitioner emailed ORR to express the belief that Petitioner "is a U.S. citizen who acquired citizenship at birth because his mother is a citizen and she has spent her childhood in New York before going to Mexico to give birth to [Petitioner]." *See* Biswas Decl., ¶ 39. Soon after, ORR contacted DHS to inquire about this development, and understood that DHS was looking into the matter. *See* Biswas Decl., ¶ 40. Then, on June 9, 2026, ORR learned that Petitioner filed an unopposed motion in immigration court to terminate his removal proceedings, and an immigration judge granted the motion to terminate without prejudice because "[Petitioner] is a [U.S. citizen]." *See* Biswas Decl., ¶ 43.

Upon learning of the determination as to Petitioner's citizenship status, ORR promptly made efforts to transfer Petitioner out of its custody. *See* Biswas Decl., ¶¶ 43-45. Those efforts were complicated by ORR's inability to identify a suitable sponsor during Petitioner's six months in ORR's custody. *See* Biswas Decl., ¶¶ 43-45. Nevertheless, ORR was able to make arrangements, consistent with its policy guidance on release of children with legal status, with the New York Administration for Children's Services ("ACS") for ACS to take custody and make a determination as to whether Petitioner could safely be released to Ms. Marin Chavez. *See* Biswas Decl., ¶¶ 40-41, 46.

On the evening of June 10, 2026, Petitioner was transferred out of ORR into ACS custody. *See* Biswas Decl., ¶ 47. Soon after, Petitioner's counsel confirmed that Petitioner was at home with his grandmother.

II. Requests to Dismiss

Accordingly, in light of these developments, the Federal Respondents maintain that, as Petitioner obtained the relief sought—namely, release from ORR's custody—the TRO is moot and subject to dismissal. *See e.g.*, *Stafford v. IBM Corp.*, 78 F.4th 62, 69 (2d Cir. 2023) (action to confirm arbitration award became moot after the commencement of the action because the defendant paid the plaintiff the full amount of the arbitration award); *cf. also Smith v. Hallett*, No. 20-cv-2598, 2023 WL 5153520, at *2 (E.D.N.Y. Aug. 10, 2023) (Komitee, J.) ("The grounds upon which [the petitioner] seeks habeas relief are now moot. . . . [A] 'challenge to conditions of confinement will be considered moot where the petitioner has been transferred to a different

facility.' ") (quoting *Razzoli v. Strada*, No. 10-cv-4802, 2013 WL 837277, at *2 (E.D.N.Y. Mar. 6, 2013) (Amon, J.)).

For the same reasons, the habeas action itself is subject to dismissal. Habeas is a remedy only for those "in custody" 28 U.S.C. § 2241. Even if habeas applied to the protective supervision of minors—who cannot be unsupervised—Petitioner is not presently in federal custody, and has since released as of June 10. Therefore, this habeas action is moot as well, and this action should be dismissed.

Respondents thank the Court for its consideration of these requests.

Respectfully submitted,

JOSEPH NOCELLA, JR.
United States Attorney
Counsel for Respondents

By: */s/ David A. Cooper*
DAVID A. COOPER
Assistant U.S. Attorney
(718) 254-6228
david.cooper4@usdoj.gov

cc: **By ECF**
Counsel of Record