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

B.E.C.L, a minor, by and through Erica
Santamaria as Guardian Ad Litem; et. al.,

Petitioners,

v.

RUBY HERNANDEZ, Federal Field
Specialist, Office of Refugee
Resettlement; et al.,

Respondents.

Case No. 5:26-CV-07272

**PETITIONER'S TRAVERSE IN
SUPPORT OF VERIFIED
PETITION FOR WRIT OF
HABEAS CORPUS**

**[Declaration of Marion Donovan-
Kaloust In Support of Petitioners'
Traverse filed concurrently
herewith]**

**PETITIONER'S TRAVERSE IN SUPPORT OF VERIFIED PETITION FOR WRIT OF
HABEAS CORPUS**

INTRODUCTION

This case concerns Respondents' continued detention of five unaccompanied children ("UC") long after Congress required their placement with family members in the least restrictive setting appropriate to their best interests. Petitioners have now remained confined in ORR custody for more than eight months despite the existence of available sponsors, the completion of substantial portions of the reunification process, and the absence of any determination that any Petitioner poses a danger to themselves, to others, or a risk of flight.

Respondents offer no meaningful defense for this prolonged detention. They do not claim Petitioners are dangers to the community. They do not contend Petitioners are flight risks. They do not identify final denials of sponsor applications. Instead, the record reveals repeated agency delay, prolonged inactivity, shifting reunification requirements, and ongoing detention without adjudication.

Congress enacted the TVPRA to ensure that unaccompanied children would be promptly placed with suitable family members rather than languish in government custody. 8 U.S.C. § 1232(c)(2)(A). ORR's Foundational Rule reinforces that mandate through deadlines requiring prompt sponsor adjudication and supervisory review of delayed reunifications. Yet Petitioners remain confined hundreds of days after entering ORR custody while Respondents continue identifying unresolved tasks of their own making.

The timeline itself demonstrates the violation. Petitioner's sponsors repeatedly complied with ORR's demands. Fingerprints were completed. Home studies were conducted. Additional documentation was supplied. Housing concerns were addressed. Demand letters were sent. Yet reunification never occurred. Only after judicial intervention became imminent did Respondents begin showing activity at a quicker pace. This pattern reflects the conduct criticized in similar ORR detention cases and confirms why judicial intervention remains necessary here.

1 Because Respondents continue detaining Petitioners without lawful
2 justification, this Court should grant the Petition and order their immediate release.

3 **FACTS**

4 The facts alleged in the Petition are incorporated by reference (Petition, Dkt.
5 No. 1, Decl. of Erica Santamaria, Dkt. No. 1-2, Answer Dkt. 24, Decl. of Toby
6 Biswas, Dkt. No. 24-1). The following is a summary of undisputed facts.

7 **I. Petitioners B.E.C.L., J.E.M.C., and A.I.L.D.**

8 On November 11, 2020⁵, Petitioners B.E.C.L., J.E.M.C., and A.I.L.D. entered
9 ORR. Dkt. 24-1, Biswas Decl. ¶35. Their sponsor, B.C.L., is the mother of B.E.C.L.
10 and J.E.M.C. and the sister of A.I.L.D. *Id.* at ¶36. She has consistently pursued
11 reunification and complied with ORR's reunification requirements since November
12 12, 2025. *Id.* On November 18, 2025, ORR was informed that B.C.L. only had a
13 foreign identification document and did not possess a social security number or
14 ITIN. *Id.* at ¶37. ORR did not inform B.C.L. that as a Category 1 sponsor, she
15 qualified for an exemption to both the identification and social security or ITIN
16 requirement.¹

17 On December 1, 2025, B.C.L. submitted her Authorization for Release of
18 Information ("ARI"), but reported she was having difficulties with the sponsor
19 application due to reading and technology limitations. *Id.* at ¶40. ORR made no
20 effort to facilitate a physical application to B.C.L. B.C.L. again reported difficulty
21 with the online application on December 15, 2026, and February 11, 2026. *Id.* at ¶41,
22 49.

23 On December 15, 2025, B.C.L. provided her Guatemalan identification

24 ¹ Qualifying Category 1 cases without safety concerns where the potential Sponsor or adult
25 HHMs are unable to meet ORR proof of identity or other documentation requirements may seek
26 an exemption from the ORR Office of the Director to utilize foreign-issued proof of identity
27 documents or alternate records to establish proof of address, relationship, or income on a case-
28 by-case basis. *See* Field Guidance #24 – ORR Division of Sponsor Administration Role
Guidance, Footnote 1, Office of Refugee Resettlement, available at
https://acf.gov/sites/default/files/documents/orr/FG-27_-_DNA_Testing_Expansion.pdf (last
visited July 18, 2026).

1 document, birth certificates for the children and herself, proof of address and proof
2 of income. *Id.* at 41.

3 On January 15, 2026, B.C.L. informed ORR that she was still missing her
4 driver's license and ITIN. *Id.* at ¶43. ORR still did not inform B.C.L. was entitled to
5 an exemption as a Category 1 sponsor. On February 3, 2026, B.C.L. submitted her
6 state driver's license. *Id.* at ¶45. And on February 6, 2026, B.C.L. submitted her
7 ITIN, as well as the ACG's ("Alternate Care Giver's") driver's license and ITIN. *Id.*
8 at ¶47.

9 On February 4th and 9th, 2026, ORR kicked back the application for minor
10 updates—an incorrectly written address and failure to provide the address history
11 from the age of 18—which required B.C.L. to update the information, re-sign, and
12 then resubmit it. *Id.* at 49.

13 Not until March 9, 2026, did ORR schedule the fingerprint-based background
14 checks for B.C.L. and the ACG. *Id.* at ¶53. On March 10, 2026, B.C.L. and the ACG
15 completed fingerprinting, which came back as "clear" *the same day*. *Id.* at ¶54.

16 On June 5, 2026, ORR deemed the sponsor application complete. *Id.* at ¶65.
17 On June 9, 2026, ORR referred the case for a home study, which resulted in a
18 positive recommendation on June 24, 2026. *Id.* at ¶67.

19 Eleven days after the sponsor application was completed, on June 16, 2026,
20 undersigned counsel sent a letter via email to Acting Director Angie Salazar,
21 demanding a final decision or immediate release of the children. Said
22 correspondence was never answered. Dkt. 1, 7:31-8:1-4.

23 On July 6, 2026, ORR received the results of the Division of Vetting (DOV)
24 report. Biswas Decl. ¶ 68.

25 Not until July 7, 2026, was B.C.L. scheduled for an in-person ID verification
26 appointment where a DNA sample was collected to confirm the biological
27 relationship with the children. *Id.* at ¶69.

28 **II. Petitioners M.G.R.P. and A.I.R.P.**

1 On November 7, 2026, Petitioners M.G.R.P. and A.I.R.P. entered ORR
2 custody. *Id.* at ¶70. [REDACTED]

3 [REDACTED] Dkt. 1, Petition, 9:14-
4 20. They seek reunification with their mother, M.J.P.T., who was identified as a
5 sponsor on February 4, 2026. Biswas Decl. at ¶81.

6 On February 6, 2026, M.G.R.P. was diagnosed with depression. Her
7 symptoms include insomnia, loss of concentration, and a decreased appetite. *Id.* at
8 ¶82. On February 17, 2026, an Individualized Section 504 Service Plan was created
9 for M.G.R.P. to support the child's disability-related needs. The plan included
10 various services, supports, and accommodations to ensure the child was able to
11 participate equally in the UAC Program. *Id.* at ¶85.

12 On March 20, 2026, M.J.P.T., reported difficulty in obtaining the required
13 documents to show her proof of address. *Id.* at 90. ORR did not explain she qualified
14 for an exemption (*supra* Footnote 1) to provide alternate records and establish proof
15 of address, relationship, or income. M.J.P.T. also requested assistance with
16 completing the online sponsor application. *Id.*

17 On March 27, 2026, M.J.P.T. reported that she might be relocating because
18 the household members had submitted their passports for ITIN applications, in order
19 to provide them to ORR in support of M.J.P.T.'s reunification application. *Id.* at ¶91.
20 In submitting their passports for ITIN applications, the household members were left
21 without identification, also needed as part of M.J.P.T.'s reunification application,
22 and did not have alternate forms of identification at the time. *Id.* On April 1, 2026,
23 M.J.P.T. advised she was actively seeking a new residence to continue the
24 sponsorship process and had not yet secured an apartment. *Id.* at ¶92.

25 At this time, none of the other sponsor vetting steps had taken place, including
26 DNA testing, fingerprint background checks or verification of relationship to the
27 children or verification of identity.

1 On May 1, 2026, the 504 Plan for M.G.R.P. was updated to reflect her new
2 diagnosis (PTSD) and ensure the services and accommodations already
3 implemented aligned with the child's needs. *Id.* at 99. The 504 Plan also included
4 transition planning for the child's eventual release, and a resource list near
5 M.J.P.T.'s home was also prepared, which includes resources for mental health
6 support and low cost healthcare clinics. *Id.*

7 On June 11, 2026, M.J.P.T. reported she had obtained housing. On June 14,
8 2026, the ORR care provider developed an updated transition plan tailored to the
9 new address. *Id.* at 101.

10 On June 17, 2026, undersigned counsel sent a letter via email to Acting
11 Director Angie Salazar, demanding immediate release of the children or a final
12 written decision on their mother's sponsor application. Said correspondence was
13 never answered. Dkt. 1, Petition, 11:14-17.

14 On June 22, 2026, M.J.P.T. ORR deemed her sponsor application completed.
15 *Id.* at ¶104. On June 26, 2026, ORR requested internet background checks for the
16 sponsor, including a public records check and sex offender registry check. *Id.* at
17 ¶106. Results returned on June 30, 2026, as "clear." *Id.* On June 30, 2026, M.J.P.T.
18 attended her fingerprinting appointment. Results were received the same day and
19 came back as "clear." *Id.*

20 On June 30, 2026, an expedited home study was requested, which resulted in
21 a negative recommendation based on concerns relating to the inconsistencies noted
22 in the frequency of communication between the children and their mother while the
23 children remained in home country. *Id.* at ¶108.

24 ORR is currently pending results of the DNA test and medical clearance of
25 both children. *Id.* at ¶111.

26 **III. ORR'S REUNIFICATION VETTING PROCESS**

27 Respondent's Answer includes a description of the policies and procedures
28 ORR must follow when placing UCs with sponsors under the ORR Unaccompanied

1 Alien Children Bureau Policy Guide (the “Policy Guide”). Dkt. 24. Petitioners
2 supplement those procedures here.

3 **IV. RELEASE TIMING REQUIREMENTS**

4 Notably absent from Respondents’ Answer are the timing requirements
5 established by regulation that govern UC release. ORR must effectuate release to a
6 vetted sponsor – with preference for parents first – “without unnecessary delay,” and
7 begin sponsor assessment as soon as a child enters ORR custody. 45 C.F.R.
8 §§ 410.1200–1201; Policy Guide §§ 2.1, 2.2.

9 To ensure UCs are released “in a safe, efficient, manner without unnecessary
10 delay,” ORR has mandated timeframes to adjudicate a completed FRP. Absent
11 complicating factors, ORR must adjudicate completed FRPs “*within 10 calendar*
12 *days of receipt*” for parent sponsors. 8 C.F.R. § 410.1205(b). ORR is further required
13 to periodically review pending FRPs – specifically, a *formal review every 90 days*
14 for applications that remain pending – to ensure the reunification process does not
15 stall. 8 C.F.R. § 410.1207(a). This review is not cursory; ORR supervisory staff must
16 timely resolve the reasons that a release application remains pending and determine
17 possible steps to accelerate the child’s safe release. *Id.* ORR must further update both
18 potential sponsor and child, explain why the process is incomplete, and work with
19 potential sponsors, relevant stakeholders, and ORR to address unresolved portions
20 of the FRP. *Id.*

21 **V. ALTERNATIVE CAREGIVER OR PLAN FOR RELEASE**

22 As part of the reunification process, an Alternative Caregiver is identified and
23 vetted in tandem with the FRP, to “create a plan to cover a broad range of care.” 8
24 C.F.R. § 410.1203(f). Potential sponsors must also submit documentation and
25 evidence verifying the identity of all adults residing with the sponsor and all adult
26 caregivers identified in a sponsor care plan. Policy Guide § 2.2.4. ORR is responsible
27 for conducting concurrent planning to identify an alternate potential sponsor (the
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Alternative Caregiver) *or plan for release*.² This includes indicating the reason for concurrent planning and any concerns with the potential sponsor, as well as any available information about the additional sponsor(s) or alternate release plans.³

ARGUMENT

I. RESPONDENTS' THRESHOLD PROCEDURAL ARGUMENTS ARE UNAVAILING.

Respondents ask the Court to sever this action under Federal Rule of Civil Procedure 21 on the ground that Petitioners consist of two family/sibling groups whose reunification proceedings involve different sponsors, differing factual circumstances, and varying stages of the sponsor-vetting process. Dkt. 24 at 24–25. Respondents further contend that joinder is inappropriate and judicial economy favors separate proceedings. *Id.* Neither argument warrants severance.

First, although framed as a request for severance under Rule 21, the argument depends on establishing that Petitioners were improperly joined under Rule 20. Courts construe Rule 20 broadly "in order to promote trial convenience and to expedite the final determination of disputes, thereby preventing multiple lawsuits." *League to Save Lake Tahoe v. Tahoe Reg'l Planning Agency*, 558 F.2d 914, 917 (9th Cir. 1977). Rule 20 permits joinder where claims arise out of the same transaction, occurrence, or series of transactions or occurrences and present any common question of law or fact. Fed. R. Civ. P. 20(a)(1). Because both requirements are met here, Respondent's request for severance should be denied.

All five Petitioners are unaccompanied children who remain in ORR custody after prolonged reunification efforts. Each Petitioner asserts substantially identical claims under the TVPRA, the Foundational Rule, and the Due Process Clause and seeks the same relief, it being release from continued ORR custody. Petitioners are similarly situated in all respects material to this litigation. The existence of

² UC MAP Section 2: Safe and Timely Release from ORR Care (Version 8.2), https://acf.gov/sites/default/files/documents/orr/UACMAP_Section-2_2025-04-15.pdf, page 44.

³ *Id.* at page 45.

1 individualized facts concerning sponsor vetting does not defeat joinder where the
2 claims arise from a common pattern of agency conduct and present overlapping legal
3 questions. *See Hernandez v. Janecka*, No. 5:26-CV-00710-MBK, 2026 WL 734524,
4 at *5 (C.D. Cal. Mar. 4, 2026) (finding joinder appropriate where “Petitioners
5 raise[d] identical due process claims challenging their re-detention without pre-
6 deprivation notice or a hearing”). “[V]ague and unsupported concerns are
7 insufficient to defeat joinder.” *Hernandez*, 2026 WL 73524, at *5.

8 Second, judicial economy favors maintaining the action as presently
9 constituted. The legal questions presented are largely identical. The Court must
10 determine whether ORR’s prolonged detention of children with available family
11 placements comports with the TVPRA, the Foundational Rule, the Due Process
12 Clause, and, in M.G.R.P.’s case, the Rehabilitation Act. Those questions do not
13 require separate interpretation of different statutory schemes or agency programs.
14 Unlike the petitioners in *Asgari*, whose claims arose from distinct immigration
15 benefits petitions governed by different adjudicatory standards, all Petitioners here
16 challenge the same agency’s reunification practices under the same legal framework.
17 *See Asgari v. United States Citizenship & Immigr. Servs.*, No.
18 822CV01888FWSKES, 2023 WL 6785801, at *5 (C.D. Cal. July 31, 2023) (denying
19 leave to amend). Consolidated resolution therefore promotes efficiency and avoids
20 repetitive litigation.

21 Respondents’ additional authorities are even further removed from the
22 circumstances presented here. *Padron v. OneWest Bank*, No. 2:14-CV-01340-OWD,
23 2014 WL 1364901, at *2 (C.D. Cal. Apr. 7, 2014) and *D’Angelis v. Bank of America*,
24 *N.A.*, 2014 WL 202567, at *3 (E.D.N.Y. Jan. 16, 2014), involved large collections
25 of unrelated plaintiffs asserting individualized claims requiring separate witnesses,
26 separate documentary evidence, and distinct determinations of liability. Those cases
27 bear little resemblance to an action involving five children organized into two sibling
28

1 groups challenging the same agency's administration of the same reunification
2 process.

3 *D'Angelis* is particularly unpersuasive because the quotation presented to this
4 Court omits the qualifying language that explains why joinder was improper in that
5 case. Respondents quote *D'Angelis* for the proposition that "joinder of over 100
6 different claims . . . does not serve the interest of judicial economy." Dkt. 24 at 25.
7 The omitted language matters. In full, the court stated that "joinder of over 100
8 different claims against eight different defendants involving the application of the
9 laws of twenty-eight different states does not serve the interest of judicial economy."
10 *D'Angelis v. Bank of Am., N.A.*, No. 13-CV-818, 2014 WL 202567, at *3 (E.D.N.Y.
11 Jan. 16, 2014) (emphasis added). Those circumstances, not simply the number of
12 claims, formed the basis for the court's conclusion that joinder would frustrate
13 judicial economy. This case does not have resemblance to the circumstances
14 presented in *D'Angelis*.

15 Respondents repeatedly invoke *Lucas R. v. Becerra*, No. CV 18-5741-DMG
16 (PLAx), 2022 WL 2177454, *28 (C.D. Cal. Mar. 11, 2022) as the governing
17 authority for due process rights in the context of ORR detention, ORR's reunification
18 procedures, sponsor review process, and administrative appeals. Dkt. 24 at 12–13,
19 29–31. They likewise rely on *Lucas R.* to defend the adequacy of ORR's
20 reunification framework and the procedural protections afforded during sponsor
21 review. If *Lucas R.* supplies the governing legal framework for each Petitioner's
22 claims, then common questions of law necessarily predominate. Respondents' own
23 Answer therefore demonstrates the substantial commonality that Rule 20 requires.

24 Respondents identify no independent Rule 21 consideration that would
25 warrant severance even if Rule 20 were satisfied. To the contrary, severance would
26 require duplicate briefing, duplicate judicial consideration of the same statutory and
27 constitutional issues and create an unnecessary risk of inconsistent rulings
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1 concerning the same due process rights, ORR policies and reunification procedures,
2 and governing legal standards. Keeping these claims together promotes judicial
3 economy rather than undermining it. For these reasons, Petitioners are properly
4 joined under Rule 20, and Respondents have not established any basis for severance
5 under Rule 21.

6 Lastly, Respondents argue that administrative exhaustion is appropriate
7 because sponsorship applications remain pending, but exhaustion presupposes the
8 existence of a reviewable administrative decision. Here, Respondents have issued
9 none. ORR has continued detaining Petitioners for months without resolving their
10 reunification requests, leaving Petitioners without any means to challenge the basis
11 for their continued confinement. See Dkt. 24 at 25–26; Biswas Decl. ¶¶ 35–111.
12 Respondents cannot avoid judicial review by allowing reunification proceedings to
13 remain unresolved while Petitioners continue languishing in detention. Habeas relief
14 remains appropriate where children continue to be confined.

15 **II. RESPONDENTS VIOLATED PETITIONERS' DUE PROCESS**
16 **RIGHTS AND THE MATHEWS FACTORS WEIGH HEAVILY**
17 **IN PETITIONERS' FAVOR**

18 Procedural due process claims are analyzed under the balancing framework
19 set forth in *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976). Courts consider: (1) the
20 private interests affected; (2) the risk of erroneous deprivation under the procedures
21 used and the value of additional safeguards; and (3) the government's interest. *Id.*
22 Each factor favors Petitioners.

23 **A. Petitioners Are Being Deprived of Fundamental Liberty Interests**

24 The Supreme Court has repeatedly recognized that freedom from physical
25 restraint lies at the core of the liberty protected by the Due Process Clause. *Zadvydas*
26 *v. Davis*, 533 U.S. 678, 690 (2001). Children likewise possess a constitutionally
27 protected interest in freedom from institutional confinement. *Reno v. Flores*, 507
28 U.S. 292, 302–03 (1993). Petitioners are not merely challenging a bureaucratic

1 delay. They have spent approximately eight months in ORR custody while separated
2 from the sponsors willing to assume their care and actively seeking reunification.
3 Dkt. 24 at 15–24; Biswas Decl. ¶¶ 35–111.

4 The Constitution also protects the right to family integrity and familial
5 association. The Ninth Circuit has recognized that the right to family integrity is a
6 well-established substantive liberty interest. *Rosenbaum v. Washoe County*, 663
7 F.3d 1071, 1079 (9th Cir. 2011). Children likewise possess equally significant
8 interests in being raised and nurtured by their parents. *D.B. v. Cardall*, 826 F.3d 721,
9 740 (4th Cir. 2016).

10 These liberty interests are particularly important here because Petitioners are
11 children. Every additional month in institutional custody represents another month
12 of separation from familial support, community integration, education, stability, and
13 normal childhood development. The first *Mathews* factor therefore weighs heavily
14 in Petitioners' favor.

15 **B. The Risk Of Erroneous Deprivation Is Substantial**

16 The second *Mathews* factor also strongly favors Petitioners because the risk
17 of erroneous deprivation is extraordinarily high when children remain detained while
18 reunification proceedings remain unresolved.

19 Respondents repeatedly rely on ORR's administrative review process as
20 evidence that Petitioners have received adequate procedural protections. But that
21 argument ignores the fact that Petitioners have remained in ORR custody for months
22 while the reunification process remains ongoing, leaving them without any
23 meaningful avenue to obtain timely review of their continued confinement. The
24 administrative procedures Respondents cite become meaningful only after ORR
25 resolves the reunification process and communicates its determination.⁴ Until then,

26
27 ⁴ Even then, those procedures provide no remedy for detained children themselves to seek— “the
28 denied potential sponsor may appeal that decision through an administrative process”. 45 C.F.R.
§410.1206.

1 Petitioners remain detained while the very basis for their continued custody remains
2 unresolved. Dkt. 24 at 11–13, 29–31.

3 Respondents' reliance on *Lucas R.* is misplaced. *Lucas R.* assumed the
4 existence of a sponsor denial and an accompanying appeal process through which
5 sponsors and children could challenge ORR's decision. See *Lucas R. v. Becerra*, No.
6 CV 18-5741-DMG (PLAx), 2022 WL 2177454, at *28 (C.D. Cal. Mar. 11, 2022);
7 Dkt. 24 at 29–31. That framework does not address the circumstances presented
8 here, where reunification proceedings have remained pending for many months
9 while children continue to be detained. The availability of an appellate process
10 provides little protection where children remain confined while ORR fails to timely
11 resolve the reunification process.

12 The chronology surrounding DNA testing confirms this risk. Respondents
13 indicate that DNA results are the sole remaining requirement for reunification of one
14 sibling group. Yet ORR did not collect DNA samples until nearly eight months after
15 the children entered custody and a sponsor was identified. Dkt. 24 at 20; Biswas
16 Decl. ¶ 69. Respondents' prolonged failure to complete the very requirement they
17 now characterize as decisive illustrates the danger of allowing children to remain
18 detained indefinitely while critical reunification steps remain unresolved and
19 without meaningful timelines for completion. See *C.S.M. v. Hernandez*, No. 5:26-
20 CV-01144, Pet'r's Reply at 3–5, 11–13 (C.D. Cal. May 7, 2026); See MDK Decl. ¶
21 10.

22 Likewise, although M.J.P.T.'s reunification efforts involved additional delays,
23 background checks ultimately cleared, fingerprinting was completed, housing was
24 secured, and the sponsor application was finished. Nevertheless, reunification
25 remained unresolved and Petitioners continued to be held in ORR custody. Dkt. 24
26 at 20–24; Biswas Decl. ¶¶ 81–111. Now, Respondents contend that the home study
27 resulted in a negative home study and that an ACG remains to be identified. In
28

1 *Santos v. Smith*, a case where ORR asserted placement concerns, the court still found
2 there was sufficient basis to grant habeas relief and order immediate release of the
3 child to his mother. *Santos v. Smith*, 260 F. Supp. 3d 598, 613–16 (W.D. Va. 2017).
4 Additionally, Respondents' assertion that release should be delayed because no ACG
5 has been identified is not supported in ORR's release-planning requirements. ORR's
6 regulations require development of an appropriate care plan during the release
7 approval process, including a Sponsor Care Plan addressing future caregiving
8 contingencies, which has been completed here. See 45 C.F.R. § 410.1203(f); UAC
9 MAP § 2 at 44–45. Respondents' Answer acknowledges that a release plan that
10 identifies community resources, plans for school enrollment, and the option for Post
11 Release Services are available for M.G.R.P. and A.I.R.P. upon release. Dkt. 24 at
12 22–23; Biswas Decl. ¶¶ 99, 102.

13 As acknowledged by other Courts in this district, additional procedural
14 protections would substantially reduce this risk. See MDK Decl. ¶ 10-12. Due
15 process requires an opportunity to be heard “at a meaningful time and in a
16 meaningful manner.” *Mathews*, 424 U.S. at 333. Where continued detention depends
17 on ORR's reunification determination, procedures that become available only after
18 that determination is made provide little protection against the deprivation
19 Petitioners challenge here. As a result, the second *Mathews* factor strongly favors
20 Petitioners.

21 **C. Respondents' Interests Do Not Justify Prolonged Delay**

22 Respondents unquestionably possess a legitimate interest in protecting
23 children from trafficking, abuse, neglect, and exploitation. 8 U.S.C. § 1232(c)(3)(A);
24 6 U.S.C. § 279(b)(2)(A)(ii). Petitioners do not dispute that interest.

25 The problem is that ORR's legitimate safety interest does not justify prolonged
26 detention resulting from unreasonable delay. Respondents have had many months to
27 conduct home studies, obtain DNA samples, evaluate sponsors, and complete
28

1 reunification reviews. Respondents' child-safety interests are not advanced by
2 prolonged detention resulting from administrative delay. To the contrary, the
3 TVPRA embodies Congress's judgment that children's best interests are generally
4 served through prompt placement in family-based settings once appropriate vetting
5 has occurred. 8 U.S.C. § 1232(c)(2)(A).

6 Additional safeguards would not impose a significant burden on the
7 government. Petitioners do not seek to eliminate sponsor vetting or prevent ORR
8 from carrying out its statutory responsibilities. They seek only timely adjudication
9 of reunification requests and decisions that are subject to meaningful review.
10 Requiring ORR to follow the timelines and procedures already reflected in its own
11 regulations would impose little additional burden while significantly reducing the
12 risk of erroneous deprivation. See 45 C.F.R. §§ 410.1205(b), 410.1207(a).

13 As such, the government's interests do not outweigh Petitioners' profound
14 liberty interests or the substantial risk of erroneous deprivation created by ORR's
15 prolonged failure to adjudicate their reunification requests.

16 Balancing all three *Mathews* factors, Petitioners' continued detention violates
17 procedural due process.

18 **III. RESPONDENTS VIOLATED PETITIONERS' SUBSTANTIVE**
19 **DUE PROCESS RIGHTS**

20 The government has two legitimate interests that may be served by civil
21 immigration detention: preventing flight and protecting the community from
22 danger. *Zadvydas*, 533 U.S. at 701. When it is untethered to any legitimate
23 government interest, the detention is in violation of substantive due process rights.
24 *Id.* Petitioners' detention of eight months violates the substantive due process right
25 to liberty because there is no evidence to suggest they are either a flight risk or a
26 danger, therefore there is no government interest. See Pet. ¶ 124; Dkt. 24 at 20,
27 23–24; Biswas Decl. ¶¶ 69, 110–111.

28 District courts have also emphasized the well-established nature of the

1 “substantive due process right to family integrity or to familial association.”
2 *Lucas R.*, 2018 WL 7200716, at *9 (quoting *Rosenbaum v. Washoe City*, 663 F.3d
3 1071, 1079 (9th Cir. 2011)); *Ms. L. v. U.S. Immigration and Customs Enforcem.*,
4 310 F. Supp. 3d 1133, 1148 (S.D. Cal. 2018), modified sub nom, *Ms. L. v. U.S.*
5 *Immigr. & Customs Enf’t*, 330 F.R.D. 284 (S.D. Cal. 2019) (finding the
6 government needed to achieve its stated purpose “in a way that preserves the class
7 members’ constitutional rights to family association and integrity”).

8 The Constitution permits reasonable investigation into sponsor suitability; the
9 TVPRA and Foundational Rule inform what process and reasonableness are
10 required. It does not permit prolonged separation of children from available family
11 members without timely resolution of the very process used to justify that separation.
12 Under these circumstances, continued detention no longer bears a reasonable
13 relationship to ORR's stated objectives and therefore violates substantive due
14 process.

15 **IV. RESPONDENTS HAVE VIOLATED THE TVPRA AND THE**
16 **FOUNDATIONAL RULE**

17 Respondents repeatedly emphasize that sponsorship applications remain
18 pending due to incomplete vetting. But their own chronology demonstrates
19 extraordinary delay of their own making-- a defense this court should not accept.
20 The TVPRA requires prompt placement in the least restrictive setting consistent with
21 a child's best interests. 8 U.S.C. § 1232(c)(2)(A). ORR's regulations likewise
22 emphasize active reunification efforts and timely adjudication of sponsorship
23 applications. 45 C.F.R. §§ 410.1203(a), 410.1205(b), 410.1207(a). Together, those
24 authorities establish that ORR's custody is intended to be temporary and transitional
25 rather than prolonged and indefinite.

26 Petitioners B.E.C.L., J.E.M.C., and A.I.L.D. entered ORR custody in
27 November 2025. Their sponsor's application was not deemed complete until June
28

1 2026⁵, approximately seven months later. The sponsor completed fingerprinting,
2 provided income and identity documentation, obtained favorable background check
3 results, supplied updated housing information, and received a positive home study
4 recommendation, and ultimately collected DNA samples in July 2026. Yet the
5 children remain detained. Dkt. 24 at 15–20; Biswas Decl. ¶¶ 35–69.

6 Similarly, although M.J.P.T.'s reunification efforts were complicated by
7 housing issues and sponsor-related obstacles, the record shows prolonged periods
8 during which ORR continued identifying additional requirements while
9 reunification remained unresolved. Even after housing was obtained, background
10 checks were completed, and fingerprint results cleared, Petitioners remained
11 confined while additional requirements continued to be raised. M.J.P.T.'s sponsor
12 application was deemed complete on June 22, 2026. *See Supra Footnote 7*. Still,
13 reunification remains unresolved. Dkt. 24 at 21–24; Biswas Decl. ¶¶ 101–109.

14 Respondents now contend that DNA results are the sole remaining
15 requirement for reunification of B.E.C.L., J.E.M.C., and A.I.L.D. Dkt. 24 at 20;
16 Biswas Decl. ¶ 69. The record is without any indication about when DNA will be
17 completed for M.G.R.P. and A.I.R.P. to confirm their relationship with their mother,
18 M.J.P.T. Respondents offer no explanation why the purportedly indispensable
19 DNA-testing process was not completed earlier. The record therefore suggests that
20 DNA testing operates less as a genuine reunification barrier and more as a
21 continuously deferred justification for Petitioners' continued detention. *See Decl. of*
22 *Marion Donovan-Kaloust, generally, Dkt. 25-1*. Under the TVPRA, ORR may vet
23 sponsors, but it may not prolong children's confinement indefinitely while critical
24 reunification steps remain unresolved for months at a time.

25 ⁵ As discussed in the supplementary facts above, III.a., to ensure UCs are released “in a safe,
26 efficient, manner without unnecessary delay,” ORR has mandated timeframes to adjudicate a
27 completed FRP. Absent complicating factors, ORR must adjudicate completed FRPs “***within 10***
28 ***calendar days of receipt***” for parent sponsors. 8 C.F.R. § 410.1205(b). Respondents’ timeline of
events indicates the sponsor application was deemed complete on June 16, 2026. Respondents
are now more than 30 days outside of the mandated adjudication timeframe.

1 Petitioners do not dispute that ORR has a compelling interest in protecting
2 children from trafficking and exploitation. The problem is that the generalized risks
3 identified by Respondents do not justify prolonged detention in these specific cases.
4 Respondents identify no evidence that any Petitioner has been trafficked, that any
5 proposed sponsor has engaged in fraud, or that any sponsor poses a current danger
6 to the children. Generalized concerns about trafficking cannot substitute for
7 individualized findings and cannot justify months of continued detention after
8 substantial completion of sponsor vetting.⁶

9 Respondents ask the Court to treat the mere existence of an ongoing
10 reunification process as a complete defense. That reading would nullify the
11 TVPRA's requirement of prompt placement. If ORR could indefinitely delay release
12 simply by identifying another unresolved administrative step⁷, the statutory
13 command of prompt placement would have no practical meaning. See 8 U.S.C. §
14 1232(c)(2)(A); 45 C.F.R. § 410.1207(a). ORR has failed to carry out those duties
15 with the diligence required by the TVPRA and its own regulations. The resulting

16 ⁶ Even looking to OBBBA's Section 87001, sponsors here have completed the list of things ORR
17 "shall" review when determining appropriateness of release, including background checks,
18 names of sponsors, social security number or ITIN, date of birth of sponsor, validated location of
19 residence, in-person interview, contact information, and results of all background and criminal
20 records checks. See Answer, DKT 24, at 10:22-28, 11:1-21. OBBBA, Public Law 119-21, 139
21 Sat. 72. Section 87001 (July 4, 2025); see also Biswas Decl. ¶17.

22 ⁷ Since February 2025, ORR has added at least six ((1) requiring fingerprinting of all adult
23 sponsors; (2) requiring fingerprinting of all adult household members; (3) requiring
24 fingerprinting of adult caregivers identified in Sponsor Care Plans; (4) requiring ORR to receive
25 and adjudicate fingerprint results before approving release; (5) imposing expanded identity-
26 documentation requirements; and (6) expanding mandatory DNA testing in covered cases.)
27 major new release requirements to the reunification process and the average length of stay for an
28 unaccompanied child in ORR custody has ballooned from 30 day in FY2024 days to 194 days
due to the cumbersome impediments imposed by the agency. See MDK Decl. ¶¶ 7-9; See Office
of Refugee Resettlement, U.S. Dep't of Health & Hum. Servs., *Field Guidance #26: Fingerprint
Background Checks and Acceptable Supporting Documentation for a Family Reunification
Application* (Feb. 14, 2025); Office of Refugee Resettlement, U.S. Dep't of Health & Hum.
Servs., *Field Guidance #27: DNA Testing Expansion* (revised May 15, 2025) (first issued Mar.
14, 2025); See Average Length of Care, <https://acf.gov/orr/about/ucs/facts-and-data> (last visited
July 20, 2024). See also Average Monthly Data, <https://acf.gov/orr/about/ucs/facts-and-data> (last
visited July 20, 2026).

1 prolonged detention violates both the statute and the governing regulatory
2 framework.

3 **V. RESPONDENTS OFFER NO SUFFICIENT LAWFUL BASIS**
4 **FOR PETITIONERS' CONTINUED DETENTION**

5 Respondents' defense relies almost entirely on one proposition: that sponsor
6 vetting remains ongoing. But the question is not whether ORR may conduct sponsor
7 vetting or whether children inherently require custodians. Pet. ¶¶ 1–4, 75. Petitioners
8 do not dispute that ORR possesses statutory authority to evaluate sponsor suitability
9 before release. See 8 U.S.C. § 1232(c)(3)(A); 45 C.F.R. § 410.1202; Dkt. 24 at 5–
10 10. The question is whether ORR may continue detaining children for more than
11 eight months while that process remains incomplete. Respondents identify no
12 statutory authority permitting indefinite detention based solely on an unfinished
13 reunification process.⁸

14 The TVPRA requires that unaccompanied children be "*promptly placed* in the
15 least restrictive setting that is in the *best interest* of the child." 8 U.S.C. §
16 1232(c)(2)(A) (emphasis added). Congress established a child-welfare framework
17 focused on care, placement, and reunification, not prolonged institutional
18 confinement. See 8 U.S.C. § 1232(c)(2)(A); *Flores v. Sessions*, 862 F.3d 863, 876
19 (9th Cir. 2017). Respondents do not contend that any Petitioner poses a danger to
20 themselves or others or present a flight risk. See generally Dkt. 24 at 24–38. They
21 likewise have not identified any finding that continued detention remains necessary
22 to protect the children or the public. Instead, Petitioners remain confined because
23 ORR's reunification process remains unfinished.

24 ⁸ Petitioners note that *Lucas R.* does not simply bless ORR's sponsor-vetting process. *Lucas R.*
25 requires periodic supervisory review of pending reunification applications precisely because
26 prolonged pending status can cause unconstitutional delay. The declaration by Biswas, Dkt. 24-1,
27 fails to address whether the court-ordered automatic review occurred to determine what steps are
28 needed to accelerate safe release. The Lucas court tied this requirement to preventing prolonged
detention and cited an example where a child's release was "placed on hold" for 13 months
because she lacked a birth certificate. *Lucas R.*, 2022 WL 2177454, at *41.

1 The chronology submitted by Respondents reflects the problem. B.E.C.L.,
2 J.E.M.C., and A.I.L.D. entered ORR custody in November 2025. By July 2026, ORR
3 had obtained fingerprints, identity documents, income documentation, background
4 investigations, birth-certificate verification, and a favorable home-study
5 recommendation. Yet the children remain detained despite the substantial
6 completion of sponsor vetting. Respondents now acknowledge that DNA testing
7 remains the only unresolved step.⁹ Dkt. 24 at 20; Biswas Decl. ¶ 69.

8 Likewise, M.G.R.P. and A.I.R.P. have remained in ORR custody since
9 November 2025. Although their mother's reunification process encountered
10 housing-related complications (due in large part to the household members efforts
11 to support her in the sponsor vetting process by obtaining ITIN's, Dkt. 24-1, Biswas
12 Decl. ¶ 91) and interruptions due to her inability to navigate technology, ORR still
13 had months in which to concurrently pursue additional components of the
14 reunification process. Background checks ultimately cleared, fingerprinting was
15 completed, housing was secured, and the sponsor application was completed. *Id.* at
16 ¶ 106-107. Yet reunification remains unresolved and Petitioners remain in ORR
17 custody. *Id.* at ¶ 110-111.

18 The record therefore reveals a process measured in many months rather than
19
20
21

22 ⁹ Petitioners note that DNA testing is not required by law. *See* 45 C.F.R. § 410 (making no
23 mention of DNA testing). ORR only added the additional sponsorship DNA testing requirement
24 in March 2025 as a policy, *See* Field Guidance #27 – DNA Testing Expansion, Office of
25 Refugee Resettlement, available at https://acf.gov/sites/default/files/documents/orr/FG-27_-_DNA_Testing_Expansion.pdf (last visited April 24, 2026). Other courts in this district have
26 found that requirement unnecessary and have waived it for release. *See* Declaration of Marion
27 Donovan-Kaloust (“MDK Decl.”) ¶10. In addition, during the notice and comment period prior
28 to adopting the Foundational Rule, ORR explicitly declined to require DNA testing, stating that
“DNA testing raises multiple issues and is outside the scope of this rule” in response to a
comment. *See* ORR Response to Comment on Proposed Unaccompanied Children Program
Foundational Rule, 89 Fed. Reg 34384 (published April 30, 2024) (codified at 45 C.F.R. § 410),
<https://www.federalregister.gov/d/2024-08329/p-563> (last visited April 24, 2026).

1 days or weeks as contemplated by ORR's own best practice.¹⁰ Whatever interest
2 ORR possesses in sponsor suitability review cannot justify prolonged detention
3 where reunification efforts proceed at such a pace. Petitioners should not bear the
4 burden of agency delay. The TVPRA requires *prompt* placement, not open-ended
5 confinement while administrative tasks continue accumulating. Under these
6 circumstances, Respondents have failed to establish that Petitioners' continued
7 detention remains reasonably related to the statutory purposes underlying ORR
8 custody.

9 **VI. RESPONDENTS' APA ARGUMENT CONFIRMS THE**
10 **UNLAWFULNESS OF PETITIONERS' CONTINUED**
11 **DETENTION**

12 Respondents' arguments as to the merits of Petitioners' claims fare no better
13 than their procedural arguments. First, Respondents argue that Petitioners cannot
14 obtain relief under the TVPRA because no final agency action exists for purposes of
15 judicial review under the Administrative Procedure Act ("APA"). Dkt. 24 at 33–35.
16 Respondents' APA argument highlights the very problem presented in this case.
17 According to Respondents, Petitioners cannot obtain judicial review because
18 reunification proceedings remain ongoing. At the same time, Respondents argue
19 Petitioners must remain in custody because ORR has not issued final release
20 decisions. Under Respondents' theory, ORR may continue detaining children
21 indefinitely while simultaneously avoiding judicial review by allowing reunification
22 proceedings to remain perpetually unresolved. Neither the APA, the TVPRA, nor
23 the Constitution permits such a result.

24 The authorities on which Respondents rely likewise do not support that
25 outcome. First, *Lane v. Peña*, 518 U.S. 187 (1996), addressed whether Congress
26 unequivocally waived the federal government's sovereign immunity for monetary

27 ¹⁰ ORR's own best practice benchmark, recognized in *Lucas R.*, is release within 30 days where
28 safe and no longer than 60 days. *Lucas R.*, 2022 WL 2177454, at *24. Respondents' timelines
show custody extending many months, often with only discrete administrative items remaining.

1 damages under § 504 of the Rehabilitation Act. *Id.* at 192. *Lane's* discussion of
2 sovereign immunity for statutory damages claims does not resolve whether this court
3 may exercise its habeas jurisdiction to review the legality of Petitioners' custody
4 Petitioners do not seek money damages or assert a standalone cause of action under
5 the TVPRA. Rather, they seek habeas relief under 28 U.S.C. § 2241 challenging the
6 legality of their continued detention. The “historic purposes of the writ” of habeas
7 corpus is “to relieve detention by executive authorities without judicial trial.”
8 *Zadvydas v. Davis*, 533 U.S. 678, 699 (2001).

9 Second, Respondents' reliance on *Lucas R. v. Azar*, No. CV 18-5741-DMG
10 (PLAx), 2018 WL 7200716, at *7 n.12 (C.D. Cal. Dec. 21, 2018), is misplaced. The
11 court did not consider whether habeas relief under 28 U.S.C. § 2241 is available to
12 challenge the legality of a child's continued detention in ORR custody, nor did it
13 hold that APA review is the exclusive avenue for judicial review where children
14 remain confined without a final reunification determination. Nothing in *Lucas R.*
15 suggests that ORR may insulate prolonged detention from judicial review simply by
16 withholding a final agency decision. To the contrary, the court's later merits decision
17 recognized the substantial liberty interests implicated by ORR custody and closely
18 scrutinized ORR's reunification and release procedures to ensure constitutionally
19 adequate protections. *See Lucas R. v. Becerra*, No. CV 18-5741-DMG (PLAx), 2022
20 WL 2177454, at *26–28 (C.D. Cal. Mar. 11, 2022).

21 Third, *Norton v. Southern Utah Wilderness Alliance*, 542 U.S. 55 (2004),
22 actually supports Petitioners' position. There, the Supreme Court explained that
23 relief under 5 U.S.C. § 706(1) is available when an agency fails to take a discrete
24 action that it is required to take. *Id.* at 64. Respondents themselves acknowledge that
25 the TVPRA requires ORR to make sponsor-suitability determinations and release
26 decisions for children in their custody. *See 8 U.S.C. § 1232(c)(3)(A)*; Dkt. 24 at 4–
27 12. Respondents likewise acknowledge that ORR's regulations require continued
28

1 efforts toward release and periodic review of pending reunification applications. 45
2 C.F.R. §§ 410.1203(a), 410.1207(a). Unlike the broad programmatic challenge
3 rejected in *SUWA*, Petitioners do not seek judicial supervision of ORR's general
4 child-welfare policies. They seek review of ORR's failure to timely complete
5 specific reunification determinations concerning identified children who remain in
6 custody.

7 Ultimately, Respondents' position is internally inconsistent. They cannot
8 justify continued detention on the ground that sponsor assessments are unfinished
9 while simultaneously arguing that the absence of completed agency action insulates
10 those delays from judicial review. Where children remain confined without danger
11 findings, flight-risk findings, or final sponsorship decisions, habeas relief remains
12 available to test the lawfulness of that confinement. See 28 U.S.C. § 2241(c)(3).

13 **VII. RESPONDENTS' CONTINUED DETENTION OF M.G.R.P.**
14 **VIOLATES SECTION 504 OF THE REHABILITATION ACT**

15 Respondents correctly note that ORR developed a Section 504 plan for
16 M.G.R.P. and provided various accommodations, including mental-health treatment,
17 counseling supports, medication management, and transition services. Dkt. 24 at 21–
18 23, 36–37; Biswas Decl. ¶¶ 85, 99. Petitioners do not dispute those efforts. The issue
19 is whether ORR has fulfilled its broader obligations under Section 504 and
20 Paragraph 410.1311 with respect to reunification. 45 C.F.R. § 410.1311(e).

21 ORR's regulations expressly require consideration of the benefits of release
22 into the most integrated setting appropriate to a child's needs and require ORR to
23 assist an otherwise viable sponsor in accessing services necessary to support
24 reunification. 45 C.F.R. § 410.1311(e)(1)–(3); Dkt. 24 at 14–15, 36–38. Respondents
25 acknowledge those obligations. M.G.R.P. suffers from PTSD, depression, and
26 related mental-health conditions. Dkt. 24 at 21–22; Biswas Decl. ¶¶ 82, 96. ORR's
27 own records recognize the significant emotional impact of separation and
28 uncertainty. Pet. ¶ 51; Biswas Decl. ¶ 99. Yet despite recognizing those harms, ORR

1 has continued detaining M.G.R.P. while reunification remains unresolved. Biswas
2 Decl. ¶¶ 110–111.

3 ORR's prolonged delay has denied M.G.R.P. the full and equal benefit of the
4 reunification process and unnecessarily prolonged her institutionalization despite the
5 availability of a family placement. The continued delay is particularly troubling
6 given ORR's acknowledgment that release into a community-based family setting
7 may itself provide substantial benefit to a child with disabilities.¹¹ 45 C.F.R. §
8 410.1311(e); Biswas Decl. ¶ 33.

9 Under these circumstances, Petitioner M.G.R.P. has established a viable claim
10 under Section 504 and the Rehabilitation Act.

11 CONCLUSION

12 For the foregoing reasons, this Court should grant the relief sought in
13 Petitioners' Petition and order Petitioners immediately released from ORR detention
14 to their respective sponsors.

15
16 Respectfully submitted July 20, 2026.

17 /s/ Cynthia Isabel Felix
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23 ¹¹ The Court in *Lucas R.*, recognized that separation from family is harmful to children and
24 that erroneous institutionalization during childhood can cause long-lasting harm. *Lucas R. v.*
25 *Becerra*, No. CV 18-5741-DMG (PLAx), 2022 WL 2177454, at *24 (C.D. Cal. Mar. 11, 2022).
26 Yet, respondents treat continued ORR custody as a neutral holding pattern. Dkt. 24 at 2, 20–24;
27 Biswas Decl. ¶¶ 69, 110–111. Prolonged custody and family separation have concrete
28 developmental and mental-health harms, especially for children with trauma or disabilities. See
45 C.F.R. § 410.1003(a), (c), (e); ORR Unaccompanied Children Program Policy Guide § 1.2.2;
See MDK Decl. ¶ 12.