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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
EASTERN DIVISION

Y.D.D.L.C., a minor, by and through Erica Santamaria, as Guardian ad Litem,

Petitioner,

v.

RUBY HERNANDEZ, Federal Field Specialist, Office of Refugee Resettlement; NIKY HYMEL, Federal Field Specialist Supervisor, Office of Refugee Resettlement; ALEX J. ADAMS, Assistant Secretary of the Administration of Children and Families; ANGIE SALAZAR, Acting Director of the Office of Refugee Resettlement; and ROBERT F. KENNEDY, Secretary of the U.S. Department of Health and Human Services,

Respondents.

Case No. 5:26-CV-03710

Hon. John W. Holcomb
United States District Judge

Hon. Rozella A. Oliver
United States Magistrate Judge

PETITIONERS' RESPONSE TO RESPONDENTS' STATUS REPORT (DKT. NO. 18) & SUPPLEMENTAL STATUS REPORT (DKT. 19)

INTRODUCTION

Petitioner Y.D.D.L.C. is a 15-year-old unaccompanied minor child ("UC") who Respondents detained for **304 days**, despite having **two family-member sponsors** who each complied with Office of Refugee Resettlement's ("ORR") vetting process and remained willing to care for her. Still, only after Petitioner filed this case, ORR released her on July 23, 2026 to a sponsor it first identified in late 2025.

Throughout Petitioner's detention, ORR repeatedly represented that Petitioner's release depended upon completion of sponsor vetting. Yet by the time Respondents filed their Answer, they claimed only a single step remained before release: *reconducting*, for a third time, updated internet background checks for Petitioner's sponsor, E.R.M. Answer at 17. Petitioner's Reply then demonstrated that, under ORR's own policies and evidence, there was substantial reason to question whether those background checks had expired at all. And, if they had, whether their expiration resulted solely from ORR's own delay. Reply at 12-13. Respondents never answered those arguments. Three days later, ORR released Petitioner.

This case remains live because this Court can still grant meaningful relief. Respondents argue that because Petitioner has been released from ORR custody, there is nothing more this Court can do. Supplemental Report. Respondents are mistaken. The Petition sought more than release from custody. It also sought declaratory relief establishing that Respondents violated the TVPRA and Petitioner's due process rights by detaining her for more than 300 days without a sponsorship determination, and prospective relief preventing Respondents from subjecting

Petitioner to the same unlawful detention practices in the future. Pet. ¶¶ 80-115; Prayer for Relief ¶¶ 4-6. Both forms of relief remain available today.

Respondents also fail to carry their heavy burden under the voluntary-cessation doctrine. Rather than addressing why ORR detained Y.D.D.L.C. for over ten months, Respondents argue that because ORR lacks independent arrest authority, Petitioner cannot show a concrete fear of future detention, and so this case is now moot. Supplemental Report at 3-4. That argument misses the point. Petitioner does not challenge ORR's authority to arrest children. She challenges ORR's authority to hold unaccompanied children in prolonged custody while delaying sponsor adjudications and release decisions. Because Y.D.D.L.C. remains a minor in immigration proceedings and therefore remains subject to the same ORR custody, sponsor-vetting, and release framework challenged in this action, Respondents have not shown it is "absolutely clear" that the challenged conduct cannot reasonably recur.

Therefore, Petitioner respectfully asks this Court to find this case is not moot, grant the Petition, and enter prospective declaratory relief to protect Petitioner from future ORR misconduct.

LEGAL STANDARD

Federal courts' power to adjudicate disputes extends only to "cases" and "controversies." U.S. Const. art. III, § 2. A case becomes moot—and therefore no longer a "case" or "controversy" for purposes of Article III—when the issues presented are no longer "live" or the parties lack a legally cognizable interest in the outcome. *Rosebrock v. Mathis*, 745 F.3d 963, 971 (9th Cir. 2014) (citing *Already,*

LLC v. Nike, Inc., 568 U.S. 85, 90 (2013)). "A defendant's voluntary cessation of allegedly unlawful conduct ordinarily does not suffice to moot a case." *Friends of the Earth, Inc. v. Laidlaw Env't Servs. (TOC), Inc.*, 120 S. Ct. 693, 700 (2000). The standard for determining whether a case has been mooted by the defendant's voluntary conduct is "stringent: A case might become moot if subsequent events make it absolutely clear that the allegedly wrongful behavior could not reasonably be expected to recur." *Id.* This requires the "defendant [to] demonstrate that 'there is no reasonable expectation that the wrong will be repeated." *United States v. W. T. Grant Co.*, 73 S. Ct. 894, 897(1953). This is a heavy burden. *Id.*

ARGUMENT

I. THIS CASE REMAINS LIVE

Respondents still provide no defense or explanation for their violation of Y.D.D.L.C.'s rights and failure to *promptly* release her to a sponsor, when two family-member sponsors were willing and able to care for her. *See* Dkt. 18 ("Status Report"); Dkt. 19 ("Suppl. Report"). Instead, they argue this case is now moot because Y.D.D.L.C. has been released from their custody. *See generally Id.* Respondents contend "there is no further relief the Court can provide" and that Y.D.D.L.C. cannot claim a "concrete fear of detention" because ORR has no arresting authority. Dkt.18 at 2. Respondents are wrong.

A. PETITIONER SEEKS DECLARATORY RELIEF

This case remains live because this Court can still grant meaningful relief. Respondent argue because Petitioner is now released from their custody, there is

nothing more the Court can do. Dkt. 18. Respondents misunderstand the Petitioner's claim. The Petition did not seek release alone. It challenged Respondents' violations of the Fifth Amendment and the TVPRA and expressly requested declaratory relief establishing that Y.D.D.L.C.'s prolonged detention in ORR custody was unlawful and prospective relief enjoining Respondents from re-detaining Petitioner absent compliance with the procedural protections afforded to UCs. Pet. ¶¶ 80-115; *see also* Prayer for Relief ¶¶ 4-6. The Court therefore retains the power to grant "effectual relief," and the controversy remains live.

This Court recently confronted materially similar circumstances in *C.S.M. v. Hernandez*. No. 5:26-cv-01144-JWH-ACCV, Report & Recommendation at 2-6 (C.D. Cal. May 13, 2026). There, the Court rejected a mootness argument after ORR released the child during the pendency of the habeas proceeding, pursuant to court order. *Id*. The court found ORR's six-month detention of petitioner while vetting the sponsor (her sister) violated her due process rights where the only item that remained pending was a DNA test to merely confirm the familial relationship. *Id*. The Court further reasoned that release did not deprive the court of the ability to enter relief addressing the legality of the detention and issued a writ prohibiting re-detention absent compliance with due process requirements and applicable regulations. *Id*. at 3,9. The court further concluded that petitioner's release did not extinguish the controversy because the child remained subject to future immigration proceedings and therefore retained a concrete interest in further habeas relief. *Id*. at 3-6. The court therefore granted habeas and declaratory relief notwithstanding the child's release

from ORR custody. *Id.*

The same reasoning applies here. Petitioner seeks more than immediate release. Petition at 32-33 (Prayer for Relief). She also seeks a declaratory relief that her ten-month detention in ORR custody violates the TVPRA and the Fifth Amendment requirement to *promptly* place UCs with sponsors, especially where the only outstanding, vetting requirement that Respondents identified was to *reconduct* internet background checks that either expired due to ORR's own delay or, Petitioner fears, did not expire at all. Moreover, the previous background checks showed no suitability issues, a positive home study been conducted, and all other sponsor-vetting requirements were met. *See* Answer at 17; Reply at 12-15.

Petitioner further seeks prospective relief, and any other relief the Court may deem appropriate. Petition ¶¶32-33 (Prayer for Relief ¶¶ 4-8). Those claims do not disappear merely because Respondents elect to release Petitioner after litigation has commenced. These constitutional and statutory violations are not merely historical. They are capable of recurring because Petitioner remains a UC subject to the same statutory and regulatory framework governing unaccompanied children. As *C.S.M.* recognized, release alone does not provide lasting protection against future unlawful detention, nor does it resolve the legality of the challenged conduct.

Respondents' post-litigation release of Petitioner did not determine whether ORR violated the TVPRA. It did not determine whether ORR violated Petitioner's due process rights. It did not determine whether ORR unlawfully detained Petitioner for more than 300 days without sponsorship determination. Those questions remain

unresolved and before this Court.

1. THIS COURT SHOULD DECLARE RESPONDENTS VIOLATED Y.D.D.L.C.'S DUE PROCESS RIGHTS

Because declaratory relief remains available and meaningful, this Court can still grant effective relief notwithstanding Petitioner's release. "A procedural due process claim has two distinct elements: (1) a deprivation of a constitutionally protected liberty or property interest, and (2) a denial of adequate procedural protections." *Brewster v. Bd. of Educ. of Lynwood Unified Sch. Dist.*, 149 F.3d 971, 982 (9th Cir. 1998). The Due Process Clause of the Fifth Amendment to the United States Constitution prohibits the deprivation "of life, liberty, or property, without due process of law[.]" U.S. CONST. amend. V. The right to due process extends to noncitizens in the United States. *See Zadvydas,* 533 U.S. at 693 ("[T]he Due Process Clause applies to all 'persons' within the United States, including aliens, whether their presence here is lawful, unlawful, temporary, or permanent.")

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

would entail." 424 U.S. at 335. As Petitioner outlined in her Petition and Reply, each of the *Mathews* factors weigh in favor of Petitioner's procedural due process claim.

First, Y.D.D.L.C., a child, has a substantial liberty interest in remaining out of custody and being reunified with her family. Petiton at 21. Accordingly,

Petitioner's private interest in retaining her liberty is significant. Y.D.D.L.C. is a child who has spent nearly ten months in federal custody. Petition ¶ 23. She was separated from her family for the better part of a year, despite the availability of multiple willing caregivers. Petition ¶¶ 24-25, 44-56. The liberty interest in freedom from institutional confinement lies at the core of the Due Process Clause. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

Second, the risk of erroneous deprivation under existing procedures here is high. *Mathews*, 424 U.S. at 335. Like in *C.S.M.*, ORR failed to provide the timely review required by the TVPRA. *See C.S.M. v. Hernandez*, No. 5:26-cv-01144-JWH-ACCV (C.D. Cal.) (Report & Recommendation at 8–9)(concluding that a six-month detention during an unresolved sponsorship process created an unacceptably high risk of erroneous deprivation where ORR failed to provide the timely review contemplated by its regulations.) Respondents merely assert they "diligently followed its own suitability determination process" concluding it was safe to release Y.D.D.L.C. to her sponsor. Status Report at 4. Respondents completely ignore the TVPRA's requirement to *promptly* release Petitioner, and the specific regulatory requirement to adjudicate sponsor applications in 10 to 14 days (8. C.F.R. § 410.1205(b)) and that ORR is further required to conduct a formal review of pending

sponsor applications *every 90 days*. 8 C.F.R § 410.1207(a).

Here, Petitioner languished in ORR custody for over ***10 months*** while two different sponsors were willing to assume her care. The timeline of this case shows ORR's delays was unreasonable. ORR has been vetting E.R.M. since December 2025; it completed the sponsor assessment in May 2026; obtained a positive home study recommendation in June 2026; ORR received the DOV report in July 2026. Petition ¶¶ 24-54; Jolley Decl., Ex. B at 4, 9-10; Answer at 15-17; Biswas Decl. ¶¶ 53-60; Reply at 23. And yet, ORR still held Petitioner to *reconduct* a third round of internet background checks that previously showed no suitability concerns and that allegedly expired, because of ORR's own delay. That is not evidence that the procedures are working. It is evidence that the procedures have failed to produce a timely determination showing the risk of erroneous deprivation is high.

Third, the government has a low interest in keeping Petitioner detained. Any interest the Government has in detaining Petitioner without a decision on the sponsor application—despite regulations requiring prompt review, 45 C.F.R. § 410.1205-1207, and despite having the information required to make such a decision—is minimal. Moreover, that Respondents have a general interest in child welfare by placing UCs with vetted-sponsors is not in dispute. Nor does that general interest overcome the facts of this case where ORR continued to hold Petitioner to reconduct expired internet background checks for a sponsor where previous background checks showed no suitability concerns, and ORR's own delay caused the background checks to expire (if they expired at all).

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

2. THIS COURT SHOULD FURTHER ISSUE A WRIT OF HABEAS CORPUS PREVENTING PETITIONER'S UNLAWFUL RE-DETENTION

Petitioner seeks prospective relief from this Court. Respondents argue that "[b]ased on the express relief pled in the habeas petition, there is no further relief the Court can provide as to Y.D.D.L.C. Status Report at 2. Respondents are mistaken. In the Petition, Y.D.D.L.C. expressly asks this Court to "[e]njoin Respondents from re-detaining Petitioner absent compliance with the procedural protections and statutory requirements governing release determinations for unaccompanied children." Petition at 32 (Prayer for Relief ¶ 6).

Respondents argue that *C.S.M.* is distinguishable because the petitioner there was released pursuant to a court order, whereas Y.D.D.L.C. was released through ORR's administrative process. Status Report at 2-4. That distinction is immaterial.

The court in *C.S.M.* did not conclude the case remained live merely because a temporary restraining order had issued. Rather, the court recognized that release did not eliminate the petitioner's exposure to the statutory framework governing unaccompanied children because the petitioner remained in immigration proceedings and continued to be subject to ORR's custody and release regime should she return to ORR custody. No. 5:26-cv-01144-JWH-ACCV (C.D. Cal.) Report & Recommendation at 5. The same is true here.

Respondents' focus on ORR's arrest authority therefore misses the point. The question before the Court is not whether ORR can physically re-apprehend Y.D.D.L.C. It is whether Respondents violated federal law while detaining her for more than 300 days. Respondents' position never addresses the central question this litigation presents: why was Y.D.D.L.C. detained for more than 300 days when Respondents identify no trafficking concern, danger finding, sponsor unsuitability determination, or other justification for that extraordinary period of detention.

Indeed, the rationale underlying *C.S.M.* applies with even greater force in this case. Unlike the petitioner in *C.S.M.*, Y.D.D.L.C. was released without the protection of any court order. She therefore lacks even the temporary safeguards that existed in *C.S.*.. Therefore, this Court should grant the relief expressly pled in the Petition and enter and order enjoining Respondents Enjoin Respondents from re-detaining Petitioner absent compliance with the procedural protections and statutory requirements governing release determinations for unaccompanied children.

B. RESPONDENTS CANNOT CARRY THEIR HEAVY BURDEN UNDER THE VOLUNTARY-CESSATION EXCEPTION

Respondents argue because ORR has no authority to arrest Petitioner, she cannot claim a "concrete fear of re-detention," mooting her claims. Status Report at 2, 4. Respondents misunderstand the legal standard and the challenged conduct here.

First, Respondents—not Petitioner—bear the "formidable burden" of demonstrating that it is "absolutely clear" the challenged conduct cannot reasonably be expected to recur. *Already, LLC v. Nike, Inc.*, 568 U.S. 85, 91(2013)(quoting

Friends of the Earth, Inc. v. Laidlaw Env't Servs. (TOC), Inc., 528 U.S. 167, 174, (2000).). Respondents fail to meet that burden.

Second, Respondents misunderstand the conduct Petitioner challenges here. Respondents argue Petitioner has "no non-speculative habeas claim" because "in the context of the typical habaes [sic] case, the Respondent is a law enforcement agency (specifically ICE) that has the ability to effectuate arrests" and "that arrest capacity is also absent with respect to the Respondent, ORR."[1] Dkt. 19 at 4. Respondents' position misses the point.

Petitioner never challenged ORR's authority to apprehend or arrest children, because ORR does not have such authority. Petitioner challenges ORR's exercise of its statutory authority to hold unaccompanied children in its custody for prolonged periods of time, and its failure to vet sponsors or make placement determinations or issue release adjudications. The relevant question is therefore not whether ORR may independently seize Petitioner (it never could), but whether Petitioner may again become subject to the same ORR custody and release processes challenged in this action—she may.

Under the Homeland Security Act and the TVPRA, the federal government retains continuing authority over UCs, like Petitioner, while their immigration

[1] Respondents' seem to classify a "typical" habeas claim as one involving an adult detainee in ICE custody released on a TRO. Status Report at 4. However, there is no case law or legal definition that supports Respondents' classification. Nor do the facts of this case fall into Respondents typical-habeas classification. Importantly, while the petitioner in *C.S.M.* was released pursuant to a court order, that case involved an unaccompanied minor child who was unlawfully held in ORR custody, not an adult petitioner detained by ICE. Moreover, the Court's mootness analysis hinged on ORR's ability to re-vet sponsor and re-detain petitioner during that process, not any kind of arresting authority from ICE. The facts of this case fall squarely within *C.S.M.*

proceedings remain pending. See 6 U.S.C. § 279(a), (b)(1); 8 U.S.C. § 1232(b)(3), (c). "HHS has exclusive authority over the care, custody, and placement of UACs.[2] 8 U.S.C. § 1232(b)(1). Indeed, any other agency holding a UAC must transfer the UAC to HHS custody within seventy-two hours of learning the alien is a UAC." *S.R. v. Al Cannon*, No. 2:19-CV-482-DCN-MGB, 2019 WL 13262645, at *1 (D.S.C. Apr. 19, 2019) (citing 8 U.S.C. § 1232(b)(3)); *see also J.E.C.M. ex rel. Saravia v. Lloyd*, 352 F. Supp. 3d 559, 571-74 (E.D. Va. 2018) (outlining the network of statutes, policy documents, inter-agency agreements, and other legal authorities developed specifically for the treatment of UACs). Given that Petitioner is a UC subject to ongoing immigration proceedings, she could be re-detained.

Moreover, the possibility that Petitioners could again be subjected to the challenged ORR custody and sponsor-adjudication processes is not speculative. Respondents possess authority to re-vet sponsors and reassume custody over UCs in appropriate circumstances, and courts have recognized that Respondents *have* exercised that authority to subject previously released children to renewed periods of detention.

In *M.A. v. Molina*, a UC was released to his mother after ORR approved her as a sponsor. No. 4:26-cv-00415, 2026 WL 741623 (N.D. Ohio Mar. 17, 2026). He was later returned to ORR custody and held for months while ORR reassessed the suitability of that *same* previously approved sponsor. *Id.* The court ultimately

[2] The acronyms "UC" and "UAC" are used interchangeably here as both refer to Unaccompanied Alien Children. Because the term alien can be construed as offensive when referring to a human being, Petitioner uses the term unaccompanied children, unaccompanied minors, and the acronym "UC".

ordered his release after concluding that ORR's prolonged delays violated due process. *Id.*

Likewise, in *Saravia v. Sessions*, the Ninth Circuit upheld relief addressing circumstances in which minors who had previously been released to sponsors were later re-arrested and returned to restrictive custody. 905 F.3d 1137, 1145-48 (9th Cir. 2018). *Saravia* confirms that children released from ORR custody remain subject to the federal custody and placement framework governing UCs.

Notably, the court in *C.S.M.* rejected a nearly identical mootness argument made by the government in a UC habeas case involving prolonged ORR detention where the petitioner had been released from ORR custody after litigation commenced. *See C.S.M.*, No. 5:26-cv-01144-JWH-ACCV (C.D. Cal. June 2, 2026), Report and Recommendation at 5-9. There, the court recognized that release did not eliminate the petitioner's exposure to the statutory framework governing unaccompanied children because the petitioner remained in immigration proceedings and continued to be subject to ORR's custody and release regime should she return to ORR custody. *Id.* at 5. The same is true here.

Respondents' rely on *E.A.D.G. v. McNair*, No. 2:26- cv-07706-AS, in their Supplemental Report on mootness. Dkt. 19 ("Suppl. Report"), Ex. A. But, that case is easily distinguished from the facts here. In *E.A.D.G.*, the court found the case was moot because the petitioner had already turned eighteen years old and "aged out" of ORR jurisdiction since he was now an adult. *Id.* The court's mootness analysis repeatedly relied on the conclusion that the petitioner could no longer be returned to

ORR custody because ORR's jurisdiction had ended based on his age, not merely his release from custody. Suppl. Report, Ex. A at 4-6. The court specifically reasoned that declaratory relief would not affect Respondents' *future* conduct because the petitioner had "aged out" of ORR jurisdiction. *Id.* at 6. Here, Y.D.D.L.C. is fifteen years old, remains a minor who is in immigration proceedings, and so remains subject to ORR jurisdiction for years to come. Therefore, declaratory relief is necessary to protect Y.D.D.L.C. from the same conduct in the future.

Most importantly, Respondents never explain why Y.D.D.L.C. remained in ORR custody for more than 300 days before ORR ultimately concluded release was appropriate to a sponsor they began vetting in late 2025. Nor did Respondents Status Report address "the status of the final sponsor suitability determination" as ordered by this Court. Dkt. 17. Instead, Respondents merely state that ORR "diligently followed its own suitability determination process" and ultimately determined release was appropriate. Status Report at 4. That assertion does not moot the controversy. It underscores it. If release was ultimately appropriate, the unresolved question remains why Y.D.D.L.C. spent more than 300 days in ORR custody before ORR finally reached that conclusion.

CONCLUSION

This case is not moot. Respondents' mootness argument fails because Petitioner seeks declaratory relief for completed constitutional and statutory violations, and Respondents offer no substantive defense to that conduct. Nor do they carry their burden for any exception to mootness. Therefore, Petitioner

respectfully asks this Court to reject Respondents' mootness argument and proceed to adjudicate the Petition, including issuing declaratory relief and any other relief it deems proper.

Dated: November 9, 2026

Respectfully Submitted,

/s/Caitlin Jolley
Caitlin Jolley
Attorney for Petitioner