

1 Marjorie J. Menza (SBN 321512)
mmenza@trialimpact.org
2 Amy Xu (SBN 330707)
axu@trialimpact.org
3 Miranda S. Finestone (SBN 366181)
mfinestone@trialimpact.org
4 Joshua Z. Behrens (SBN 359126)
jbehrens@trialimpact.org
5 TRIAL IMPACT PROJECT
523 West 6th Street, Suite 450
6 Los Angeles, CA 90014
Telephone: (213) 542-5241
7 Facsimile: (888) 775-0898

8 *Attorneys for Petitioner*

9
10 UNITED STATES DISTRICT COURT
11 CENTRAL DISTRICT OF CALIFORNIA

12 E.A.D.G., a minor by and through
13 Rebecca Popuch., as Next Friend
14 of Minor,

15 Petitioner,

16 vs.

17 TROY MCNAIR, Residential Director of
Rancho San Antonio; LILIANA
18 RENTERIA, Federal Field Specialist,
Office of Refugee Resettlement; NIKY
HYMEL, Federal Field Specialist
19 Supervisor, Office of Refugee
Resettlement; ALEX J. ADAMS,
20 Assistant Secretary of the Administration
for Children and Families; ANGIE
21 SALAZAR, Acting Director of the
Office of Refugee Resettlement; and
22 ROBERT F. KENNEDY, JR., Secretary
of the U.S. Department of Health and
23 Human Service,

24 Respondents.

Case No. 2:26-cv-07706-AS

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

Hon. Alka Sagar
United States Magistrate Judge

TABLE OF CONTENTS

I.	INTRODUCTION.....	1
II.	FACTS.....	2
	A. E.A.D.G. and H.Y.G.I.	2
	B. Petitioner’s Mother Has Met The Core Three Requirements To Complete Her ORR Sponsorship Application.....	3
	1. Petitioner’s Mother Has Established Her Identity	4
	2. Petitioner’s Mother Has Established Her Relationship to Her Son and The Safe Physical Environment of Her Home.....	4
	3. Petitioner’s Mother Does Not Pose a Potential Risk to Her Son.....	6
III.	ARGUMENT	8
	A. Exhaustion Is Not Required Because Administrative Remedies Are Inadequate and Would Further Subject Petitioner to Irreparable Injury.....	8
	B. Petitioner’s Ongoing Detention Is Unlawful Under The TVPPRA.....	12
	1. Petitioner May Advance His Statutory Claims Through A Habeas Petition.....	12
	2. Petitioner’s Immediate Release To His Sponsor Is Required By The TVPPRA	13
	3. Petitioner Is At Risk Of Being Transferred To DHS/ICE Custody When He Turns Eighteen Next Month	15
	C. Petitioner’s Ongoing Detention Is Unlawful Under The Fifth Amendment.....	16
	1. Procedural Due Process.....	16
	2. Substantive Due Process	21
IV.	CONCLUSION	22

TABLE OF AUTHORITIES

Cases

<i>Beltran v. Cardall</i> <u>222 F. Supp. 3d 476</u> (E.D. Va. 2016).....	11
<i>Boumediene v. Bush</i> <u>553 U.S. 723</u> (2008)	12, 13
<i>C.S.M. v. Hernandez</i> Case 5:26-cv-01144-JWH-ACCV (C.D. Cal. March 20, 2026)	10, 17
<i>D.B. v. Cardall</i> <u>826 F.3d 721</u> (4th Cir. 2016).....	13, 21
<i>E.F.E.L. v. Noem</i> Case No. 26-CV-02507, <u>2026 WL 1045550</u> (N.D. Ill. Apr. 17, 2026).....	10
<i>E.H.C.F. by Contreras Flores v. Kennedy</i> No. 3:25-CV-2142 (VDO), <u>2026 WL 145229</u> (D. Conn. Jan. 16, 2026).....	20, 21
<i>Flores v. Sessions</i> <u>862 F.3d 863</u> (9th Cir. 2017).....	13
<i>Flores-Miramontes v. Immigr. & Naturalization Serv.</i> <u>212 F.3d 1133</u> (9th Cir. 2000).....	12
<i>Garcia Ramirez v. U.S. Immigr. & Customs Enf't</i> No. CV 18-508 (RC), <u>2026 WL 1557609</u> (D.D.C. June 2, 2026)	15
<i>Hechavarria v. Whitaker</i> <u>358 F. Supp. 3d 227</u> (W.D.N.Y. 2019)	11
<i>Hernandez v. Sessions</i> <u>872 F.3d 976</u> (9th Cir. 2017).....	11
<i>Ibanez-Gutierrez v. Warden</i> No. 5:26-CV-02489-AYP, <u>2026 WL 1772762</u> (C.D. Cal. June 17, 2026).....	16
<i>J.E.C.M. by & Through His Next Friend Saravia v. Lloyd</i> <u>352 F. Supp. 3d 559</u> (E.D. Va. 2018).....	12, 17
<i>Jane P. v. Salazar</i> 1:26-cv-01506 (E.D. Va. June 1, 2026)	3
<i>Laing v. Ashcroft</i> <u>370 F.3d 994</u> (9th Cir. 2004).....	9, 10, 11
<i>Lucas R. v. Becerra</i> No. CV 18-5741-DMG (PLAx), <u>2022 WL 2177454</u> (C.D. Cal. Mar. 11, 2022)	16, 17, 18, 21

1		
2		
3	<i>M.A. v. Molina</i>	
4	No. 4:26-CV-00415, <u>2026 WL 741623</u> (N.D. Ohio Mar. 17, 2026).....	10, 17, 20
5	<i>Maldonado v. Lloyd</i>	
6	No. 18 CIV. 3089 (JFK), <u>2018 WL 2089348</u> (S.D.N.Y. May 4, 2018).....	20
7	<i>Marroquin Alvarez v. Genalo</i>	
8	No. 26-CV-02250 (JAV), <u>2026 WL 1206212</u> (S.D.N.Y. May 4, 2026).....	15
9	<i>Ms. L. v. U.S. Immigr. & Customs Enf't</i>	
10	<u>310 F. Supp. 3d 1133</u> (S.D. Cal. 2018)	18, 22
11	<i>Perez v. Casey</i>	
12	No. 26-cv-0655-JES-BLM, <u>2026 WL 370397</u> (S.D. Cal. Feb. 10, 2026).....	13
13	<i>Quilloin v. Walcott</i>	
14	<u>434 U.S. 246</u> (1978)	17
15	<i>Ramirez v. U.S. Immigr. & Customs Enf't</i>	
16	<u>568 F. Supp. 3d 10</u> (D.D.C. 2021)	15
17	<i>Regino v. Staley</i>	
18	<u>133 F.4th 951</u> (9th Cir. 2025).....	21
19	<i>Reno v. Flores</i>	
20	<u>507 U.S. 292</u> (1993)	21
21	<i>Santos v. Smith</i>	
22	<u>260 F. Supp. 3d 598</u> (W.D. VA. 2017)	11
23	<i>Santosky v. Kramer</i>	
24	<u>455 U.S. 745</u> (1982)	21
25	<i>Saravia v. Sessions</i>	
26	<u>280 F. Supp. 3d 1168</u> (N.D. Cal. 2017), <i>aff'd sub nom. Saravia for A.H. v. Sessions</i> , <u>905 F.3d 1137</u> (9th Cir. 2018)	16, 17
27	<i>Singh v. Chiang</i>	
28	No. ED CV 25-3024 FMO (SP), <u>2025 WL 4058328</u> (C.D. Cal. Dec. 15, 2025)	16
	<i>Souza v. Sessions</i>	
	No. 18 CV 4412, <u>2018 WL 10436697</u> (N.D. Ill. June 28, 2018).....	17
	<i>Troxel v. Granville</i>	
	<u>530 U.S. 57</u> (2000)	21

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Statutes

28 U.S.C. § 2241..... 12

8 U.S.C. § 1232..... 1, 11, 13

Regulations

45 C.F.R. § 410.1202..... 3, 14

45 C.F.R. § 410.1205..... 11

1 I. INTRODUCTION

2 Petitioner E.A.D.G. is a seventeen-year-old boy who has been in the custody of
 3 the Office of Refugee Resettlement (“ORR”) for five months despite the undisputed
 4 availability of his mother, H.Y.G.I. H.Y.G.I. is the exact kind of sponsor that the
 5 Trafficking Victims Protection Reauthorization Act (“TVPRA”) contemplates: a
 6 parent who is “capable of providing for [Petitioner’s] physical and mental well-being.”
 7 8 U.S.C. § 1232(c)(3)(A). And yet, ORR requires that H.Y.G.I. navigate a series of
 8 Kafkaesque bureaucratic procedures that do nothing to ensure E.A.D.G.’s well-being
 9 and controvert ORR’s mandate to “promptly place[]” a child in its custody “in the least
 10 restrictive setting that is in the [child’s] best interest.” *See id.* at § 1232(c)(2).

11 Despite no indication that H.Y.G.I. poses any risk to Petitioner, ORR continues
 12 to obstruct their family reunification, including by requiring repeated submissions of
 13 H.Y.G.I.’s proof of income due to exacting technicalities and invading H.Y.G.I.’s
 14 privacy, such as dictating that she hang curtains in her home. Respondents also insist
 15 that H.Y.G.I. submit a police report regarding a traumatic and unrelated domestic
 16 violence incident from 2021, in which she was the victim and obtained a permanent
 17 restraining order against a former partner. Meanwhile, Respondents’ recounting of the
 18 facts is inconsistent, contradictory, and demonstrates that the Government is
 19 responsible for unexplained delays.

20 The stakes of Petitioner’s release only grow as he approaches his eighteenth
 21 birthday next month and ages out of ORR custody, putting him at risk of being
 22 transferred to the Department of Homeland Security’s (“DHS”) custody. To prevent
 23 the further deprivation of Petitioner’s constitutional and statutory rights—as well as
 24 the pain felt by a mother desperately seeking to be reunited with her son—this Court
 25 should order Petitioner’s immediate release.

26 /////

27 /////

28 /////

1 **II. FACTS¹**

2 **A. E.A.D.G. and H.Y.G.I.**

3 E.A.D.G. is an unaccompanied child (“UC”) who has, since his entry into the
 4 United States on March 4, 2026, been in ORR custody for 149 days. H.Y.G.I. is his
 5 biological mother and proposed sponsor who has been diligently fulfilling ORR
 6 requirements since early March in hopes of being promptly reunited with her son. A
 7 forty-year-old woman born in rural Guatemala, H.Y.G.I. speaks Spanish and Quiché,
 8 a Mayan language. Declaration of Next Friend Rebecca Popuch (“Popuch Decl.”) ¶
 9 6.² H.Y.G.I. resides in Los Angeles County and is a full-time working mother. Since
 10 2023, she has been employed at a local produce cleaning and packing facility, where
 11 her hourly wage is \$18.15, and her typical work schedule is from approximately 11:00
 12 A.M. to 8:00 or 9:00 P.M. *Id.* ¶ 8.

13 H.Y.G.I. has put forth extraordinary and consistent effort in completing her
 14 sponsorship application since her son, E.A.D.G., entered the United States. *Id.* ¶ 9;
 15 *see infra* § II(B) (describing extensive work in documenting her identity, relationship
 16 to her son, and safety of her home). She has diligently pursued her application despite
 17 language barriers, difficulties with technology, and long work hours. *Id.* ¶ 9. Adding
 18 to the challenges, H.Y.G.I.’s main point of contact through the sponsorship application
 19 process has been an assigned ORR federal field specialist (“FFS”) rather than a local
 20 ORR case manager, who is located in the same shelter as the unaccompanied child.
 21 *Id.* ¶¶ 11–13.³

22
 23 ¹ Petitioner recognizes that further recitation of facts is not customary in a traverse,
 24 However, Respondents’ long recitation of facts and dates was both rife with errors
 and critical omissions, illustrating the very bureaucratic entanglement that has
 ensnared Petitioner for nearly five months now.

25 ² The Traverse does not include a declaration from H.Y.G.I. due to the expedited
 26 briefing schedule and need for translation. However, Petitioner can provide such a
declaration from H.Y.G.I. at the Court’s request.

27 ³ Around May 2026, ORR changed its internal processes regarding ORR sponsorship
 28 application. *See* Popuch Decl. ¶¶ 11–13. Case managers, who are local ORR
 employees located in the same shelter as the unaccompanied child, were removed

(Continued...)

B. Petitioner’s Mother Has Met The Core Three Requirements To Complete Her ORR Sponsorship Application

The Unaccompanied Child Program Foundational Rule (“Foundational Rule”) sets forth three basic requirements a sponsor must meet to “complete” their sponsorship application: “[1] the potential sponsor’s identity, [2] physical environment of the sponsor’s home, and relationship to the unaccompanied child, if any, and [3] an independent finding that the individual has not engaged in any activity that would indicate a potential risk to the unaccompanied child.” 45 C.F.R. § 410.1202(b).

Petitioner’s mother has met these requirements and E.A.D.G. should be released into her custody. However, Respondents assert that the following sponsorship requirements remain outstanding: domestic violence documents, an updated proof of income employment letter, a report from the already-concluded home study, an in-person ID check, DNA testing, the Department of Vetting (DOV) packet, and CAT-1 exemptions for H.Y.G.I. and the alternative caregiver due to a lack of ITINs. ECF 19 at 18.⁴ These requirements are unnecessary because the information is already known and available to Respondents (e.g., H.Y.G.I. disclosed to ORR in April that she was the victim of an assault in 2021). Some requirements are discretionary (e.g., the ITIN requirement, which can take months to obtain, is discretionary and can be waived), and others are in the sole control of Respondents who have failed to timely act (e.g.,

from the sponsorship process, and ORR shifted all sponsorship communication responsibilities to FFSs, who are not local to the UC’s shelter and may be responsible for children throughout the country. *See id.* ¶ 12. Case managers were critical local intermediaries between potential sponsors and ORR, especially for sponsors with limited technical or general literacy. *Id.* ¶ 11. Illustrating this point, E.A.D.G.’s FFS Lilliana Renteria is also named as the FFS in a habeas petition for two UCs located in Bristow, Virginia highlighting similar dilatory conduct. *See Jane P. v. Salazar*, 1:26-cv-01506, ECF 1 ¶¶ 58–80 (E.D. Va. June 1, 2026), available at <https://www.courthousenews.com/wp-content/uploads/2026/06/1-0-Jane-P.-v.-Salazar-Habeas-Petition.pdf> (explaining in detail how “DSA FFS Liliana Renteria repeatedly reopened or prolonged review of the sponsorship application based primarily on asserted technical, formatting, or administrative deficiencies relating to address history and form completion”).

⁴ All pincites are to the ECF pagination.

1 H.Y.G.I. consented to a DNA swab more than four months ago⁵ which has yet to be
 2 scheduled; ORR completed the home study but has not written the report).

3 *1. Petitioner's Mother Has Established Her Identity*

4 Respondents have verified H.Y.G.I.'s identity through numerous methods yet
 5 continue to conduct extensive investigations that keep E.A.D.G. from his mother. On
 6 March 6, two days after E.A.D.G. entered ORR custody, Petitioner's mother uploaded
 7 a copy of her identification document and a photo to verify her identity. ECF 19-1,
 8 Declaration of Toby Biswas ("Biswas Decl.") ¶ 36. H.Y.G.I. also provided additional
 9 forms of her identification, including her birth certificate on June 27, her passport and
 10 consular ID on June 29, and her passport on July 1. *Id.* ¶¶ 52–53. After a delay of
 11 more than a week, ORR sent H.Y.G.I.'s identity documents to the Guatemalan
 12 consulate, who confirmed the validity of the documents the same day. *Id.* ¶ 59.
 13 H.Y.G.I. underwent a fingerprint background check on July 7, 2026 and was cleared
 14 the same day. *Id.* ¶ 57. Despite not identifying any issues with establishing
 15 Petitioner's mother's identity, Respondents continue to demand additional
 16 requirements, such as a CAT-1 ITIN exemption and in-person identification check,
 17 before deeming the sponsorship application complete. ECF 19 at 18. Yet ORR has
 18 never contacted Petitioner's mother about scheduling an in-person identification
 19 check, and whether the potential sponsor is eligible for a CAT-1 exemption for lack of
 20 an ITIN appears to be discretionary on the part of the FFS. Popuch Decl. ¶¶ 27–28;
 21 Biswas Decl. ¶ 63.

22 *2. Petitioner's Mother Has Established Her Relationship to Her Son*
 23 *and The Safe Physical Environment of Her Home*

24 Respondents do not dispute that H.Y.G.I. is E.A.D.G.'s biological mother. *See*
 25 *generally* ECF 19. As detailed *supra*, H.Y.G.I. immediately presented herself as
 26

27 _____
 28 ⁵ Respondents argue that H.Y.G.I. only completed her Authorization for Release of
 Information (ARI) in July 2026, ECF 19 at 29, but their own facts show that she
 signed the ARI four months earlier on March 10, 2026. *Id.* at 13.

1 E.A.D.G.'s biological mother upon his detention in ORR custody, uploaded the
 2 necessary identification documents, and underwent a sponsorship assessment
 3 interview. Biswas Decl. ¶¶ 35–36, 40, 43, 52–53. Respondents received E.A.D.G.'s
 4 birth certificate listing H.Y.G.I. as his biological mother. *Id.* ¶ 59; *see also* ECF 1 at ¶
 5 31. Respondents assert that DNA testing remains pending before E.A.D.G. can be
 6 released but do not explain why it is required when the biological connection between
 7 E.A.D.G. and his mother appears to be undisputed. *Compare* ECF 19 at 18
 8 (identifying missing DNA test) *with id.* at 2, 13, 22, 25, 26 (Respondents' Answer
 9 repeatedly identifying H.Y.G.I. as E.A.D.G.'s biological mother). Nor have they
 10 explained why they continue to wait to schedule a simple DNA swab, which H.Y.G.I.
 11 consented to when she signed her own Authorization for Release of Information
 12 ("ARI") in March 2026. *See* ECF 1 at ¶ 31; Popuch Decl., Ex. I (July 28 ORR
 13 reunification update stating that sponsor DNA test has yet to be scheduled).

14 Petitioner's mother has made great efforts to modify her living situation to meet
 15 ORR requirements for ensuring a safe physical environment for her son. H.Y.G.I.
 16 sought new housing after being informed by FFS Liliana Renteria, a Respondent, in
 17 March 2026 that every member of a sponsor's household must provide their identity
 18 documents, fingerprints, and undergo a background check, and reporting in May 2026
 19 that her housemates were unwilling to submit to such requirements. *See* ECF 1 at 15;
 20 Biswas Decl. ¶ 42. By June 1, H.Y.G.I. had moved into a new apartment and
 21 repeatedly and promptly verified her new address with ORR. *See* Biswas Decl. ¶¶ 47–
 22 48 (uploaded a letter from her new property manager the same day she moved in); *id.*
 23 ¶ 49 (ORR noting missing apartment number in application on June 15); *id.* ¶ 50
 24 (H.Y.G.I. confirmed new address with apartment number on June 17); *id.* ¶ 52
 25 (identifying incomplete lease agreement on June 27); *id.* ¶¶ 52, 54 (re-uploaded lease
 26 on June 29 and then yet again on July 2).

27 Despite verification of her new address and conducting a home study,
 28 Respondents assert that a home study *report* is outstanding and must be completed

1 before E.A.D.G. is released to his mother. ECF 19 at 18. Home studies are
2 discretionary based on E.A.D.G.'s circumstances, which show no evidence that he is
3 a victim of trafficking, has a disability, is a victim of physical or sexual abuse, or has
4 a proposed sponsor that presents a risk of abuse or exploitation, or a proposed sponsor
5 that is a non-relative. *See* Biswas Decl. ¶¶ 18–21 (describing when home studies are
6 required); Popuch Decl., Ex. H (E.A.D.G.'s May 4 case review reports he does not
7 have risk factors regarding labor or sexual trafficking and that H.Y.G.I. does not
8 “present a risk of abuse, maltreatment, exploitation, or trafficking” to her son). The
9 home study report requirement, which ORR only initiated on July 14, *see* Biswas Decl.
10 ¶ 60, was not communicated until more than 130 days after the H.Y.G.I. first submitted
11 her sponsorship application on March 6.

12 Though the home study was completed on July 21, the report continues to be
13 outstanding. *Compare* Popuch Decl. ¶ 30, Ex. I (July 28 ORR reunification update
14 stating home study completed on July 21 and report expected July 28) *with* Biswas
15 Decl. ¶ 66 (Respondents indicate home study report expected to be completed on July
16 31). On the morning of this filing, July 31, H.Y.G.I. was out purchasing curtains
17 before work; she was told by ORR staff who completed the home study that she needed
18 to purchase curtains and send a picture to ORR to receive a positive home study report.
19 Popuch Decl. ¶ 31.

20 3. *Petitioner's Mother Does Not Pose a Potential Risk to Her Son*

21 ORR does not identify any potential risks that H.Y.G.I. poses to her son. *See*
22 *generally* Biswas Decl. ORR's own assessment of E.A.D.G. found that he had no risk
23 factors indicating labor or sexual trafficking. Popuch Decl. ¶ 29, Ex. H (E.A.D.G.'s
24 30 Day Case Review authored by his case manager and clinician, noting that H.Y.G.I.
25 does not “present a risk of abuse, maltreatment, exploitation, or trafficking” to her
26 son). H.Y.G.I. was “cleared” by her fingerprint background check the same day it was
27 completed. Biswas Decl. ¶ 57.

1 H.Y.G.I. previously sponsored her eldest son, who is now an adult and
2 E.A.D.G.'s Alternate Care Giver ("ACG") on the sponsorship application. Biswas
3 Decl. ¶ 44; Popuch Decl. ¶ 7. ORR does not raise any concerns regarding H.Y.G.I.'s
4 previous sponsorship of E.A.D.G.'s elder brother, *see generally* Biswas Decl., and
5 indeed, ORR notes that H.Y.G.I. uploaded evidence that her eldest son is still enrolled
6 in school. *Id.* ¶ 52. There is no indication that E.A.D.G.'s older brother poses any risk
7 to E.A.D.G. as he was cleared by both an internet background check and a fingerprint
8 background check. *Id.* ¶¶ 59–60. And to the contrary, H.Y.G.I.'s successful
9 sponsorship of her eldest son further establishes she does not pose a potential risk to
10 her son E.A.D.G.

11 Respondents need not wait to adjudicate Petitioner's mother's sponsorship
12 application until receiving what they label as "domestic violence documents." ECF
13 19 at 19. Respondents have known about this incident since approximately April 2026,
14 when H.Y.G.I. notified FFS Renteria of the domestic violence incident from
15 November 2021 in which she was assaulted by a former partner and reported the
16 incident to the police. Popuch Decl. ¶ 17. Indeed, H.Y.G.I. made a request for the
17 police report on April 7, 2026. *Id.*, Ex. C. Yet no such record of this conversation
18 appears in Respondents' recounting of the case status.

19 After the 2021 assault, H.Y.G.I. obtained a permanent restraining order which
20 was in place for three years. *Id.* ¶ 15. She is no longer in contact with the perpetrator.
21 *Id.* The pertinent documents show that H.Y.G.I. was indisputably the victim, and that
22 no children were involved in the domestic violence incident. *Id.* ¶¶ 14–16. Indeed,
23 neither of her sons were in the United States at that time. *Id.* H.Y.G.I. has attempted
24 to obtain a copy of the police report since April 2026, but based on the experience of
25 counsel, such reports are notoriously difficult and time-consuming to obtain. *See id.*
26 ¶ 18. ORR does not explain why additional documentation of a domestic violence
27 incident from nearly five years ago, particularly one that did not pose a problem for
28 her previous sponsorship of her older son, is necessary to release E.A.D.G.

Respondents indicate that an updated proof of income letter is required to complete the sponsorship application, but they do not explain why the four prior versions provided by H.Y.G.I. are deficient under the Foundational Rule, or how such a formalistic requirement serves to ensure E.A.D.G.'s safety. H.Y.G.I. has provided at least four substantively identical proof of income letters dated March 9, June 12, July 17, and July 29 in response to Respondents' requests. Popuch Decl. ¶¶ 20–24, Exs. D, E, F, and G. All letters are on company letterhead, are written by an HR administrator or supervisor, and identify her place of employment and hourly wage. H.Y.G.I. had to obtain a new employment verification letter after ORR delayed in reaching out to her employer, during which the manager listed on her employment letter resigned. *Id.* ¶ 25. Instead of asking to speak with another manager for the verification, ORR required H.Y.G.I. to obtain an entirely new verification letter, again unnecessarily prolonging the sponsorship application process. *Id.*

Respondents state that a Division of Vetting (DOV) report is still outstanding, the purpose of which is to review "background check results" and "determine if there is an existing open criminal investigation on sponsors." Biswas Decl. ¶ 63 n.3. H.Y.G.I. was never informed about this requirement. Popuch Decl. ¶ 28. And Respondents do not explain why this additional hurdle is needed when they have already obtained and cleared her fingerprints and obtained internet background checks, including public records and sex offender registry checks. ECF 19 at 17. As with so many other requirements, such as the delayed DNA testing and home study report, these steps are all in the hands of Respondents.

III. ARGUMENT

A. Exhaustion Is Not Required Because Administrative Remedies Are Inadequate and Would Further Subject Petitioner to Irreparable Injury

Respondents argue that H.Y.G.I.'s sponsorship application is incomplete, and therefore Petitioner should be required to exhaust administrative remedies before the

1 Court rules on the habeas petition. ECF 19 at 18–20. But Petitioner is not required to
2 exhaust ORR’s administrative procedures, as these remedies have proven to be elusive
3 and would only extend Petitioner’s injury by prolonging his detention and separation
4 from his mother.

5 Administrative exhaustion in the habeas context is a prudential requirement that
6 may be waived under “a number of exceptions,” such as when “[1] administrative
7 remedies are inadequate or not efficacious, [2] pursuit of administrative remedies
8 would be a futile gesture, [3] irreparable injury will result, or [4] the administrative
9 proceedings would be void.” *Laing v. Ashcroft*, 370 F.3d 994, 1000–01 (9th Cir. 2004)
10 (internal quotations marks omitted). Respondents argue that administrative exhaustion
11 requirements should not be waived in this case because Petitioner’s mother has not
12 completed every step in the sponsorship process, and ORR has not completed
13 “important” vetting requirements. *See ECF 19, at 18–20*. But Respondents have
14 created a bureaucratic morass in which it has become near-impossible for H.Y.G.I. to
15 satisfactorily complete the sponsorship process, thereby making any administrative
16 remedies functionally unavailable. *See* § II(B) (describing H.Y.G.I.’s efforts to
17 complete sponsorship process). Under these circumstances, the Court has and should
18 use its authority to approve H.Y.G.I.’s sponsorship application and order E.A.D.G.’s
19 release to her.

20 Petitioner’s ongoing attempts to access these administrative remedies
21 demonstrate their inadequacy. H.Y.G.I. has diligently completed every step of the
22 sponsorship application, even as ORR has added additional requirements and required
23 her to re-submit materials for unexplained reasons. *See generally* Biswas Decl.;
24 Popuch Decl., Ex. I. For example, despite submitting identification documents
25 including a birth certificate, passport, a consular ID, having identity documents
26 verified by the Guatemalan consulate, and submitting to a fingerprint background
27 check, Respondents continue to demand further verification. Biswas Decl. ¶¶ 36, 52–
28 53, 57, 59; ECF 19 at 18. Even though Respondents have E.A.D.G.’s birth certificate

1 listing H.Y.G.I. as his biological mother, and there is no dispute about this biological
 2 relationship, Respondents insist that the sponsorship application is incomplete until
 3 they obtain a DNA test, which they have not scheduled. *See* Biswas Decl. ¶¶ 59, 64.
 4 And despite H.Y.G.I.'s cleared background checks, Respondents insist on obtaining a
 5 police report from a 2021 domestic violence incident in which H.Y.G.I. was
 6 incontrovertibly the victim, purportedly to evaluate if she poses a risk to her son. *Id.*
 7 ¶¶ 60, 65; Popuch Decl. ¶¶ 15–17.⁶ These requirements unnecessarily delay the
 8 release of E.A.D.G. to his mother while doing nothing to ensure his safety and best
 9 interests.

10 Petitioner attempted to resolve the issue directly with the agency by sending a
 11 demand letter to ORR asking for his release, to which he received no response. *See*
 12 ECF 1 at 15. Without a final decision on H.Y.G.I.'s sponsorship application, there is
 13 no way for Petitioner to appeal his ongoing detention. Respondents' proffered
 14 administrative remedies are not meaningfully available to Petitioner and exhaustion
 15 should be waived. *See Laing*, 370 F.3d at 1000 (administrative exhaustion
 16 requirements may be waived when "available remedies provide no genuine
 17 opportunity for adequate relief") (quoting *Beharry v. Ashcroft*, 329 F.3d 51, 62 (2nd
 18 Cir. 2003); *see also C.S.M. v. Hernandez*, Case 5:26-cv-01144-JWH-ACCV, ECF 14
 19 at 1 (C.D. Cal. March 20, 2026) (ordering release of unaccompanied child from ORR
 20 custody); *E.F.E.L. v. Noem*, Case No. 26-CV-02507, 2026 WL 1045550, at *1 (N.D.
 21 Ill. Apr. 17, 2026) (granting habeas petition and ordering release of noncitizen minor
 22 to ORR-designated sponsor); *M.A. v. Molina*, No. 4:26-CV-00415, 2026 WL 741623,
 23 at *1 (N.D. Ohio Mar. 17, 2026) (granting habeas petition and ordering release of
 24 noncitizen minor to mother).

25
 26
 27
 28 ⁶ Respondents cite to a "2020" and "2022" domestic violence incident in their
 Answer, ECF 19 at 17–18, but H.Y.G.I.'s sole domestic violence incident is from
 November 2021. Popuch Decl. ¶ 15, Exs. A, B.

Petitioner is not “bypassing” ORR’s administrative scheme by requesting habeas relief. Rather, Petitioner seeks to hold ORR to its obligations under the TVPRA and Foundational Rule to “promptly” place children in the least restrictive setting and to release a UC to a suitable Category 1 sponsor “within 10 calendar days.” 8 U.S.C. § 1232(c)(2)(A); 45 C.F.R. § 410.1205(b). As discussed in Section II(B), *supra*, H.Y.G.I. has already met the minimum requirements for sponsor verification mandated by the TVPRA. It is ORR’s unexplained and unnecessary delays in processing H.Y.G.I.’s sponsorship application that make exhaustion unreasonable and leave Petitioner with no other alternative than to seek relief from this Court. *See Laing*, 370 F.3d at 1000 (a district court’s habeas jurisdiction is ordinarily reserved for instances in which no other judicial remedy is available); *see also Hechavarria v. Whitaker*, 358 F. Supp. 3d 227, 237 (W.D.N.Y. 2019) (waiving exhaustion requirement where “delays inherent in the [Board of Immigration Appeals review] process . . . would result in the very harm that the bond hearing was designed to prevent: prolonged detention without due process during lengthy and backlogged removal proceedings”).

Lastly, requiring administrative exhaustion would result in irreparable injury to Petitioner, who has been detained by ORR and unnecessarily separated from his mother for nearly five months. *See ECF 1 at 29*; *Hernandez v. Sessions*, 872 F.3d 976, 994–95 (9th Cir. 2017) (“It is well established that the deprivation of constitutional rights unquestionably constitutes irreparable injury.”) (internal quotation marks omitted). When there has been a due process violation, *see ECF 1 at 25–34*, the proper remedy is release and not additional process, which would only prolong Petitioner’s detention and the injury. *See Santos v. Smith*, 260 F. Supp. 3d 598, 616 (W.D. VA. 2017); *Beltran v. Cardall*, 222 F. Supp. 3d 476, 489 (E.D. Va. 2016) (concluding that affording additional process to a UC rapidly approaching eighteen would only be “of marginal benefit”). Requiring additional process will result in further delay and puts E.A.D.G., who turns eighteen at the end of August and therefore ages out of ORR

1 custody, at serious risk of being transferred to DHS/ICE custody. *See infra* Section
2 III(B)(3).

3 **B. Petitioner’s Ongoing Detention Is Unlawful Under The TVPRA**

4 *1. Petitioner May Advance His Statutory Claims Through A Habeas*
5 *Petition*

6 This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C.
7 § 2241, which grants district courts the authority to grant writs of habeas corpus to a
8 petitioner in federal custody “in violation of the Constitution or laws or treaties of the
9 United States.” § 2241(c)(3). Petitioner challenges his ongoing detention in ORR
10 custody as a violation of the TVPRA. A habeas petition is the proper vehicle to
11 advance this statutory claim. *See Boumediene v. Bush*, 553 U.S. 723, 779 (2008)
12 (discussing how it is “uncontroversial” that the privilege of habeas corpus entitles a
13 person to “a meaningful opportunity to demonstrate that he is being held pursuant to
14 the erroneous application or interpretation of relevant law”) (internal quotation marks
15 omitted); *Flores-Miramontes v. Immigr. & Naturalization Serv.*, 212 F.3d 1133, 1143
16 (9th Cir. 2000) (“[A]s we have previously held, [the federal habeas statute] allows for
17 review of both statutory and constitutional questions.”) (citing *Magana-Pizano v.*
18 *Immigr. & Naturalization Serv.*, 200 F.3d 603, 609 (9th Cir. 1999)).

19 Respondents broadly state that any claim that ORR has violated the TVPRA
20 must be evaluated under the Administrative Procedure Act (APA), and there is no
21 standalone cause of action under the TVPRA. ECF 19 at 27–28. This argument has
22 no bearing on whether the Court should grant this petition. District courts have
23 previously determined that an unaccompanied child’s TVPRA claims are cognizable
24 in habeas corpus proceedings regardless of whether they constitute standalone causes
25 of action. *See J.E.C.M. by & Through His Next Friend Saravia v. Lloyd*, 352 F. Supp.
26 3d 559, 575 (E.D. Va. 2018) (noting that Defendants’ argument that there is no private
27 right of action under the TVPRA is “largely academic” because UCs may assert their
28 statutory claims through a § 2241 habeas petition, while their sponsors may assert their

own claims through the APA); *D.B. v. Cardall*, 826 F.3d 721, 731 (4th Cir. 2016) (statutory claims asserted on behalf of a UC fall within the scope of habeas corpus review); *see also Perez v. Casey*, No. 26-cv-0655-JES-BLM, 2026 WL 370397, at *2 (S.D. Cal. Feb. 10, 2026) (granting habeas petition on TVPRA grounds). Respondents disregard the traditional scope of habeas corpus as “an adaptable remedy” which Petitioner may use to challenge his unlawful detention based on ORR’s erroneous application of the TVPRA. *See Boumediene*, 553 U.S. at 779.

2. *Petitioner’s Immediate Release To His Sponsor Is Required By The TVPRA*

ORR’s mandate under the TVPRA is clear: an unaccompanied child in ORR custody “shall be *promptly* placed in the least restrictive setting that is in the best interest of the child.” 8 U.S.C. § 1232(c)(2)(A) (emphasis added). Once ORR has assessed the suitability of an unaccompanied child’s potential sponsor, absent a determination that the child is a danger or a flight risk, the child must be released to their sponsor. *Id.* Petitioner’s continued detention—despite the availability of his H.Y.G.I., whom ORR identified as a potential sponsor five months ago—contravenes the goal of the TVPRA to “ensur[e] the welfare of [unaccompanied] children.” *Flores v. Sessions*, 862 F.3d 863, 876 (9th Cir. 2017).

Respondents argue that Petitioner’s detention is required by statute, but this view misconstrues the TVPRA’s “focus on care and placement—rather than on detention.” *Flores*, 862 F.3d at 876. Respondents assert that they are not permitted to release Petitioner to the care of his mother because she has not yet met the statutory requirements necessary to allow ORR to decide E.A.D.G.’s placement. *See ECF 19 at 20–21*. However, the plain text of the TVPRA states that ORR’s suitability determinations shall include, at a minimum, “verification of the custodian’s identity and relationship to the child, if any, as well as an independent finding that the individual has not engaged in any activity that would indicate a potential risk to the child.” 8 U.S.C. § 1232(c)(3)(A). The Foundational Rule further clarifies the

1 TVPRA's requirements, identifying the three basic requirements that ORR must
2 validate before releasing a child to a sponsor: "[1] the potential sponsor's identity, [2]
3 physical environment of the sponsor's home, and relationship to the unaccompanied
4 child, if any, and [3] an independent finding that the individual has not engaged in any
5 activity that would indicate a potential risk to the unaccompanied child." 45 C.F.R. §
6 410.1202(b).

7 H.Y.G.I. has met these three requirements. She has established her identity
8 through numerous forms of identification, including her birth certificate, passport, and
9 consular ID, which have been verified by the Guatemalan consulate. Biswas Decl. ¶¶
10 52–53, 57. She has established her biological relationship to her son via E.A.D.G.'s
11 birth certificate, Biswas Decl. ¶ 59; ECF 1 at ¶ 31, and has undergone a sponsorship
12 assessment interview and home study to establish that her home is a safe place for
13 E.A.D.G. Biswas Decl. ¶¶ 43, 66; Popuch Decl. ¶ 30, Ex. I. And lastly, following the
14 completion of a background check, ORR has not identified any potential risks that
15 H.Y.G.I. may pose to her son. *See* Biswas Decl. ¶ 57.

16 Respondents point to the TVPRA as the reason why Petitioner must remain in
17 detention, asserting that they are prohibited by statute from releasing E.A.D.G. to
18 H.Y.G.I.'s care until ORR has made a determination that she "is capable of providing
19 for [Petitioner's] physical and mental well-being." ECF 19 at 21 (quoting 8 U.S.C. §
20 1232(c)(3)(A)). But it is not the TVPRA that has prevented ORR from making this
21 determination, but rather the agency's unexplained delays and heel dragging that has
22 kept Petitioner in ORR custody and separated from his mother. Since H.Y.G.I. met
23 the minimum suitability requirements prescribed by the TVPRA and Foundational
24 Rule, Respondents have flouted their mandate to ensure E.A.D.G.'s well-being by
25 failing to promptly place him in the least restrictive setting that is in his best interest:
26 the care of his mother.

27 /////

28 /////

3. *Petitioner Is At Risk Of Being Transferred To DHS/ICE Custody
When He Turns Eighteen Next Month*

Respondents make a half-hearted attempt to assure the Court that Petitioner will not be transferred to DHS/ICE custody following his eighteenth birthday on August 28, 2026. *See ECF 19 at 21–22 n. 4.* While it is true that the TVPRA requires DHS to make an age-out determination prior to transferring an unaccompanied child to ICE custody, there is no guarantee that the Government will follow its own procedures. *See, e.g., Marroquin Alvarez v. Genalo*, No. 26-CV-02250 (JAV), 2026 WL 1206212, at *12–14 (S.D.N.Y. May 4, 2026) (finding that in its decision to detain aged-out UC, ICE misrepresented the factual record, incorrectly claimed the petitioner lacked an advocate or attorney, failed to consider mitigating factors supporting the petitioner’s release, and ignored the existence of less restrictive means to address the agency’s concerns); *Ramirez v. U.S. Immigr. & Customs Enf’t*, 568 F. Supp. 3d 10, 27 (D.D.C. 2021) (finding ICE circumvented its court-ordered reporting requirements regarding UC age-outs by completing required documentation of factual findings after having already made detention determinations); *Garcia Ramirez v. U.S. Immigr. & Customs Enf’t*, No. CV 18-508 (RC), 2026 WL 1557609, at *2, 4–5 (D.D.C. June 2, 2026) (finding that DHS circumvented the same preliminary injunction by releasing and then re-detaining aged out UCs and delaying the release of UCs transferred to ICE custody after turning 18). Furthermore, Respondents acknowledge that ORR will “notify the local DHS/Immigration and Customs Enforcement (ICE) Field Office . . . that [E.A.D.G.] is aging out and obtain written confirmation of whether DHS/ICE will issue a Release on Own Recognizance.” *ECF 19 at 21 n.4.* Thus, ORR cannot promise E.A.D.G. will not be detained upon turning eighteen as that decision is only in the hands of DHS/ICE.

ORR’s delay in releasing E.A.D.G. to his mother’s care is not only a violation of the TVPRA, but has also now put him at risk of “be[ing] transferred to ICE custody and los[ing] the protections afforded to juveniles” he is promised under the TVPRA.

1 *Saravia v. Sessions*, 280 F. Supp. 3d 1168, 1200 (N.D. Cal. 2017), *aff'd sub nom.*
 2 *Saravia for A.H. v. Sessions*, 905 F.3d 1137 (9th Cir. 2018). The Court should order
 3 immediate release for E.A.D.G. to his mother or, at the very least, enjoin Respondents
 4 from transferring him to DHS/ICE custody upon his eighteenth birthday.

5 **C. Petitioner's Ongoing Detention Is Unlawful Under The Fifth**
 6 **Amendment**

7 *1. Procedural Due Process*

8 Petitioner has protected liberty interests in being free from detention and in
 9 family integrity, as well as protected property interests in his statutory entitlements
 10 under the Homeland Security Act (HSA) and ORR Regulations. *See ECF 1 at 26–27.*
 11 Respondents only contest the weight of Petitioner's liberty interests and do not address
 12 his property interests. *See ECF 19 at 22* ("Petitioners [sic] identify two constitutional
 13 interests . . . being free from custody and . . . a right to family integrity"). "Consistent
 14 with precedent, courts in this Circuit have regarded such silence as a concession."
 15 *Ibanez-Gutierrez v. Warden*, No. 5:26-CV-02489-AYP, 2026 WL 1772762, at *2
 16 (C.D. Cal. June 17, 2026) (citing cases); *Singh v. Chiang*, No. ED CV 25-3024 FMO
 17 (SP), 2025 WL 4058328, at *4 (C.D. Cal. Dec. 15, 2025) (construing government's
 18 failure to oppose argument raised by habeas petitioner as a concession). This Court
 19 should therefore grant Petitioner's Procedural Due Process claim as to the
 20 unconstitutional deprivation of his protected property interests at the outset.

21 As to Petitioner's liberty interests, Respondents incorrectly apply the *Mathews*
 22 *v. Eldridge* balancing test and ultimately fail to show that there are adequate procedural
 23 safeguards in place to prevent the deprivation of Petitioner's constitutional rights.

24 **First**, courts in this district and across the country have found that
 25 unaccompanied children have unquestionably strong liberty interests in being free
 26 from detention and in family unity. *See, e.g. Lucas R. v. Becerra*, No. CV 18-5741-
 27 DMG (PLAx), 2022 WL 2177454, at *23 (C.D. Cal. Mar. 11, 2022) ("[UC] Class
 28 Members have strong interests in being free from physical restraint and . . . in familial

1 association”); *C.S.M.*, Case 5:26-cv-01144-JWH-ACCV, ECF 14 at 1 (finding UC has
 2 a significant private interest in being free from custody and reunited with immediate
 3 family); *J.E.C.M.*, 352 F. Supp. 3d at 585 (“There is no doubt that the private interests
 4 [in being free from physical detention and family unity] are significant.”); *M.A.*, 2026
 5 WL 741623, at *5 (finding that UC petitioner has a constitutionally cognizable interest
 6 in freedom from detention and family unity and concluding that *Mathews* factor one
 7 weighs in his favor).

8 Respondents attempt to minimize these profound liberty interests by arguing
 9 that they are circumscribed because Petitioner is a minor and outweighed by the
 10 government’s interest in child welfare. ECF 19 at 23. While minors may always be
 11 in some form of custody, “they retain a strong interest in being free from unnecessary
 12 government interference with their liberty.” *Saravia*, 280 F. Supp. 3d at 1195; *see also*
 13 *Lucas R.*, 2022 WL 2177454, at *14 (adults and children alike possess “a
 14 constitutionally protected interest in avoiding unjustified physical restraint”).
 15 Petitioner also has a strong liberty interest in family integrity, that while not limitless,
 16 would be offended “[i]f a State were to attempt to force the breakup of a natural family,
 17 over the objections of the parents and their children, without some showing of
 18 unfitness and for the sole reason that to do so was thought to be in the children's best
 19 interest.” *Quilloin v. Walcott*, 434 U.S. 246, 255 (1978) (internal quotation marks
 20 omitted); *see also Souza v. Sessions*, No. 18 CV 4412, 2018 WL 10436697, at *1 (N.D.
 21 Ill. June 28, 2018) (“But here, there is also a reasonable likelihood that since the
 22 process to date has established that [UC’s sponsor] is fit and available, additional
 23 process only serves to interfere in the family's integrity with little to no benefit to the
 24 government's interests.”). Here, Respondents have flipped the Government’s interest
 25 in child welfare on its head and have started with separation without a finding of
 26 unfitness, rather than the other way around. *Cf. Quilloin*, 434 U.S. at 255.

27 These protected liberty interests are particularly strong in Petitioner’s case, as
 28 courts have repeatedly recognized the uniquely damaging impact that prolonged

1 detention and family separation have on children. *See Lucas R.*, 2022 WL 2177454,
 2 at *17 (crediting child welfare experts' testimony about the harm detention causes
 3 children); *Ms. L. v. U.S. Immigr. & Customs Enf't*, 310 F. Supp. 3d 1133, 1147 (S.D.
 4 Cal. 2018) (crediting evidence reflecting the long term consequences on child well-
 5 being, safety, and development caused by the traumatic experience of family
 6 separation).

7 **Second**, the fact that Petitioner remains in ORR custody five months after the
 8 agency identified his mother as a potential sponsor is not indicative of functioning
 9 procedures that are necessary to protect his well-being. Instead, the series of ever-
 10 changing bureaucratic hoops, unexplained delays, and unwarranted scrutiny H.Y.G.I.
 11 has faced while trying to reunite with her son demonstrate a system that lacks sufficient
 12 procedural safeguards to ensure that Petitioner is not deprived of his liberty interests
 13 unnecessarily.

14 For the past five months, H.Y.G.I. has sought to meet every request that ORR
 15 has asked of her, despite demonstrated language barriers, difficulty with technology,
 16 and long work hours. Popuch Decl. ¶ 9. And at every step along the way, she has
 17 been met with obstructive requirements and unexplained delays. *See Biswas Decl.* ¶¶
 18 52–53, 59 (delays in verifying identity documents with Guatemalan consulate);
 19 Popuch Decl., Ex. I (listing DNA testing as unscheduled as of July 28, 2026); Biswas
 20 Decl. ¶¶ 18–21, 60 (waiting 130 days after H.Y.G.I. first submitted her sponsorship
 21 application to schedule a discretionary home study); Popuch Decl. ¶¶ 20–26, Exs. D,
 22 E, F, and G (repeated requests to upload additional proof of income letters despite no
 23 explanation why prior versions were deficient under the Foundational Rule); *id.* ¶¶ 27–
 24 28 (providing H.Y.G.I. inaccurate information about CAT-1 ITIN exception).

25 Respondents contend that ORR's sponsorship process has sufficient procedural
 26 safeguards to prevent unreasonable delay because "ORR has continuously engaged
 27 with H.Y.G.I. regarding additional required information for sponsoring her son." ECF
 28 19 at 25. However, this "continuous engagement" does not mean that ORR has not

1 significantly delayed completion of her sponsorship application. The record reveals
2 the bureaucratic hamster wheel in which Petitioner and his mother are stuck. *See*
3 Biswas Decl. ¶¶ 49–52 (repeated requests to resubmit proof of address, identity
4 documents, and proof of income due to formalistic requirements); Popuch Decl. ¶¶
5 20–26 (requiring H.Y.G.I. to resubmit substantively identical proof of income letter
6 four times because the listed manager had left the company and because the letters
7 lacked phone numbers or wet signatures); *id.* ¶¶ 27–28 (H.Y.G.I. being notified late in
8 the application process about the existence of new ITIN and DOV requirements). With
9 each additional requirement, ORR moves the goal posts further and continues to delay
10 E.A.D.G.’s reunification with H.Y.G.I., with no apparent benefit to ensuring
11 E.A.D.G.’s well-being.

12 Respondents allude to broad concerns about the potential exploitation and
13 trafficking of unaccompanied children as the reason why ORR requires additional
14 vetting in H.Y.G.I.’s sponsorship application. *See ECF 19 at 25.* However, there has
15 been no finding *in this particular case* that Petitioner is at risk of being trafficked by
16 his own mother.

17 ORR’s assessment of Petitioner determined that he had no risk factors indicating
18 labor or sexual trafficking. Popuch Decl. ¶ 29, Ex. H. After ORR finally scheduled
19 H.Y.G.I.’s fingerprinting appointment, her background check cleared the same day.
20 Biswas Decl. ¶ 57. H.Y.G.I. has also gone to great lengths to establish a suitable home
21 for E.A.D.G. upon his release, including moving to her own apartment when the other
22 adults residing with her refused to submit to a background check. *See ECF 1 at 15;*
23 Biswas Decl. ¶ 42. And even though no home study was mandatory in E.A.D.G.’s
24 case, *see* Biswas Decl. ¶¶ 18–21, H.Y.G.I. submitted to a home study with reportedly
25 positive results. Popuch Decl. ¶ 30, Ex. I. To this day, Respondents continue to make
26 additional demands upon H.Y.G.I. while doing nothing to ensure her son’s well-being.
27 *See id.* ¶ 31 (following home study, ORR instructed H.Y.G.I. to purchase curtains and
28 provide photo to receive a positive home study finding).

1 ORR has also previously determined that H.Y.G.I. was a suitable sponsor for
2 Petitioner's brother, who was previously released to her custody in 2024. Popuch
3 Decl. ¶ 7; *cf. Maldonado v. Lloyd*, No. 18 CIV. 3089 (JFK), 2018 WL 2089348, at *9
4 (S.D.N.Y. May 4, 2018) (noting ORR's "troubling" delay in sponsor assessment in
5 light of a prior determination that the sponsor was suitable for the UC's sister).

6 Despite no determination that Petitioner would be at risk if he were released to
7 his mother's care, ORR has required H.Y.G.I. to submit additional documentation
8 before it will adjudicate her sponsorship application, including a belated request to
9 produce a sensitive police report from several years ago. Popuch Decl. ¶¶ 14–15, 17.
10 The documents underlying that incident show that H.Y.G.I. was the victim of domestic
11 violence, obtained a permanent restraining order, and that no children were at risk of
12 harm. *Id.* ¶¶ 15–16, Exs. A, B. While the TVPRA mandates that ORR ensures the
13 safety of children in their custody, needlessly delaying a determination of H.Y.G.I.'S
14 sponsorship application because of generalized safety concerns creates a significant
15 risk that Petitioner has been, and will continue to be, erroneously deprived of his
16 physical freedom and right to family unity. *See E.H.C.F. by Contreras Flores v.*
17 *Kennedy*, No. 3:25-CV-2142 (VDO), 2026 WL 145229, at *12 (D. Conn. Jan. 16,
18 2026) (finding ORR's "vague explanation as to the delay—that additional vetting is
19 required and that an 'investigation' as to safety concerns needs to be completed—does
20 not comport with basic procedural due process"); *M.A.*, 2026 WL 741623, at *8
21 (finding a risk of erroneous deprivation of UC's interests in freedom from detention
22 and family unity "which could be remedied through additional procedures that ensure
23 a timely decision on [UC's parent's] sponsorship application and foster increased
24 transparency regarding the process").

25 Lastly, Respondents misconstrue *Lucas R.* to foreclose the implementation of
26 additional safeguards to protect Petitioner's liberty interests. *See ECF 19 at 24–25.*
27 Petitioner is not asking for "a pre-deprivation hearing" prior to ORR's sponsorship
28 determination. *Id.* Rather, Petitioner seeks—and due process demands—additional

1 procedures that ensure a timely decision on H.Y.G.I.'s sponsorship application. *See*
 2 *Lucas R.*, 2022 WL 2177454, at *27 ("The Court agrees with Plaintiffs and with
 3 another district court, however, that 'significant' and 'unexplained delay[s] in
 4 responding to [a proposed sponsor's] unification request' violate due process
 5 irrespective of other procedural defects.") (quoting *Santos v. Smith*, 260 F. Supp. 3d
 6 598, 613–14 (W.D. Va. 2017)).

7 2. Substantive Due Process

8 Petitioner has a fundamental liberty interest in family unity and being reunited
 9 with his mother. *See Troxel v. Granville*, 530 U.S. 57, 65 (2000); *Santosky v. Kramer*,
 10 455 U.S. 745, 758 (1982). The substantive Due Process Clause forbids the government
 11 from infringing on fundamental liberty interests "no matter what process is provided,
 12 unless the infringement is narrowly tailored to serve a compelling state interest." *Reno*
 13 *v. Flores*, 507 U.S. 292, 301–02 (1993).

14 Respondents have failed to establish a compelling reason for Petitioner's
 15 continued separation from his mother, given that H.Y.G.I. has met the core three
 16 requirements of the sponsorship application, and ORR has not identified any potential
 17 risks that she may pose to her son. *See generally* Biswas Decl; Popuch Decl., Ex. I.
 18 "[A]bsent a clear showing that [H.Y.G.I.] is unfit or is otherwise endangering
 19 [Petitioner]," Respondents' interference with Petitioner's fundamental right to family
 20 integrity contravenes substantive due process. *E.H.C.F.*, 2026 WL 145229, at *10.

21 Respondents argue that Petitioner must allege governmental conduct that
 22 "shocks the conscience," ECF 19 at 26, but this conflates two different strands of the
 23 substantive due process argument. "The first strand protects rights that are
 24 fundamental, whereas the second protects against the exercise of governmental power
 25 that shocks the conscience." *D.B.*, 826 F.3d at 740; *see also Regino v. Staley*, 133
 26 F.4th 951, 960 n.5 (9th Cir. 2025) (noting the two different standards that may be
 27 applied to substantive due process claims). While Petitioner has only invoked the first
 28 strand, ORR's ongoing separation of Petitioner from his mother without a showing

1 that she is unfit or presents a danger to Petitioner also rises to a level “so egregious, so
2 outrageous, that it may fairly be said to shock the contemporary conscience, [and]
3 interferes with rights implicit in the concept of ordered liberty.” *Ms. L.*, 310 F. Supp.
4 3d at 1145–46 (internal quotation marks omitted). Respondents cannot be heard to
5 argue that there is nothing shocking or egregious about needlessly separating a mother
6 and child for one day, let alone 140 days.

7 **IV. CONCLUSION**

8 For the foregoing reasons, this Court should order Petitioner’s immediate
9 release and all other relief sought.

10
11
12
13 Dated: July 31, 2026

THE TRIAL IMPACT PROJECT

14
15 By: /s/ Miranda S. Finestone

Marjorie J. Menza

Amy Xu

Miranda S. Finestone

Joshua Z. Behrens