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8
9 **UNITED STATES DISTRICT COURT**
10 **CENTRAL DISTRICT OF CALIFORNIA**
11 **EASTERN DIVISION**

12 I.R.L.M, a minor; by and through Erica Case No. 5:26-cv-04335
13 Santamaria, as Next Friend of Minor,

14 Petitioner,

**VERIFIED PETITION FOR WRIT
OF HABEAS CORPUS**

15 v.

16 ANGIE SALAZAR, Acting Director of
17 the Office of Refugee Resettlement;
18 JESSICA BELTRAN, Federal Field
19 Specialist, Office of Refugee
20 Resettlement; Office of Refugee
21 Resettlement; NIKY HYMEL, Federal
22 Field Specialist Supervisor, Office of
23 Refugee Resettlement; ALEX J.
24 ADAMS, Assistant Secretary of the
25 Administration for Children and
26 Families; and ROBERT F. KENNEDY,
27 JR., Secretary of the U.S. Department
28 of Health and Human Services,

Respondents.

INTRODUCTION

1. Petitioner is a fifteen-year-old Unaccompanied Child¹ (“UC”) who entered Office of Refugee Resettlement (“ORR”) custody on January 15, 2026. Since that date, Petitioner has remained continuously detained in ORR custody.

2. Petitioner is currently placed at A Greater Love Foster Family Agency in Ontario, California. As of July 31, 2026, he has spent approximately 200 days in ORR custody.²

3. From the outset of his detention, Petitioner has sought reunification with family in the United States. His mother, F.M.D., resides in California, is available and willing to assume his care and custody, and qualifies as a Category 1 sponsor, or a “parent or legal guardian.” Office of Refugee Resettlement, *ORR Unaccompanied Alien Children Bureau Policy Guide: Section 2.2*, available at <https://acf.gov/orr/policy-guidance/unaccompanied-children-program-policy-guide-section-2#2.2>. She has participated in ORR’s sponsorship process for months and repeatedly attempted to satisfy ORR’s reunification requirements.

4. ORR initially evaluated Petitioner’s maternal aunt as a potential sponsor. By March 2026, ORR had shifted sponsorship processing to F.M.D., Petitioner’s mother, after documenting that the aunt would not be sponsoring Petitioner. Since then, F.M.D. has cooperated with ORR’s requirements and requests. ORR records reflect that she completed fingerprinting, provided identification documents, supplied residential and household information, participated in sponsor screening, and submitted additional information requested throughout the reunification process.

¹ An “unaccompanied child” is a child with no lawful immigration status in the United States, who is under the age of eighteen, and who has arrived in the U.S. or at the border without a parent or guardian and without legal status. 6 U.S.C. § 279(g)(2).

² In 2024, the average number of days UCs spent in ORR custody was 30 days. In 2025, that number grew to 117 days. See <https://acf.gov/orr/about/ucs/facts-and-data> (last visited July 2, 2026). Petitioner, as stated throughout, has exceeded both averages and has been in custody for 199 days (as of July 31, 2026).

1 5. Throughout months of investigation and review, ORR's own records
2 consistently reflected that F.M.D. did not present a risk of abuse, maltreatment,
3 exploitation, or trafficking to Petitioner.

4 6. Nevertheless, Petitioner remains detained. Throughout the spring and
5 summer of 2026, ORR's reunification updates consistently identified F.M.D. as the
6 intended sponsor and repeatedly reported that the case remained "pending
7 reunification." As late as July 30, 2026, more than six months after ORR initiated
8 sponsorship processing, ORR continued to report only that reunification remained
9 pending.

10 7. The consequences of these delays have fallen most heavily on a
11 fifteen-year-old child who has now endured nearly 200 days of separation from his
12 family. Throughout that time, Petitioner has remained in ORR custody while
13 waiting to reunify with his mother, facing the anxiety, uncertainty, and emotional
14 distress that accompany prolonged family separation. ORR's own records reflect
15 Petitioner's repeated desire to reunify with his mother, his excitement at the
16 prospect of finally living with her, and the emotional toll of months spent
17 wondering when, if ever, he would be released. Yet month after month,
18 reunification remained out of reach.

19 8. Accordingly, to vindicate Petitioner's constitutional and statutory
20 rights, this Court should grant the instant petition for a writ of habeas corpus and
21 order his immediate release to his mother.

22 **JURISDICTION**

23 9. This Court has subject matter jurisdiction over this matter pursuant to
24 28 U.S.C. § 2241 (habeas corpus); 28 U.S.C. § 1651 (All Writs Act); 28 U.S.C. §
25 2201 (Declaratory Judgment Act); 28 U.S.C. § 1361 (writ of mandamus); and 28
26 U.S.C. § 1331 (federal question). This Court also has jurisdiction pursuant to Art. I,
27 § 9, cl. 2 of the United States Constitution (Suspension Clause).
28

1 10. Federal district courts have jurisdiction to hear habeas claims by
2 noncitizens challenging the lawfulness of their detention. *See Zadvydas v. Davis*,
3 533 U.S. 678, 687 (2001).

4 11. This Court may grant relief under the habeas corpus statutes, 28
5 U.S.C. § 2241 *et seq.*, the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, and
6 the All Writs Act, 28 U.S.C. § 1651.

7 VENUE

8 12. Petitioner lies within the jurisdiction of the United States District Court for
9 the Central District of California because he is detained in an ORR-subcontracted
10 facility in Ontario, CA.

11 13. Venue is also proper in this District because Respondents are officers,
12 employees, or agencies of the United States, a substantial part of the events or
13 omissions giving rise to Petitioner's claims occurred in this District, and no real
14 property is involved in this action. 28 U.S.C. § 1391(e).

15 PARTIES

16 **I. Petitioner**

17 14. Petitioner I.R.L.M. is a fifteen-year-old boy currently detained at A Greater
18 Love Foster Family Agency in Ontario, CA. Petitioner I.R.L.M. is in custody, and
19 under the direct control of Respondents and their agents. Petitioner I.R.L.M.'s
20 mother, F.M.D., is his sponsor.³

21 15. Petitioner's Next Friend, Erica Santamaria ("Mrs. Santamaria"),⁴ is the
22 Program Manager for the Detained Youth Empowerment Project ("DYEP") Team
23 at Immigrant Defender's Law Center ("ImmDef"). *See* Declaration of Erica
24

25 ³The use of F.M.D.'s (sponsor-mother) initials further ensures I.R.L.M.'s (petitioner-
26 child) privacy. *See* Fed. R. Civ. P. 5.2(a), (c), (h) (mandating use of a minor's initials,
27 providing for limited access to files in proceedings related to immigration detention
28 "unless the court orders otherwise," and noting that failure to redact personal information
in the first instance constitutes a waiver of that protection).

⁴ *See* 28 U.S.C. § 2242 (authorizing next friend status in the habeas context).

1 Santamaria in Support of Verified Petition for Writ of Habeas Corpus. Petitioner
2 appears by and through his Next Friend, Mrs. Santamaria.

3 **II. Respondents**

4 16. Respondent Angie Salazar is sued in her official capacity as the
5 Acting Director of ORR, the component of the U.S. Department of Health and
6 Human Services ("HHS") responsible for implementing the Department's
7 obligations to unaccompanied minors who are immigrants. ORR is the government
8 entity directly responsible for the continued detention of Petitioner and has the
9 authority to release him. Respondent Salazar is thereby a legal custodian of
10 Petitioner.

11 17. Respondent Jessica Beltran is sued in her official capacity as an ORR
12 Federal Field Specialist ("FFS Beltran"). In this role, FFS Beltran is responsible
13 for determining Petitioner's placements and has authority to approve his release to
14 an appropriate sponsor's care. Respondent FFS Beltran is thereby a legal custodian
15 of Petitioner.

16 18. Respondent Niky Hymel is sued in her official capacity as an ORR
17 FFS Supervisor. FFS Supervisors are the government officials responsible for the
18 care and custody of children in ORR facilities and supervise FFSs. In this role, FFS
19 Supervisor Hymel is responsible for determining Petitioner's placements and has
20 authority to approve his release to an appropriate sponsor's care. Respondent FFS
21 Supervisor Hymel is thereby a legal custodian of Petitioner.

22 19. Respondent Alex J. Adams is sued in his official capacity as the
23 Assistant Secretary of the Administration for Children and Families ("ACF"). ACF
24 is comprised of 23 offices, including ORR, responsible for the welfare of children
25 and families. Respondent Adams is thereby responsible for Petitioner's continued
26 detention and custody and is a legal custodian of Petitioner.

27 20. Respondent Robert Kennedy, Jr. is sued in his official capacity as the
28 Secretary of HHS. In this capacity Secretary Kennedy oversees ACF and ORR and
is therefore the "head" of those agencies. 6 U.S.C. § 271(a)(2). HHS is responsible

1 for the care and placement of UC in federal custody. *See* 8 U.S.C. § 1232(c); 6
2 U.S.C. § 279. HHS and ORR enter contracts with public and private entities to
3 house, care for, and provide legal assistance to UCs apprehended by the
4 Department of Homeland Security (“DHS”) pursuant to the Immigration and
5 Nationality Act (“INA”). *See* 6 U.S.C. § 279. Respondent Secretary Kennedy is
6 thereby a legal custodian of Petitioner.

7 **STATEMENT OF FACTS**

8 21. Petitioner I.R.L.M. is a 15-year-old child who entered the
9 United States on or about January 13, 2026. On January 15, 2026, he was
10 designated as an unaccompanied child (“UC”) and entered ORR custody.
11 During his detention, Petitioner was initially placed at New Life Foster
12 Family Agency in Colton, California, and was later transferred to A Greater
13 Love Foster Family Agency in Ontario, California.

14 22. Petitioner seeks reunification with his mother, F.M.D., who
15 resides in California and is willing and able to care for him.

16 23. ORR initiated the reunification process on January 17, 2026, by
17 referring Petitioner’s case for sponsorship processing through his maternal
18 aunt, the initial proposed sponsor.

19 24. As the initial proposed sponsor, Petitioner’s aunt submitted
20 identification documents, birth certificates, proof of address, and income
21 information. By January 21, 2026, Petitioner’s birth certificate had been
22 submitted for verification.

23 25. On February 17, 2026, ORR documented that Petitioner’s
24 maternal aunt, who at that time was the proposed sponsor, had submitted
25 required documents, including identification, birth certificates, proof of
26 address, and income information.

27 26. Weeks passed with little apparent progress toward reunification.
28 On February 19, 2026, ORR reported that sponsor assessment remained

1 pending. Similar updates followed on March 4, March 11, and March 19, 2026.

2 27. During this same period, Petitioner appeared increasingly distressed
3 by the lack of progress toward reunification. On March 18, 2026, ORR staff
4 reported that Petitioner had been crying in the classroom and expressing that he did
5 not want to remain at the facility anymore. Later that month, Petitioner became
6 tearful and visibly upset while discussing the length of his detention and the lack of
7 progress toward reunification.

8 28. In approximately early March 2026, ORR shifted sponsorship
9 processing from Petitioner's aunt to his mother, F.M.D. ORR records state only
10 that Petitioner's case had originally been opened with the aunt and that she "will
11 not be sponsoring." The records do not reflect a formal denial of the aunt's
12 sponsorship application, a written explanation for the change, or any indication that
13 the aunt withdrew her request to sponsor Petitioner.

14 29. On March 23, 2026, ORR scheduled fingerprinting for F.M.D. She
15 completed fingerprinting the following day and thereafter continued responding to
16 ORR's requests for documents and information relating to the sponsorship process.

17 30. On March 25, 2026, during a wellness check conducted by ImmDef
18 staff, Petitioner stated that he felt he had spent too much time in ORR custody and
19 expressed frustration with how long the reunification process was taking. While
20 discussing the delay and the lack of apparent progress toward reunification, he
21 became tearful and visibly upset. Petitioner explained that the primary issue
22 affecting him was the amount of time he had spent in ORR custody waiting to
reunify with his family.

23 31. On April 8, 2026, ORR reported that it could not yet request a home
24 study for F.M.D. because reunification requirements and background-check
25 requirements had not been completed.

26 32. On April 28, 2026, ORR reported to counsel's office that Petitioner
27 remained pending reunification with his mother and that reunification documents
28 remained outstanding.

1 33. Throughout the spring and summer of 2026, ORR continued
2 requesting and processing additional materials relating to the proposed
3 sponsor and other adults connected to the proposed placement. ORR records
4 reflect requests for Authorization of Release of Information forms, address
5 histories, household-composition information, proof-of-identity materials,
6 proof-of-income documentation, and background-screening information.
7 F.M.D. continued responding to ORR's requests and providing information
8 and documentation throughout the reunification process.

9 34. On May 27, 2026, during a wellness check conducted by
10 ImmDef staff, Petitioner reported that he continued speaking with his mother
11 every day.

12 35. On May 28, 2026, F.M.D. informed ORR that her partner and
13 adult daughter had recently moved into the household. ORR then requested
14 additional documentation and screening information relating to those
15 household members.

16 36. On June 8, 2026, ORR informed F.M.D. that additional proof-
17 of-income documentation was required. F.M.D. explained that she had
18 recently started a new job and therefore had only one pay stub available.

19 37. Reunification updates provided to counsel on June 23, June 25,
20 and July 9, 2026 continued to characterize the sponsorship process as
21 pending and unresolved. Despite months of sponsorship processing
22 involving both Petitioner's aunt and later his mother, those updates reflected
23 that Petitioner remained in custody without reunification or any final
24 determination regarding sponsorship.

25 38. As of July 8, 2026, ORR reported that the Family
26 Reunification Packet remained pending, DNA testing remained pending,
27 proof of income remained pending, and a home study had not been
28 completed.

1 39. Throughout the reunification process, ORR repeatedly documented
2 that F.M.D. did not present a risk of abuse, maltreatment, exploitation, or
3 trafficking to Petitioner.

4 40. Petitioner's prolonged detention has taken a substantial emotional toll
5 on him. ORR records consistently reflect the importance of family reunification to
6 Petitioner and his desire to live with his family in California. The records
7 document his excitement regarding communication and visits with family
8 members, including siblings whom he had not seen in several years. During a May
9 27, 2026 wellness check, Petitioner reported that he continued speaking with his
10 mother every day.

11 41. Petitioner has also struggled during his lengthy stay in ORR custody.
12 ORR records document recurring headaches and reflect difficulties adjusting to
13 placement while separated from his family. He reported feeling unwelcome by
14 other children in care. These experiences have compounded the emotional strain
15 associated with prolonged separation from his family and continuing uncertainty
16 regarding reunification.

17 42. Counsel sent a demand letter requesting Petitioner's release on July
18 14, 2026, but received no response.

19 43. As of July 31, 2026, Petitioner remained continuously in ORR
20 custody for nearly 200 days and separated from his family for nearly seven
21 months. Throughout that time, family members have actively participated in the
22 reunification process, first through Petitioner's maternal aunt and later through his
23 mother. Yet reunification remains incomplete, and Petitioner remains in
24 government custody.

25 **I. ORR'S SECRETIVE AND REPEATED ATTACKS ON
26 DETAINED UNACCOMPANIED CHILDREN**

27 44. In June 2026, Counsel for Petitioner became aware that there was a
28 purported effort to repatriate detained unaccompanied children. While no policy of
repatriation has been made public, Associated Press has reported on the existence

1 of such a “plan.”⁵ This reporting is consistent with a letter written by Senator
2 Ron Wyden, D-Or, to HHS Secretary and Respondent Robert F. Kennedy,
3 Jr., calling on the Trump administration to halt an attempt to remove children
4 from the United States.⁶ Further, Counsel has received information from
5 other legal service providers that ORR may be imminently planning to
6 transfer children to Texas, away from their attorneys. While details on any
7 such plan are limited, Petitioner is reasonably concerned, in light of the
8 lengthy pattern of secretive ORR actions, that these transfers will in fact be
9 attempted despite being contrary to children’s best personal and legal
10 interests.

11 45. While unconfirmed as of the date of this filing, this information raises
12 legitimate concerns regarding ORR’s intention to take imminent action to either
13 transfer or repatriate children in ORR custody. ORR has engaged in a repeated
14 pattern of making unannounced policy changes that invariably harm children’s
15 statutory and Constitutional rights to placement in the least restrictive environment,
16 to access legal services, and to prompt reunification. The following examples are
17 not an exhaustive list, but rather paint a picture of the types of actions ORR has
18 taken by surprise or in secret, without notice to children or their counsel.

19 46. In February 2025, the ORR canceled all federal funding for legal
20 representation for unaccompanied children effective immediately with no prior
21 notice. The funding was later restored via litigation. *See Community Legal Services*
22 *in East Palo Alto (CLSEPA) v. HHS*, 3:25-cv-2847, (N.D. Cal. Mar. 26, 2025).

23 47. In early spring 2025, sponsors continued to receive sponsor
24 application materials stating their information would not be shared with the

25 ⁵ “US Senator warns of administration plan to hastily remove over 500 unaccompanied
26 migrant children,” available at <https://apnews.com/article/migrant-children-deportation-border-trump-wyden-853585bc4efd13e59eccfb43fc4d0ceb>, June 25, 2026.

27 ⁶ Text of the Letter from Senator Ron Wyden to Secretary Robert F. Kennedy, available at
28 https://www.finance.senate.gov/imo/media/doc/06242026_letter_to_hhs_re_orr_and_uc_cat_4_mass_deportation_planning.pdf, June 24, 2026.

1 Department of Homeland Security (“DHS”) for enforcement, but patterns emerged
2 of enforcement actions targeting children’s sponsors.

3 48. In August 2025, ORR began requiring in person “ID verification
4 appointments” with an ORR official and a DHS official. ORR officials would
5 neither confirm nor deny any such policy. Sponsors began attending such
6 appointments, and several were detained by DHS. ORR only published public
7 guidance regarding ID verification months later in January 2026 via ORR “Field
8 Guidance 24⁷.”

9 49. In September 2025, without prior announcement, ORR pulled dozens
10 of children out of their beds in the middle of the night and put them on a plane for
11 Guatemala. The plane was on the tarmac in Texas before it was blocked via
12 emergency filing in federal court. *L.G.M.L. v. Noem*, No. 1:25-cv-02942, 2025 WL
13 2671690 (D.D.C. Sept. 18, 2025).

14 50. In November 2025, ORR paused virtually all reunifications of
15 children with sponsors for over a month. However, no pause on reunifications was
16 announced or acknowledged by ORR.⁸

17 51. The above examples highlight the ways in which Respondents have
18 repeatedly taken actions that harm unaccompanied children in ORR custody, in
19 secrecy and sometimes literally under the cover of darkness. In this context,
20 credible reports of imminent repatriation or transfer of children in ORR’s custody
21 must be taken seriously and acted upon swiftly.

22 LEGAL FRAMEWORK

23
24 ⁷ Field Guidance - Revised January 26, 2026 (First Issued August 23, 2023), RE:
25 Field Guidance #24 – ORR Division of Sponsor Administration Role Guidance available
26 at https://acf.gov/sites/default/files/documents/orr/FG-24_ORR-Division-of-Sponsor-Administration-Role-Guidance.pdf.

27 ⁸ “Trump Admin has all but stopped reuniting detained migrant children with their
28 families,” available at <https://laist.com/news/politics/trump-admin-has-all-but-stopped-reuniting-detained-migrant-children-with-their-families>, December 19, 2025.

1 **A. Law and Procedure Governing this Habeas Petition**

2 52. A writ of habeas corpus under 28 U.S.C. § 2241 may issue if, among
3 other things, a person is “in custody under or by color of the authority of the
4 United States,” or is “in custody in violation of the Constitution or laws or treaties
5 of the United States.” 28 U.S.C. § 2241(c).

6 53. A habeas court’s role is at its “most extensive in cases of pretrial and
7 noncriminal detention,” especially “where there ha[s] been little or no previous
8 judicial review of the cause for detention,” as is the case here. *Boumediene v. Bush*,
9 553 U.S. 723, 780 (2008).

10 54. The Court must grant the petition for writ of habeas corpus or issue an
11 order to show cause (“OSC”) to Respondents “forthwith,” unless Petitioner is not
12 entitled to relief. 28 U.S.C. § 2243. If an OSC is issued, this Court must require
13 Respondents to file a return “within *three days* unless for good cause additional
14 time, not exceeding twenty days, is allowed.” *Id.* (emphasis added). The writ or
15 OSC shall be directed to the person having custody of the person detained. *Id.*

16 55. In addition to the timelines set forth by statute, on April 1, 2026, the
17 Central District of California adopted a General Order which “establishes a case
18 assignment and scheduling procedure to address the influx of petitions for writ of
19 habeas corpus filed by persons seeking immigration-related relief.” General Order
20 26-05 (Apr. 1, 2026), *available at*
<https://www.cacd.uscourts.gov/sites/default/files/general-orders/GO%2026-05.pdf>.

21 56. The General Order requires that, within three days after the Clerk’s
22 Office issues a scheduling notice, Respondents must enter a Notice of Appearance,
23 and within seven days of the scheduling notice, Respondents must file an Answer,
24 after which time Petitioner has three days to file a Reply. *Id.* Any deviation from
25 this schedule requires the parties to meet and confer and file a stipulation or joint
26 statement containing “the parties’ competing proposals for a briefing schedule.” *Id.*
27
28

B. Legal Framework Governing the Care and Custody of UCs

57. Three key laws and agreements govern the federal government's treatment and custody of unaccompanied immigrant children: (1) the 1997 *Flores* Settlement Agreement ("FSA"), largely codified into the federal regulatory scheme through ORR's promulgation of its Foundational Rule in 2024; (2) the Homeland Security Act of 2002 ("HSA"); and (3) the Trafficking Victims Protection Reauthorization Act ("TVPRA") of 2008.

C. The *Flores* Settlement Agreement

58. The FSA arose from a lawsuit filed by a group of immigrant children challenging their detention and seeking to be released to family members or sponsors within the United States. *See Flores v. Sessions*, 862 F.3d 863, 869 (9th Cir. 2017) (discussing history of the *Flores* litigation). In 1997, the plaintiff children entered into a consent decree with the federal government to create a nationwide policy governing the custody and release of immigrant children. *See* Stipulated Settlement Agreement, *Flores v. Reno*, No. CV-85-4544 (C.D. Cal. Jan. 17, 1997).⁹

59. The FSA remains under the supervision of U.S. District Judge Dolly M. Gee in the Central District of California. *See Flores v. Bondi*, No. CV 85-4544-DMG (AGRx).¹⁰

D. The Homeland Security Act of 2002

60. Enacted in 2002, the HSA divided responsibilities for the processing and treatment of UC between ORR – a sub-department of the Department of Health and Human Services – and the then-newly created Department of

⁹ Available at:

https://www.aclu.org/sites/default/files/assets/flores_settlement_final_plus_extension_of_settlement011797.pdf.

¹⁰ Following the promulgation of the ORR Foundational Rule, described *infra*, the FSA was partially terminated as to children in HHS custody. *Flores v. Garland*, 2024 WL 3467715, CV 85-4544-DMG (AGRx) (C.D. Cal. Jun. 28, 2024).

1 Homeland Security.¹¹ *See* 6 U.S.C. § 279(a). ORR was assigned functions
2 including “coordinating and implementing the care and placement” of UC in
3 appropriate custody. 6 U.S.C. § 279(b).

4 **E. The Trafficking Victims Protection Reauthorization Act**

5 61. Enacted in 2008,¹² the TVPRA requires federal officials to screen
6 unaccompanied immigrant children for certain vulnerabilities upon their arrival in
7 the United States. *See* 8 U.S.C. § 1232(a)(4). It mandates that custody of an UC be
8 transferred to the HHS Secretary within 72 hours of their arrival in the United
9 States.¹³ 8 U.S.C. § 1232(b)(3).

10 62. The TVPRA enacted procedures for ensuring “safe and secure”
11 placements for these children, and, crucially, mandated that an UC “*shall be*
12 *promptly* placed in the least restrictive setting that is in the best interest of the
13 child.” 8 U.S.C. § 1232(c)(1), (c)(2)(A) (emphasis added).

14 **F. The ORR Foundational Rule**

15 63. In 2024, after a notice and comment period, HHS adopted a final rule
16 intended to further codify key aspects of the framework governing care and
17 placement of UC as required by the HSA and TVPRA, and to implement the
18 substantive requirements of the FSA. *See generally* UC Foundational Rule (Jul. 1,
19 2024) (“Foundational Rule”). 45 C.F.R. Part 410.

20
21 ¹¹ Prior to the creation of DHS, all matters related to the custody, detention, and
22 deportation of immigrant children was managed by the Immigration and Naturalization
23 Service (“INS”), which was abolished simultaneously with the creation of DHS.

24 ¹² The TVPRA is a reauthorization of the Trafficking Victims Protection Act of 2000,
25 intended to combat the trafficking of persons. *See* Pub. L. No. 106-386, 114 Stat. 1464
26 (Oct. 28, 2000). Through the 2008 Reauthorization, Congress established certain rights
27 for unaccompanied children navigating the immigration process, recognizing that they
28 are a “particularly vulnerable population” to whom the country “owes a special
obligation” to treat “humanely and fairly.” 154 Cong. Rec. S10866 (daily ed. Dec. 10,
2008) (statement of Sen. Feinstein).

¹³ In most cases, custody of an unaccompanied child is transferred to HHS, and ultimately
ORR, from DHS, which houses Immigration and Customs Enforcement (“ICE”) and
Customs and Border Protection (“CBP”).

1 64. The Foundational Rule contains a non-exhaustive list of factors that
2 ORR is to consider when evaluating the best interests of an UC, including, but not
3 limited to, the child's expressed interests; age and maturity; mental and physical
4 health; adjustment to the community; cultural background and primary language;
5 length or lack of time they have "lived in a stable environment"; individualized
6 needs, including disability; development and identity; wishes of the parents or
7 legal guardians; and "interactions and interrelationship" of the child with their
8 parents, siblings, and anyone who "may significantly affect" the child's well-being.
9 45 C.F.R. § 410.1001.

10 65. The Foundational Rule also provides a non-exhaustive list of 17
11 factors that ORR may consider when evaluating what is the "least restrictive
12 setting that is in the best interest of the child," including danger to self; danger to
13 community/others; runaway risk; trafficking or other safety concerns; age; gender;
14 LGBTQI+ status or identity; disability; specialized services or treatment requested
15 or required; criminal background; location of potential sponsor and safe, timely
16 release options; behavior; siblings in ORR custody; language access; whether they
17 are pregnant or parenting; location of apprehension; and length of stay in ORR
18 custody. 45 C.F.R. § 410.1103(a), (b).

19 66. Further, the Foundational Rule provides guidance on how ORR is to
20 evaluate the suitability of a potential sponsor who seeks to assume the care and
21 custody of a UC. 45 C.F.R. § 410.1202. Such evaluation may require a home study,
22 wherein ORR "investigat[es] [] the living conditions in which the UC would be
23 placed" prior to their release. 45 C.F.R. § 410.1204.

24 67. Absent "an unexpected delay," ORR is mandated to adjudicate a
25 completed sponsor application for a relative who has previously been the child's
26 primary caregiver "within 10 calendar days of receipt of the completed sponsor
27 application," and to adjudicate applications by relatives who were not previously
28 the child's primary caregiver within 14 calendar days. 45 C.F.R. § 410.1205(b).

1 68. If ORR formally denies release to a potential sponsor “who is a parent
2 or legal guardian or close relative,” ORR must promptly notify the potential
3 sponsor in writing, provide an explanation of the reasons for the denial along with
4 “evidence and information” supporting the decision, inform the potential sponsor
5 that they may request an appeal of the decision, and allow for submission of
6 additional evidence supporting their suitability. 45 C.F.R. § 410.1205(c). Absent
7 “good cause,” the appeal process “shall be completed within 30 calendar days of
8 the potential sponsor’s request for an appeal.” 45 C.F.R. § 410.1206(f).

9 69. In addition to the above, ORR supervisory staff “who supervise field
10 staff” are required to conduct “automatic review of all pending sponsor
11 applications . . . within 90 days of an [UC] entering ORR custody.” 45 C.F.R. §
12 410.1207(a). This “review” is not perfunctory, but rather is designed to keep the
13 child and potential sponsor informed of outstanding issues in the reunification
14 process and to work to resolve them. The Foundational Rule requires ORR and
15 subcontracted facility staff to “update the potential sponsor and [UC] on the status
16 of the case, explaining the reasons that the release process is incomplete.” 45
17 C.F.R. § 410.1207(b). Further, the Rule provides that ORR and subcontracted
18 facility staff “shall work with the potential sponsor, relevant stakeholders, and
19 ORR to address the portions of the sponsor application that remain unresolved.” *Id.*

20 **G. Substantive and Procedural Due Process**

21 70. It is axiomatic that civil immigration detention is limited by both
22 substantive and procedural due process protections, which apply “to all ‘persons’
23 within the United States, including [noncitizens], whether their presence here is
24 lawful, unlawful, temporary, or permanent.” *Zadvydas*, 533 U.S. at 693. Indeed,
25 freedom “from imprisonment – from government custody, detention, or other
26 forms of physical restraint – lies at the heart of the liberty” that the Due Process
27 Clause protects. *Id.* at 690.

28 71. In addition, courts in this District have found that UCs have a
protected interest in their statutory entitlements under the TVPRA. *See e.g.,*

1 *Immigrant Defs. L. Ctr. v. U.S. Dep't of Homeland Sec.*, No. CV 21-0395 FMO
 2 (RAOX), 2025 WL 1191572, at *15 (C.D. Cal. Mar. 14, 2025) (finding “statutory
 3 entitlements [under the TVPRA] are constitutionally protected property interests”)
 4 (collecting cases); *Lucas R. v. Azar*, No. CV 18-5741-DMG (PLAx), 2018 WL
 5 7200716, at *9, (C.D. Cal. Dec. 27, 2018) (noting that a statute can create “a
 6 substantive interest protected by the Due Process Clause by using ‘mandatory
 7 language’ that imposes an obligation on government officials, and referring to such
 8 mandatory language in the TVPRA) (citing 8 U.S.C. § 1232(c)(2)(A): a UC “shall
 9 be promptly placed in the least restrictive setting that is in the best interest of the
 10 child”) (emphasis in original).

11 **ARGUMENT**

12 **A. Petitioner’s Claims are Cognizable as a Habeas Action, and** 13 **Administrative Exhaustion is Not Required.**

14 72. Petitioner seeks habeas relief pursuant to the TVPRA and both the
 15 substantive and procedural components of the Due Process Clause of the Fifth
 16 Amendment. These claims may properly sound in habeas, as “challenges to the
 17 statutory framework authorizing detention, questions of law raised in the
 18 application or interpretation of statutes, and constitutional claims, such as claims
 19 that the discretionary process itself was constitutionally flawed,” have been found
 20 to “fit comfortably” within the scope of the habeas statute. *Alam v. Keeton*, CV-19-
 21 05538-PHX-MTL (CDB), 2020 WL 5439513, at *4 (D. Ariz. 2020) (quoting
 22 *Jennings v. Rodriguez*, 583 U.S. 281, 296 (2018); *Leonardo v. Crawford*, 646 F.3d
 23 1157, 1160 (9th Cir. 2011); *Singh v. Holder*, 638 F.3d 1196, 1202 (9th Cir. 2011))
 (internal quotation marks omitted).

24 73. In addition, Petitioner is not required to exhaust administrative
 25 remedies, as exhaustion in the habeas context is prudential, rather than
 26 jurisdictional. See *Laing v. Ashcroft*, 370 F.3d 994, 997 (9th Cir. 2004); *Hernandez*
 27 *v. Sessions*, 872 F.3d 976, 988 (9th Cir. 2017). Even prudential exhaustion is not
 28 required if “administrative remedies are inadequate or not efficacious, pursuit of

1 administrative remedies would be a futile gesture, [or] irreparable injury will
2 result.” *Laing*, 370 F.3d at 1000; *see also Hernandez*, 872 F.3d at 988. In any
3 event, where Petitioner I.R.L.M.’s sponsor – who would be eligible to appeal a
4 denial of her application under controlling regulations – has received no decision
5 from ORR on her sponsorship application, there is no administrative remedy
6 available for Petitioner to pursue.

7 74. Despite earnest attempts by two family members to secure Petitioner’s
8 release through ORR’s reunification process, ORR has never issued a reunification
9 decision. ORR never informed Petitioner’s aunt, his first potential sponsor who
10 attempted to complete the ORR sponsorship process, in writing that her
11 sponsorship application had been denied. Nor do the records reflect any written
12 denial, explanation for the change in sponsorship, or notice of appeal rights.
13 Instead, ORR simply noted in its records that she would not be serving as the
14 sponsor, while reunification efforts continued through Petitioner’s mother.

15 75. Further delays resulted from continuing requests for additional
16 documentation. For example, when F.M.D. submitted proof of income, ORR
17 advised that additional documentation would be required. F.M.D. explained that
18 she had recently begun a new job and therefore possessed only a single pay stub.
19 Despite her continued efforts to provide the information ORR requested,
20 reunification did not move forward, and reunification updates throughout June and
21 July 2026 continued to characterize the sponsorship process as pending and
22 unresolved while Petitioner remained in custody.

23 76. Despite months of communications, document submissions, and
24 sponsor-processing activity, ORR has never issued a decision approving or denying
25 reunification. Instead, reunification updates repeatedly reported that the matter
26 remained pending or unresolved, while months passed and Petitioner remained
27 detained. ORR never issued a final reunification decision, notice of denial, or any
28 determination that would permit Petitioner or his family to avail themselves of the

1 review and appeal procedures contemplated by ORR's regulations. See 45 C.F.R.
2 §§ 410.1205(c), 410.1206, 410.1207(b).

3 77. More recently, despite F.M.D.'s efforts to comply with ORR's
4 requests and participate in the reunification process, sponsorship processing
5 remained incomplete according to ORR's own updates. More than six months have
6 passed since ORR initiated sponsorship processing, yet Petitioner remains in ORR
7 custody.

8 78. This delay also comes after multiple milestones that trigger
9 heightened review under ORR's regulations. ORR is required to conduct
10 supervisory review when a child remains in ORR custody for ninety days. See 45
11 C.F.R. § 410.1207(a). Petitioner reached approximately ninety days in custody in
12 mid-April 2026. By then, sponsorship processing had already shifted to his mother,
13 she had completed fingerprinting, and ORR continued to report outstanding
14 reunification requirements. Petitioner then reached approximately 180 days in
15 custody in mid-July 2026. At that point, ORR was still reporting outstanding
16 reunification requirements and had not issued a decision regarding reunification.
17 Nearly 200 days after entering ORR custody, Petitioner remains separated from his
18 family while sponsorship processing continues.

19 79. Under these circumstances, requiring exhaustion would serve no
20 purpose. Petitioner cannot appeal a denial that ORR has never issued. Nor can he
21 seek meaningful administrative review of a reunification process that has remained
22 pending for more than six months without any final determination. Further delay
23 would only prolong his detention and separation from family.

24 80. Requiring exhaustion would also cause Petitioner irreparable harm in
25 the form of additional detention in ORR custody, and continued separation from
26 his readily available sponsors and family. See *Cortez v. Sessions*, 318 F. Supp. 3d
27 1134, 1139 (N.D. Cal. 2018) (habeas petitioner "suffers potentially irreparable
28 harm every day that [they] remain[] in custody without a hearing, which could
ultimately result in [their] release from detention").

B. Petitioner's Continued Detention Violates the TVPRA Because the Statute Mandates Release to a Sponsor Unless the Government Designates Them a Danger or a Flight Risk.

81. The TVPRA was designed to provide "special protections" for unaccompanied minors in light of their status as a "particularly vulnerable group." *Saravia v. Sessions*, 280 F. Supp. 3d 1168, 1178 (N.D. Cal. 2017). Crucially, the TVPRA mandates prompt release from ORR custody to an appropriate sponsor unless the federal government makes a finding that the minor is a danger to themselves or the community, or a flight risk. *See id.* at 1196.

82. Indeed, the "focus on care and placement – rather than on detention – is evident" from both the text of the TVPRA and the HSA. *Flores*, 862 F.3d at 876. Respondents have made no findings that Petitioner is a flight risk or dangerous to himself or the community. Nor have Respondents identified any reason why Petitioner cannot safely reside with his mother.

83. The TVPRA requires that an unaccompanied child be promptly placed in the least restrictive setting that is in the child's best interest. 8 U.S.C. § 1232(c)(2)(A). As discussed above, ORR's regulations direct the agency to consider, among other things, the child's expressed interests, mental and physical health, family relationships, safe and timely release options, and length of time in custody. 45 C.F.R. §§ 410.1001, 410.1103.

84. The record reflects that those considerations favor reunification rather than continued detention. Petitioner has consistently sought reunification with his family, maintained close contact with his mother throughout his detention, and experienced increasing emotional difficulty as the reunification process remained unresolved. ORR's records reflect that he cried at the facility, became tearful and visibly upset while discussing the delay in reunification, expressed frustration with the amount of time he had spent in custody, and reported recurring headaches. At the same time, Petitioner's mother remains available to assume his care and

1 custody, and ORR has repeatedly documented that she does not present a risk of
2 abuse, maltreatment, exploitation, or trafficking.

3 85. Yet ORR has neither reunified Petitioner with his mother nor issued a
4 decision denying reunification. Instead, Petitioner remains detained while
5 reunification efforts continue without resolution. Under these circumstances,
6 Respondents have failed to comply with the TVPRA's mandate that
7 unaccompanied children be promptly placed in the least restrictive setting that is in
8 their best interests.

9 **C. Petitioner's Continued Detention Violates Substantive Due Process**
10 **Because it is Unnecessarily Punitive and Needlessly Infringes Upon His Right**
11 **to Family Unity.**

12 86. Petitioner's prolonged detention of nearly 200 days at the time of
13 filing violates his substantive due process rights. Substantive due process "forbids
14 the government to infringe certain 'fundamental' liberty interests *at all*, no matter
15 what process is provided, unless the infringement is narrowly tailored to serve a
16 compelling state interest." *Reno v. Flores*, 507 U.S. 292, 302 (1993) (emphasis in
17 original).

18 87. In this context, courts have emphasized the well-established nature of
19 the substantive due process right to family integrity and familial association. *Lucas*
20 *R. v. Azar*, 2018 WL 7200716, at *9 (C.D. Cal. Dec. 27, 2018) (quoting
21 *Rosenbaum v. Washoe County*, 663 F.3d 1071, 1079 (9th Cir. 2011)); *Ms. L. v. U.S.*
22 *Immigration & Customs Enforcement*, 310 F. Supp. 3d 1133, 1148 (S.D. Cal.
23 2018), modified sub nom. *Ms. L. v. U.S. Immigr. & Customs Enf't*, 330 F.R.D. 284
24 (S.D. Cal. 2019) (finding the government must pursue its objectives "in a way that
25 preserves the class members' constitutional rights to family association and
26 integrity").

27 88. The Supreme Court has likewise recognized that the interest of
28 parents in the care, custody, and control of their children is "perhaps the oldest of
the fundamental liberty interests" protected by the Constitution. *Troxel v.*

1 *Granville*, 530 U.S. 57, 65 (2000). Children possess a reciprocal and substantial
2 interest in maintaining and developing their relationship with their parents. *See*
3 *D.B. v. Cardall*, 826 F.3d 721, 740 (4th Cir. 2016). Thus, Respondents' continued
4 detention of Petitioner burdens both Petitioner's interest in being raised by his
5 parent and his mother's interest in caring for her child.

6 89. Respondents' continued detention of Petitioner has substantially
7 interfered with these protected familial relationships. Nearly 200 days after
8 entering ORR custody, Petitioner remains separated from his mother despite the
9 existence of an available parent who has participated in the reunification process
10 for months, whose sponsorship application remains unresolved, and whom ORR
11 has repeatedly determined does not present a risk of abuse, maltreatment,
12 exploitation, or trafficking.

13 90. In addition, a statute may create a substantive interest protected by the
14 Due Process Clause by using "mandatory language" that imposes an obligation on
15 government officials. Courts in this District have held that the TVPRA's mandatory
16 language gives rise to a protected interest in the unaccompanied child for whose
17 benefit the statute was enacted. *See, e.g., Immigrant Defs. L. Ctr. v. U.S. Dep't of*
18 *Homeland Sec.*, No. CV 21-0395 FMO (RAOX), 2025 WL 1191572, at *15 (C.D.
19 Cal. Mar. 14, 2025) (finding "statutory entitlements [under the TVPRA] are
20 constitutionally protected property interests"). Here, Petitioner can establish that
21 Respondents' ongoing detention of him is inconsistent with the mandatory
22 protections Congress created through the TVPRA.

23 91. To date, I.R.L.M. has been detained and separated from his family for
24 nearly 200 days. Since January 2026, family members have pursued reunification
25 through ORR's sponsorship process and have repeatedly attempted to comply with
26 ORR's requests for information and documentation. Despite those efforts, ORR has
27 not reunified Petitioner with his family and has provided no meaningful timeline
28 for his release. ORR's own records reflect Petitioner's repeated desire to reunify

1 with his mother, his excitement at the prospect of living with her, and the
2 emotional toll of prolonged separation and uncertainty regarding his release.

3 92. Yet he remains separated from family members who are available and
4 willing to care for him.

5 93. Because of the strength of these liberty interests, Respondents'
6 continued detention of Petitioner is unnecessarily punitive and unjustifiably
7 infringes upon his right to family unity.

8 **D. Petitioner's Continued Detention Violates Procedural Due Process**
9 **Because He Has No Effective Means by Which to Challenge His Continued**
10 **Detention and Separation from His Sponsor.**

11 94. Petitioner has a protected liberty interest in release from immigration
12 detention, an interest that is "inherent in the Due Process Clause." *R.D.T.M. v.*
13 *Wofford*, 2025 WL 2617255, 1:25-cv-01141-KES-SKO (HC), at *4 (E.D. Cal. Sept.
14 9, 2025) (quoting *Guillermo M.R. v. Kaiser*, 2025 WL 1983677, 25-cv-05436-RFL,
15 at *4 (N.D. Cal. Jul. 17, 2025)) (emphasis in original). In addition, the substantive
16 family unity interest described above may underlie a procedural due process claim.
17 See *Lucas R. v. Azar*, 2018 WL 7200716, at *9.

18 95. Procedural due process claims are evaluated under the well-
19 established standard in *Mathews v. Eldridge*, which requires a reviewing court to
20 evaluate (1) the nature of the private interest affected; (2) the comparative risk of
21 erroneous deprivation of that interest with and without additional procedural
22 safeguards; and (3) the nature and magnitude of any countervailing interest in not
23 providing additional or substitute procedure. 424 U.S. 319, 335 (1976).

24 96. In the context of immigration detention, the Ninth Circuit has found it
25 "well-settled" that due process "requires adequate procedural protections to ensure
26 the government's asserted justification for physical confinement outweighs the
27 individual's constitutionally protected interest in avoiding physical restraint."
28 *Hernandez v. Sessions*, 872 F.3d 976, 990 (9th Cir. 2017) (internal citations and

1 quotation marks omitted). Accordingly, Petitioner's liberty interest in release from
2 ORR custody warrants careful procedural protection.

3 97. Courts in this Circuit have likewise recognized due process concerns
4 where government conduct impedes family reunification. In *Ms. L.*, the court
5 emphasized that the "absence of established procedures" for ensuring prompt
6 reunification left families "in a vacuum, without knowledge of the well-being and
7 location of their children . . . result[ing] in a number of different scenarios, all of
8 which are negative—some profoundly so." *Ms. L. v. U.S. Immigration & Customs*
9 *Enforcement*, 310 F. Supp. 3d 1133, 1144 (S.D. Cal. 2018). Here, the risks created
10 by prolonged separation and indefinite delay are similarly apparent.

11 98. First, Petitioner has an extraordinarily strong private interest in both
12 his liberty and reunification with his mother. He has now spent approximately 200
13 days in ORR custody while reunification with his parent remains unresolved.

14 99. Second, the risk of erroneous deprivation is substantial. Respondents
15 have allowed Petitioner to remain in ORR custody for months without issuing a
16 decision approving or denying reunification. Despite months of sponsorship
17 processing, ongoing communications with Petitioner's mother, and repeated
18 reunification reviews, ORR continued to report only that reunification remained
19 pending or unresolved. As a result, neither Petitioner nor his family has received a
20 final reunification decision, notice of any denial, or access to the procedures
21 ordinarily available to challenge an adverse determination.

22 100. The absence of a final decision is particularly significant because it
23 deprives Petitioner and his family of the procedural protections that ordinarily
24 accompany an adverse determination. Petitioner cannot appeal a denial that ORR
25 has never issued. Nor can his family meaningfully challenge a reunification
26 process that has remained pending for more than six months without any final
27 determination. The resulting uncertainty has left Petitioner detained while
28 providing no effective mechanism by which to obtain review of ORR's continued
refusal to release him.

1 101. Finally, Respondents have identified no countervailing governmental
2 interest sufficient to justify maintaining Petitioner in ORR custody without a final
3 reunification decision. ORR's own records repeatedly conclude that Petitioner's
4 mother does not present a risk of abuse, maltreatment, exploitation, or trafficking,
5 yet reunification remains unresolved and Petitioner remains detained.

6 102. Accordingly, under the *Mathews* framework, Petitioner has plausibly
7 alleged a violation of procedural due process. The procedures employed by
8 Respondents have left Petitioner confined for nearly 200 days without a
9 reunification decision, without meaningful review, and without a realistic
10 opportunity to challenge his continued detention.

11 **CLAIMS FOR RELIEF**

12 **COUNT ONE**

13 **Violation of the TVPRA, 8 U.S.C. § 1232**

14 103. The allegations in the preceding paragraphs are realleged and
15 incorporated herein.

16 104. The TVPRA provides that an unaccompanied child in ORR custody
17 "shall be promptly placed in the least restrictive setting that is in the best interest of
18 the child." 8 U.S.C. § 1232(c)(2)(A) (emphasis added). Congress's use of the word
19 "shall" imposes a mandatory obligation on Respondents.

20 105. Petitioner has remained in ORR custody for nearly 200 days despite
21 the availability of his mother, a Category 1 sponsor who has actively participated
22 in the reunification process for months. ORR has neither approved nor denied
23 reunification, leaving Petitioner in prolonged custodial limbo without a decision on
24 reunification or release.

25 106. Such an extended delay is incompatible with the TVPRA's
26 requirement that unaccompanied children be "promptly placed" in the least
27 restrictive setting. 8 U.S.C. § 1232(c)(2)(A).

28 107. Respondents' failure to resolve Petitioner's reunification with his
mother is also inconsistent with the TVPRA's best-interests requirement. ORR's

1 own records repeatedly conclude that Petitioner's mother does not present a risk of
2 abuse, maltreatment, exploitation, or trafficking. Yet Petitioner remains separated
3 from his family and confined in government custody, despite the availability of a
4 fit and willing parent. This continued separation is contrary to the TVPRA's
5 directive that children be placed in the least restrictive setting consistent with their
6 best interests. See 8 U.S.C. § 1232(c)(2)(A).

7 108. Moreover, if Respondents were to transfer Petitioner away from
8 California while this Petition is pending, such action would further burden the
9 rights and protections afforded by the TVPRA. Petitioner would be moved farther
10 from his family and from counsel who have represented him throughout his
11 detention. See 8 U.S.C. § 1232(c)(5) (requiring HHS to ensure, to the greatest
12 extent practicable, that unaccompanied children have counsel to represent them in
13 legal proceedings and related matters).

14 COUNT TWO

15 Violation of Fifth Amendment: Substantive Due Process

16 109. The allegations in the preceding paragraphs are realleged and
17 incorporated herein.

18 110. The Due Process Clause of the Fifth Amendment provides that the
19 government shall not “deprive any person of life, liberty, or property without due
20 process of law.” U.S. Const. amend. V. The Due Process Clause applies to “all
21 ‘persons’ within the United States . . . whether their presence here is lawful,
22 unlawful, temporary, or permanent.” *Zadvydas*, 533 U.S. at 693.

23 111. Petitioner’s continued detention is not reasonably related to any
24 legitimate governmental interest. Respondents have not determined that Petitioner
25 is a flight risk or a danger to himself or the community. Nor have Respondents
26 determined that his mother, F.M.D., is unsuitable to assume his care and custody.
27 To the contrary, ORR’s own records repeatedly conclude that F.M.D. does not
28 present a risk of abuse, maltreatment, exploitation, or trafficking to Petitioner. Yet
nearly 200 days after entering ORR custody, Petitioner remains detained.

1 112. Further, both Petitioner and his mother possess a fundamental interest
2 in their parent-child relationship and in family integrity. As discussed above, the
3 Constitution protects the right of parents to the care, custody, and control of their
4 children, and protects children's reciprocal interest in maintaining and developing
5 their relationship with their parents. *See Troxel v. Granville*, 530 U.S. 57, 65
6 (2000); *D.B. v. Cardall*, 826 F.3d 721, 740 (4th Cir. 2016); *Ms. L.*, 310 F. Supp. 3d
7 at 1137.

8 113. Respondents' continued detention of Petitioner substantially burdens
9 these protected liberty interests. Since January 2026, family members have pursued
10 reunification through ORR's sponsorship process and have repeatedly attempted to
11 comply with ORR's requests for information and documentation. Despite those
12 efforts, ORR has not reunified Petitioner with his mother, has not provided a
13 meaningful timeline for release, and has continued to separate Petitioner from his
14 family while reunification remains unresolved.

15 114. Under these circumstances, continued detention is excessive in
16 relation to the government's asserted interest in child welfare and reunification.
17 Rather than facilitating reunification, Respondents have continued to confine
18 Petitioner while reunification with an available parent who presents no risk to him
19 remains unresolved.

20 115. Accordingly, Respondents' continued detention of Petitioner is
21 unnecessarily punitive and violates his substantive due process rights under the
22 Fifth Amendment.

23 **COUNT THREE**

24 **Violation of the Fifth Amendment: Procedural Due Process**

25 116. The allegations in the preceding paragraphs are realleged and
26 incorporated herein.

27 117. The Due Process Clause of the Fifth Amendment provides that the
28 government shall not "deprive any person of life, liberty, or property without due
process of law." U.S. Const. amend. V.

1 118. Unaccompanied children are entitled to the protections of the TVPRA
2 and therefore possess a protected interest in the statutory entitlements provided by
3 that statute. *See, e.g., Immigrant Defs. L. Ctr. v. U.S. Dep't of Homeland Sec.*, No.
4 CV 21-0395 FMO (RAOX), 2025 WL 1191572, at *15 (C.D. Cal. Mar. 14, 2025)
5 (finding “statutory entitlements [under the TVPRA] are constitutionally protected
6 property interests”) (collecting cases). The TVPRA expressly grants important
7 protections to unaccompanied children and directs HHS to establish procedures to
8 safeguard those rights.

9 119. Petitioner’s interest in his liberty and in reunification with his mother
10 is unquestionably strong. *See Mathews*, 424 U.S. at 335.

11 120. Petitioner has been deprived of those interests without adequate
12 procedural protections. Nearly 200 days after entering ORR custody, he remains
13 detained while reunification with his mother remains unresolved. Despite months
14 of sponsorship processing and active efforts by family members to comply with
15 ORR’s requests, ORR has never issued a decision approving or denying
16 reunification. Nor has it provided a meaningful explanation identifying all
17 remaining obstacles to reunification or a timeline for resolution.

18 121. The absence of a final decision is particularly significant because it
19 deprives Petitioner and his family of the procedural protections that ordinarily
20 accompany an adverse determination. Petitioner’s mother cannot appeal a denial
21 that ORR has never issued. As a result, Petitioner remains detained and separated
22 from his mother while lacking any meaningful mechanism through which to obtain
23 review of ORR’s continued refusal to release him.

24 122. In contrast to Petitioner’s substantial liberty interest and powerful
25 interest in family reunification, the government’s interest in continuing to detain
26 Petitioner without issuing a final reunification decision is minimal, particularly
27 where ORR has identified no sponsor-safety concern and has never denied
28 reunification. ORR’s own records repeatedly conclude that Petitioner’s mother

1 does not present a risk of abuse, maltreatment, exploitation, or trafficking, yet
2 Petitioner remains separated from his family and confined in ORR custody.

3 123. Accordingly, Respondents' continued detention of Petitioner, without
4 a final reunification decision and without any meaningful opportunity to challenge
5 that continued detention, violates Petitioner's procedural due process rights under
6 the Fifth Amendment.

7 **PRAYER FOR RELIEF**

8 WHEREFORE, Petitioner respectfully requests that this Court:

- 9 1. Exercise jurisdiction over this matter;
10 2. Issue a writ of habeas corpus directing Respondents to immediately release
11 Petitioner to the care and custody of his mother, F.M.D.;
12 3. Enjoin Respondents from transferring Petitioner outside of this judicial
13 District while this Petition remains pending;
14 4. Enjoin Respondents from re-detaining Petitioner absent compliance with all
15 applicable statutory, regulatory, and constitutional requirements;
16 5. Declare that Respondents' continued detention of Petitioner violates the Due
17 Process Clause of the Fifth Amendment, the TVPRA, 8 U.S.C. § 1232, and
18 applicable regulations governing the care, custody, placement, and release of
19 unaccompanied children, including 45 C.F.R. Part 410;
20 6. Award Petitioner his attorneys' fees and costs pursuant to the Equal Access
21 to Justice Act, 28 U.S.C. § 2412, and any other applicable authority; and
22 7. Grant such other and further relief as the Court deems just and proper.

23
24 Dated: 07/31/2026

Respectfully Submitted,
25 /s/Emily Gerber Sugarman

26
27 Emily Gerber Sugarman
28 *Attorney for Petitioner*

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

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

Dated this 31 day of July 2026.

Respectfully Submitted,

/s/ Emily Gerber Sugarman

Emily Gerber Sugarman

Attorney for Petitioner