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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION

R.M.L., a minor; V.M.L., a minor; by and through Erica Santamaria as Guardian Ad Litem,

Petitioners,

v.

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

Respondents.

Case No.

VERIFIED PETITION FOR WRIT OF HABEAS CORPUS

FILED UNDER SEAL PURSUANT TO LR 79-5.2.2(a)(i)

INTRODUCTION

1. Petitioners are Unaccompanied Children ("UC") [1] who were transferred to the Office of Refugee Resettlement (ORR) upon arrival to the United States. Petitioner R.M.L. and her sister, V.M.L., were transferred to ORR on January 22, 2026.

2. Petitioners have been detained by ORR at ORR-subcontracted facility A Greater Love ("AGL"), in Ontario, California for **193 days**, despite the fact that they have a biological parent in the United States who is available and willing to assume their custody and care. Pursuant to ORR Rule 2.2.1, Identification of Qualified Sponsors, Petitioners' parents are classified as "Category 1: parent or legal guardian." Office of Refugee Resettlement, *ORR Unaccompanied Alien Children Bureau Policy Guide: Section 2*, available at https://acf.gov/orr/policy-guidance/unaccompanied-children-program-policy-guide-section-2#2.2.

3. Upon Petitioners' placement in ORR custody, their sponsor and mother, B.L.G., initiated the reunification process and submitted the documentation that ORR requires to be considered as a sponsor for a UC, the Family Reunification Packet ("FRP"). Inexplicably, ORR has not scheduled appointments for tasks they deem essential for reunification to move forward, including DNA testing and home study.

4. ORR has not provided any substantive updates on Petitioners' reunification with their mother. It does not appear that ORR is promptly

[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).

adjudicating Petitioners' FRP or even working on them at all. The reunification between Petitioners and their mother therefore remains indefinitely delayed.

5. These ongoing delays have resulted in continued, unnecessary detention and emotional distress for Petitioners. For example, R.M.L. and V.M.L. report experiencing significant stress due to the length of their stay in ORR custody. The children are experiencing detention-related fatigue. They also report feeling increasingly emotional as the prolonged uncertainty continues.

6. Accordingly, to vindicate Petitioners' constitutional and statutory rights, this Court should grant the instant petition for a writ of habeas corpus and order release.

JURISDICTION

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

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

9. Administrative exhaustion is a prudential rather than jurisdictional requirement for habeas review under 28 U.S.C. § 2241. *See Acevedo Carranza v. Ashcroft*, 371 F.3d 539, 541 (9th Cir. 2004).

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

VENUE

11. Petitioners lie within the jurisdiction of the United States District Court for the Central District of California because they are detained in an ORR-subcontracted facility in Ontario, California.

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

PARTIES

I. Petitioners

13. Petitioner R.M.L. is a 15-year-old girl. Petitioner is currently detained at AGL. Petitioner R.M.L. is in the custody, and under the direct control of Respondents and their agents. Petitioner R.M.L.'s mother and sponsor is B.L.G.[2]

14. Petitioner V.M.L. is a 13-year-old girl. Petitioner is currently detained at AGL. Petitioner V.M.L. is in the custody, and under the direct control of Respondents and their agents. Petitioner V.M.L.'s mother and sponsor is B.L.G. *See* Supra Footnote 2.

15. Petitioners' proposed Guardian ad Litem is, Erica Santamaria ("Mrs. Santamaria"),[3] is the Program Manager for the Detained Youth Empowerment Project ("DYEP") Team at Immigrant Defender's Law Center ("ImmDef"). *See*

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[2] The use of B.L.G.'s (sponsor-mother) initials further ensures R.M.L. and V.M.L.'s (petitioners) privacy. *See* Fed. R. Civ. P. 5.2(a), (c), (h) (mandating use of a minor's initials, providing for limited access to files in proceedings related to immigration detention "unless the court orders otherwise," and noting that failure to redact personal information in the first instance constitutes a waiver of that protection).

[3] Petitioner files concurrently with this petition her Application for Appointment of Guardian. Mrs. Santamaria, therefore, is the proposed guardian ad litem in this matter pending court order.

Declaration of Erica Santamaria In Support of Verified Petition for Writ of Habeas Corpus. Petitioners appear collectively by and through their proposed Guadian ad Litem, Mrs. Santamaria.

II. Respondents

16. Respondent Ruby Hernandez is sued in her official capacity as an ORR Federal Field Specialist ("FFS Hernandez"). In this role, FFS Hernandez is responsible for determining Petitioners' placements and has authority to approve their respective releases to an appropriate sponsor's care. Respondent FFS Hernandez is thereby a legal custodian of Petitioners.

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

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

19. Respondent Alex J. Adams is sued in his official capacity as the Assistant Secretary of the Administration for Children and Families ("ACF"). ACF is comprised of 23 offices, including ORR, responsible for the welfare of children

and families. Respondent Adams is thereby responsible for Petitioners' continued detention and custody and is a legal custodian of Petitioners.

20. Respondent Robert Kennedy, Jr. is sued in his official capacity as the 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 for the care and placement of UC in federal custody. *See* 8 U.S.C. § 1232(c); 6 U.S.C. § 279. HHS and ORR enter contracts with public and private entities to house, care for, and provide legal assistance to UC apprehended by the Department of Homeland Security ("DHS") pursuant to the Immigration and Nationality Act ("INA"). *See* 6 U.S.C. § 279. Respondent Secretary Kennedy is thereby a legal custodian of Petitioners.

STATEMENT OF FACTS

I. PETITIONERS WANT TO BE RELEASED TO THEIR MOTHER

21. Petitioners R.M.L. and V.M.L. are 15 and 13-year-old minors, respectively. R.M.L. and V.M.L. are sisters. *See* Declaration of Stephanie Periban Palacios ("Periban Decl.") at ¶ 3. Petitioners were designated as Unaccompanied Immigrant Children[4] by DHS upon their arrival in the United States on January 21, 2026. *Id.* As of the filing of this Petition, ***they have been detained in ORR custody for 194 days***. *Id.*

22. On January 22, 2026, Petitioners were transferred to the custody of the ORR and placed at A Greater Love in Ontario, California. Petitioners seek reunification with their mother and sponsor, B.L.G. *Id.* at ¶ 3-5.

[4] *See* 6 U.S.C. § 279(g)(2)

23. B.L.G. is Petitioners' biological mother and sponsor for reunification. On January 23, 2025, she was contacted by ORR and accepted sponsorship of her daughters. *Id.* at ¶5.

24. On January 27, 2026, B.L.G. submitted her identification documents to ORR. *See* Periban Decl. Ex. A at 2.

25. On May 26, 2026, the Family Reunification Packet ("FRP") was submitted to the ORR portal and the case remained pending approval of the home study. *See* Periban Decl. Ex. B at 1. On June 3, 2026, B.L.G. submitted to a fingerprint background check. *Id.*

26. As of July 28, 2026, Petitioners' reunification remained pending. *See* Periban Decl. Ex. C.

27. During R.M.L. and V.M.L.'s prolonged stay in ORR custody, Petitioners have experienced significant emotional distress resulting from their continued detention and uncertainty regarding reunification. As a result of their prolonged detention and separation from their mother, R.M.L. and V.M.L. have expressed sadness, missing their mother, and frustration at how long the reunification process has taken. The children have been detained for 194 days. *See* Periban Decl. Ex. A at 4.

28. As of the filing of this Petition, Petitioners remain in ORR custody awaiting a final reunification decision.

II. ORR'S SPONSOR VETTING PROCESS

29. Under the Trafficking Victims Protection Reauthorization Act ("TVPRA"),[5] ORR is tasked with vetting sponsors before it releases minor children to them. The TVPRA and the Unaccompanied Children Program

[5] The William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (TVPRA), Pub. L. No. 110-457, 122 Stat. 5044, codified in relevant part at 8 U.S.C. § 1232.

Foundational Rule[6] ("Foundational Rule") govern this process. Through the Unaccompanied Alien Children Bureau Policy Guide (the "Policy Guide"), ORR promulgates its own policies and procedures for vetting sponsors and releasing UCs.

A. SUMMARY OF REUNIFICATION PROCESS

30. Prior to releasing a UC, ORR must conduct a suitability assessment to determine whether the potential sponsor is capable of providing for the child's physical and mental well-being. 45 C.F.R. § 410.1202(b). ORR must verify the sponsor's identity and relationship to the child (Policy Guide § 2.2.3–§ 2.2.4) and make "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). ORR's policies require screening designed to protect children from "smugglers, traffickers, or others who might seek to victimize" them. Policy Guide § 2.1. To be considered for reunification, a potential sponsor must submit a sponsor application, known as a Family Reunification Packet ("FRP"). *Id.*

B. ORR'S RELEASE TIMING REQUIREMENTS ARE DESIGNED TO PREVENT PROLONGED DETENTION

31. ORR's time to vet a sponsor is not limitless. ORR must effectuate release to a vetted sponsor – with preference to parents first—"without unnecessary delay," and begin sponsor assessment as soon as a child enters ORR custody. 45 C.F.R. §§ 410.1200–1201; Policy Guide §§ 2.1, 2.2.

32. To ensure UCs are released "in a safe, efficient, manner without unnecessary delay," ORR has mandated timeframes to adjudicate completed sponsor applications. For a CAT 1 parent-sponsor ORR must adjudicate a completed sponsor

[6] Unaccompanied Children Program Foundational Rule, 89 Fed. Reg. 34,384 (Apr. 30, 2024) (codified at 45 C.F.R. pt. 410).

application ***"within 10 calendar days of receipt,"*** and other (non-parent) sponsor applications within 14 calendar days. 8. C.F.R. § 410.1205(b). To ensure that a child's release from ORR custody is not stalled, ORR is further required to conduct a formal review of pending sponsor applications ***every 90 days***. 8 C.F.R § 410.1207(a).

33. This review is not cursory. ORR supervisory staff must timely resolve any reasons a sponsor application remains pending and determine possible steps to accelerate the child's safe release. *Id.* ORR must further update both potential sponsor and child, to explain why the process is incomplete, and work with potential sponsors, relevant stakeholders, and ORR to address unresolved portions of the sponsor application. *Id.*

C. BASES FOR DENIAL OF A SPONSOR APPLICATION

34. Under federal regulation, ORR may deny release to a sponsor if the sponsor is incapable of caring for the child, or if placement with the sponsor would cause danger to the child or the community. 8 C.F.R § 410.1205(a). Further, ORR's Policy Guide provides additional reasons it will deny reunification with a parent, for example, if it determines the parent is not willing or able to provide for the child's physical or mental well-being; or if the parent (or any adult household member) refuses to complete the mandatory fingerprint check. Policy Guide § 2.7.4.

D. ORR'S CONCURRENT PLANNING REQUIREMENT ENSURES A BACK UP PLAN TO RELEASE CHILDREN

35. As part of the process to release unaccompanied children, ORR is responsible for conducting *concurrent* planning for release of all unaccompanied

children.[7] ORR does this by identifying an Alternative Caregiver ("ACG") and vets the ACG in tandem with the sponsor. 8. C.F.R. § 410.1203(f). ORR's concurrent planning includes indicating the reason for concurrent planning and any concerns with the potential sponsor, as well as any available information about the additional sponsor(s) or alternate release plans.[8] This process serves to "create a plan to cover a broad range of care," and to ensure a child does not get stuck in ORR custody because a sponsor becomes unavailable or is determined to be unsuitable. *Id.*

III. RESPONDENTS ARE UNLAWFULLY DETAINING PETITIONERS

A. ORR REFUSES TO RELEASE PETITIONERS TO THEIR OWN MOTHER

36. Petitioners' mother, B.L.G., immediately came forward to sponsor her daughters upon Petitioners' entry into ORR custody on January 22, 2025. Periban Decl. at ¶ 3-5. ORR classified Petitioner's case as a Category 1 reunification case with her biological mother. *See* Periban Decl. Ex. A at 2.

37. On January 27, 2026, ORR obtained Petitioner's birth certificate establishing Mother's identity and her relationship to Petitioner. *Id.*; Ex D. Mother promptly participated in the reunification process. By May 26, 2026, she had completed her sponsor application. *Id.*, Ex. B at 1.

38. Despite months of review and repeated requests for information, ORR never issued a Sponsor Suitability Determination ("SSD") regarding Mother's sponsorship application. ORR neither approved nor denied Mother's application. *Id.*, Ex. C at 1.

[7] UC MAP Section 2: Safe and Timely Release from ORR Care (Version 8.2), https://acf.gov/sites/default/files/documents/orr/UACMAP_Section-2_2025-04-15.pdf, page 44.
[8] *Id.* at page 45.

39. At the same time, ORR identified no trafficking concerns and no indication that Mother posed a threat to Petitioner. In late January 2026, the child had a family visit with her Mother. *Id.*, Ex. A at 2.

40. Throughout Petitioner's detention, Mother remained actively involved in her daughter's life. Petitioner and Mother maintained daily telephone contact. *Id.*, Ex. A. Petitioner's case manager facilitated regular family visits between Mother and Petitioner whenever possible. *Id.*

41. Today, Mother remains available to care for Petitioner. Throughout the reunification process, she continues communicating with ORR, maintains contact with Petitioner, and participates in family visits. *Id.*

42. Despite possessing evidence of Mother's identity, relationship to Petitioner, willingness to care for her daughter, and lack of any identified trafficking or safety risk, ORR neither approved nor denied reunification. Instead, Petitioner's case remained pending for months. *Id.*, Ex. A; Ex. B at 1; Ex. C.

43. As of the filing of this Petition, ORR has neither reunited Petitioner with her mother nor denied Mother's sponsorship application, despite possessing evidence confirming Mother's identity, Mother's relationship to Petitioner, Mother's willingness to care for Petitioner, and ORR's own finding that Mother does not present a risk of abuse, maltreatment, exploitation, or trafficking. *Id.*

B. PETITIONERS CASE IS STALLED

44. ORR's failure to comply with its own mandatory timing requirements, supervisory review, and concurrent vetting of an ACG confirms Petitioners' case has stalled.

45. Petitioners have remained in ORR custody long enough to trigger repeated length-of-stay reviews. Despite these repeated reviews, the central question

remained unanswered: whether Petitioner would be released to an approved caregiver. ORR still issued no Sponsor Suitability Determination, approved no sponsor, and denied no sponsor.

46. This remained true even though ORR had identified both a biological parent and an ACG willing to care for Petitioner.

47. ORR has not identified any lawful basis for detaining Petitioner. To date, ORR has approved no sponsor and nor denied no sponsor. And so, Petitioner remains trapped in ORR custody.

LEGAL FRAMEWORK

I. Law and Procedure Governing this Habeas Petition

48. A writ of habeas corpus under 28 U.S.C. § 2241 may issue if, among other things, a person is "in custody under or by color of the authority of the United States," or is "in custody in violation of the Constitution or laws or treaties of the United States." 8 U.S.C. § 2241(c).

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

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

51. Consistent with § 2243's mandate for prompt adjudication, the Central District of California has adopted special procedures governing immigration habeas petitions under 28 U.S.C. § 2241 to facilitate their "expeditious resolution." C.D. Cal. Gen. Ord. 26-05 at 1. The General Order provides for prompt service of immigration habeas petitions on the United States Attorney's Office and establishes an expedited briefing schedule under which Respondents ordinarily must answer the petition within seven calendar days of the Court's scheduling notice. *Id.* § 2. The General Order further authorizes disposition by a magistrate judge upon the parties' consent pursuant to 28 U.S.C. § 636(c), and the United States has prospectively consented to magistrate-judge jurisdiction in immigration habeas matters, subject to a limited right to withdraw consent in a particular case. *Id.* § 1.

II. Legal Framework Governing the Care and Custody of UCs

52. Two key laws provide ORR's responsibilities regarding treatment and custody of unaccompanied immigrant children: (1) the Trafficking Victims Protection Reauthorization Act (TVPRA); and (2) The ORR Foundational Rule.

A. ORR Must Promptly Release Petitioner Under the TVPRA.

53. Congress enacted the TVPRA to provide special protections for unaccompanied children and to ensure that they are safely and promptly placed with appropriate caregivers. 8 U.S.C. § 1232; Saravia v. Sessions, 280 F. Supp. 3d 1168, 1178 (N.D. Cal. 2017). Under the TVPRA, ORR shall promptly place unaccompanied children "in the least restrictive setting that is in the best interest of the child." 8 U.S.C. § 1232(c)(2)(A). This statutory framework, "focuses on care and placement rather than detention." *Flores v. Sessions,* 862 F.3d 863, 876 (9th Cir. 2017).

54. The statute narrows ORR's authority to evaluate whether a proposed sponsor is capable of providing for a child's physical and mental well-being and whether release would create a risk of harm, trafficking, exploitation, or other safety concerns. 8 U.S.C. § 1232(c)(3)(A).

55. Crucially, the TVPRA mandates release from ORR custody to an appropriate sponsor absent concerns that the child presents a danger to self, a danger to the community, or a risk of flight. *See Saravia*, 280 F. Supp. 3d 1168 at 1196.

B. The Foundational Rule Requires Prompt Adjudication And Review of Sponsor Applications

56. The Foundational Rule establishes mandatory safeguards designed to prevent children from languishing in ORR custody. 45 C.F.R. pt. 410. Congress assigned ORR responsibility for the care, custody, placement, and release of unaccompanied children to suitable sponsors. 6 U.S.C. § 279(b)(1)(A); 8 U.S.C. § 1232(c).

57. Sponsors may include parents, legal guardians, relatives, and other adults with established relationships to a child. Under the Foundational Rule, Completed parent sponsor applications generally must be adjudicated within ten calendar days of receipt, while completed close-relative sponsor applications generally must be adjudicated within fourteen calendar days absent an unexpected delay. 45 C.F.R. § 410.1205(b).

58. If ORR formally denies release to a potential sponsor "who is a parent or legal guardian or close relative," ORR must promptly notify the potential sponsor in writing, provide an explanation of the reasons for the denial along with "evidence and information" supporting the decision, inform the potential sponsor

that they may request an appeal of the decision, and allow for submission of additional evidence supporting their suitability. 45 C.F.R. § 410.1205(c). Absent "good cause," the appeal process "shall be completed within 30 calendar days of the potential sponsor's request for an appeal." 45 C.F.R. § 410.1206(f).

59. The regulation further requires supervisory staff to conduct "automatic review of all pending sponsor applications . . . within 90 days of an unaccompanied child entering ORR custody." 45 C.F.R. § 410.1207(a). These provisions ensure review of pending sponsor applications and continued progress toward a release.

C. ORR's Internal Procedures Cannot Expand its Detention Authority

60. ORR's obligations arise from both statutes and regulations, as well as agency-created policies and procedures. The latter cannot expand ORR's detention authority beyond that granted by Congress and implemented through regulation.

61. Congress authorized ORR to determine whether a proposed placement is safe. 8 U.S.C. § 1232(c)(3)(A). The Foundational Rule establishes procedures for carrying out that task. 45 C.F.R. §§ 410.1202–.1207. But, neither Congress nor the Foundational Rule authorizes prolonged detention simply because ORR continues to pursue internal review processes, administrative tasks, or agency-created requirements.

62. Instead, the statutory and regulatory framework is designed to facilitate release to an approved sponsor following completion of the sponsor evaluation process.

III. THE FIFTH AMENDMENT REQUIRES MEANINGFUL PROCESS BEFORE A CHILD MAY BE DEPRIVED OF LIBERTY

63. The Due Process Clause applies to all persons physically present within the United States, including noncitizens. *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001). Freedom from physical restraint lies at the core of the liberty protected by the Constitution. *Id.* at 690.

64. Children in ORR custody possess substantial liberty interests in freedom from detention and in reunification with family members and caregivers willing and able to provide care. Procedural due process requires procedures sufficient to ensure that continued detention remains justified. *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976). Where detention continues while required decisions remain unmade, the risk of erroneous deprivation of liberty becomes substantial.

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

ARGUMENT

I. THIS HABEAS ACTION IS PROPER AND ADMINISTRATIVE EXHAUTION IS NOT REQUIRED

66. Federal courts have jurisdiction under 28 U.S.C. § 2241 to review claims that an individual is detained in violation of the Constitution or laws of the United States. 28 U.S.C. § 2241(c)(3); *Zadvydas v. Davis*, 533 U.S. 678, 687 (2001). Petitioners challenge the legality of their continued detention in ORR and therefore falls squarely within the core purpose of habeas review.

67. Administrative exhaustion is prudential rather than jurisdictional in habeas proceedings under § 2241. *Acevedo-Carranza v. Ashcroft*, 371 F.3d 539, 541 (9th Cir. 2004); *Laing v. Ashcroft*, 370 F.3d 994, 997 (9th Cir. 2004). Exhaustion is not required where administrative remedies are unavailable, inadequate, futile, or where irreparable injury would result from further delay. *Laing*, 370 F.3d at 1000.

68. Exhaustion is not required here because ORR has never approved a sponsor, denied a sponsor, or issued a Sponsor Suitability Determination. *See, supra* Statement of Facts ("SOF") ¶¶ 28. In the absence of any decision, Petitioners have no administrative appeal to pursue and no meaningful administrative remedy to exhaust. Requiring exhaustion would therefore serve no purpose other than prolonging Petitioners' detention while ORR continues to withhold the very determination that would trigger administrative review. After approximately **194 days** in custody, further delay itself constitutes ongoing irreparable harm. *See* SOF ¶ 21; *Cortez v. Sessions*, 318 F. Supp. 3d 1134, 1139 (N.D. Cal. 2018).

II. ORR IS VIOLATING THE TVPRA'S MANDATE THAT CHILDREN BE PROMPTLY RELEASED TO APPROPRIATE CAREGIVERS.

69. The TVPRA requires that an unaccompanied child "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). Congress enacted this mandate to ensure that ORR custody remains temporary and focused on care, placement, and release—not prolonged detention. *Flores v. Sessions*, 862 F.3d 863, 876 (9th Cir. 2017).

70. Congress authorized ORR to investigate whether a proposed sponsor can safely care for a child. The statute directs ORR to evaluate the sponsor's identity, relationship to the child, ability to provide for the child's well-being, and whether release would create a risk of trafficking, exploitation, abuse, or other harm. 8 U.S.C. § 1232(c)(3)(A). That is the authority Congress granted. The statute does not authorize ORR to detain a child indefinitely while repeatedly expanding the scope of review and postponing a release determination.

71. Here, ORR had ample opportunity to perform the task Congress assigned to it. Petitioner's mother came forward immediately upon Petitioners' entry into ORR custody on January 23, 2026. SOF ¶¶ 23. In a matter of weeks, ORR had documentation confirming Mother's identity and relationship to the Child, including Petitioner's birth certificate. SOF ¶ 24. On May 26, 2026, Mother's sponsor application was deemed complete. SOF ¶ 25. Under the Foundational Rule, ORR was required to adjudicate Mother's completed Category 1 sponsorship application **within ten calendar days**. 45 C.F.R. § 410.1205(b). **Over 70 days** have passed since Mother completed her sponsor application, and ORR has made no decision.

72. At that same time, ORR identified no trafficking concerns. SOF ¶¶ 42. Still, the children have not been released to their Mother.

73. Simply put, ORR never made the decision that the TVPRA requires it to make.

74. ORR never approved Mother's application. ORR never denied Mother's application. ORR never issued a Sponsor Suitability Determination. ORR never

provided a written explanation for withholding release. Consequently, Mother never received a denial notice, never received appeal rights, and never received any final reunification decision. SOF ¶43.

75. The circumstances of this case demonstrate precisely why Congress imposed strict timing requirements and mandatory supervisory review procedures. Mother's application was deemed completed on May 26, 2026. Under ORR's regulations, that application generally should have been adjudicated within ten days. 45 C.F.R. § 410.1205(b). ORR was further required to conduct automatic review of any pending application within ninety days. 45 C.F.R. § 410.1207(a). Petitioners remained detained long enough to trigger repeated supervisory reviews. Yet, despite the passage of more than six months, ORR still failed to render a reunification decision. As a result, a child whom ORR determined could safely communicate with her mother every day, visit her mother regularly, and maintain an active parental relationship remained confined in ORR custody. SOF ¶40.

76. ORR cannot justify delay to another suitable sponsor. ORR has concurrent-planning obligations. ORR's regulations require concurrent planning to ensure that a child does not remain in custody simply because a primary sponsorship pathway encounters delays or obstacles. *See* 45 C.F.R. § 410.1203(f).

77. The TVPRA authorizes ORR to determine whether release is safe. The governing regulations provide multiple mechanisms to ensure that determination is made promptly. ORR disregarded those requirements here. It does not have authority to prolong a child's detention simply by failing to make the determination it was required to make.

78. More than six months after Petitioners entered ORR custody, ORR still has not approved a sponsor, denied a sponsor, identified a trafficking concern,

identified a safety concern, issued a Sponsor Suitability Determination, or otherwise explained why Petitioners' detention must continue. What remains is not an active release process. It is prolonged detention without a release decision.

79. Despite having a biological parent ready and willing to care for them (Mother), a second caregiver available through ORR's concurrent-planning process, no identified trafficking concerns, no identified safety concerns, Petitioners remain detained in ORR custody today.

80. Congress authorized ORR to investigate, evaluate, and determine a sponsor suitable for a child's release. It did not authorize ORR to detain a child in custody indefinitely by refusing to do so.

81. Because ORR failed to carry out the duties imposed by the TVPRA, disregarded the timing and review requirements governing sponsor determinations, failed to complete concurrent planning, and continues to detain Petitioners without making the release determination contemplated by the statute, Petitioners' continued detention violates 8 U.S.C. § 1232.

III. ORR'S DETENTION OF PETITIONER NO LONGER SERVES A LEGITIMATE GOVERNMENT PURPOSE

82. Congress authorized ORR to temporarily assume custody of unaccompanied children while determining whether release to a proposed caregiver may occur safely and in the child's best interests. 8 U.S.C. § 1232(c). Congress did not authorize ORR to detain children indefinitely while reunification decisions remain unresolved.

83. The statutory and regulatory framework reflects that limitation. Parent sponsor applications generally must be adjudicated within ten calendar days, close-relative applications generally must be adjudicated within fourteen calendar days,

and ORR supervisors must review pending cases within ninety days. 45 C.F.R. §§ 410.1205(b), 410.1207(a).

84. Petitioners' detention has exceeded every meaningful timing mechanism established by that framework.

85. Petitioner entered ORR custody on January 22, 2026. Since then, ORR has conducted repeated length-of-stay reviews, continued collecting information concerning Petitioners' mother, and later evaluated an alternative caregiver. Yet ORR has still not approved a sponsor, denied a sponsor, or issued a Sponsor Suitability Determination. *See* SOF ¶¶ 22, 40.

86. Significantly, Petitioners' prolonged detention cannot be attributed to the absence of a suitable caregiver. ORR has had before it both Petitioners' biological mother and an alternative caregiver willing to care for Petitioners. Nor has ORR identified any trafficking concern, safety concern for Mother, nor a danger finding, or flight-risk determination for the Child that supports continued detention. SOF ¶¶ 42–43.

87. At some point, continued detention ceases to be a temporary measure necessary to facilitate reunification and instead becomes detention for detention's sake. That point has long since passed here.

88. After more than six months, multiple supervisory reviews, extensive information gathering, and concurrent-planning efforts, ORR cannot justify continued detention by pointing to unresolved internal processes of its own making. Its continued failure to decide cannot itself supply continuing detention authority.

IV. ORR'S CONTINUED DETENTION OF THIS CHILD VIOLATES THE FIFTH AMENDMENT

89. The Fifth Amendment protects all persons physically present in the United States, regardless of immigration status. *Zadvydas*, 533 U.S. at 693. Freedom from physical restraint lies at the core of the liberty protected by the Due Process Clause. *Id.* at 690.

90. This Court recently addressed materially similar circumstances in *C.S.M. v. Hernandez*, No. 5:26-cv-01144-JWH-ACCV (C.D. Cal.). There, a fourteen-year-old child remained in ORR custody for more than six months while a sponsorship application remained pending for release to her sister. Applying the *Mathews* factors, the court concluded that the child's continued detention violated procedural due process and granted habeas relief. *See* No. 5:26-cv-01144-JWH-ACCV (C.D. Cal.), Report & Recommendation at 7–9, adopted by Judgment (June 2, 2026). The same reasoning applies here, where Petitioners has remained in ORR custody for more than six months despite the existence of a biological parent willing to care for them and despite ORR's failure to issue a sponsorship determination.

91. Under *Mathews v. Eldridge*, courts evaluate procedural due process claims by considering: (1) the private interest affected; (2) the risk of erroneous deprivation under existing procedures; and (3) the government's interest. 424 U.S. 319, 335 (1976). Each factor strongly favors Petitioner.

A. Petitioners' Liberty Interest Are Extraordinary.

92. Petitioners are fifteen-year-old and thirteen-year-old children who has spent approximately **194 days** in federal custody. They remain separated from family members and caregivers willing to care for her, despite ORR's own determination

that Mother presents no risk of abuse, maltreatment, exploitation, trafficking, or harm. SOF ¶¶ 21, 42–43.

93. Like the child in *C.S.M.*, Petitioners possess a profound liberty interest in freedom from government detention. Petitioners also possess a substantial interest in family unity and reunification with their mother. *Zadvydas*, 533 U.S. at 690; *Lucas R. v. Azar*, No. CV 18-5741-DMG (PLAx), 2018 WL 7200716, at *9 (C.D. Cal. Dec. 27, 2018). *C.S.M.* recognized that a child's interest in reunification with family members weighs heavily under the first *Mathews* factor. The interest here is even stronger because Petitioners' proposed sponsor is their biological mother.

B. The Risk of Erroneous Deprivation Is Extreme.

94. The central procedural failure in this case is not that ORR denied sponsorship. It is that ORR never decided sponsorship at all.

95. ORR's own records reflect repeated reunification efforts, multiple mandatory reviews, extensive sponsor vetting, ongoing communications concerning release, and continued requests for action. Yet after more than six months, ORR has issued no approval, no denial, and no suitability determination for either available sponsor here. SOF ¶¶ 43. Nor has it identified any concerns.

96. The risk of erroneous deprivation here is at least as substantial as the risk identified in *C.S.M.* There, the court concluded that a six-month detention during an unresolved sponsorship process created an unacceptably high risk of erroneous deprivation where ORR failed to provide the timely review contemplated by its regulations. *See C.S.M. v. Hernandez*, No. 5:26-cv-01144-JWH-ACCV (C.D. Cal.) (Report & Recommendation at 8–9). The court specifically relied upon ORR's failure to timely resolve the sponsorship process despite regulations requiring prompt review and adjudication. *Id.*

97. The circumstances presented here are even more troubling. Unlike *C.S.M.*, where ORR was evaluating a sibling sponsor and relied on DNA testing to verify the claimed relationship, ORR verified Mother's relationship to Petitioners through Petitioners' birth certificate months ago. SOF ¶¶ 24. ORR identified no trafficking concerns, no abuse concerns, no exploitation concerns. SOF ¶ 43. Yet ORR still failed to approve the application, deny the application, or issue a Sponsor Suitability Determination. SOF ¶¶ 43.

98. This is precisely the type of erroneous deprivation that the Foundational Rule's adjudication deadlines, review requirements, and appeal procedures were designed to prevent.

C. The Government's Interest Is Minimal.

99. The Government has a legitimate interest in ensuring that children are released only to safe caregivers

100. That interest has already been accommodated. ORR investigated Petitioners' mother, verified her identity and relationship to Petitioners, collected documentation, conducted background checks, reviewed the household, and found no trafficking concerns. SOF ¶¶ 43.

101. By contrast, ORR has identified no specific governmental interest that justifies continuing Petitioners' detention after more than nine months without a reunification decision.

102. The Government has a strong interest in protecting children. It has no legitimate interest in prolonging a child's detention for the better part of a year while declining to make the determination that Congress tasked it with making *promptly*.

103. Balancing the *Mathews* factors demonstrates that ORR's continued detention of Petitioners without a sponsor determination, denial decision, or

meaningful avenue of review violates the Due Process Clause of the Fifth Amendment.

CLAIMS FOR RELIEF

COUNT ONE

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

104. Petitioners reallege and incorporate by reference all preceding paragraphs as though fully set forth herein.

105. The TVPRA requires that an unaccompanied child in ORR custody 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).

106. The TVPRA further requires ORR to evaluate proposed sponsors and determine whether a proposed custodian is capable of providing for a child's physical and mental well-being and whether release presents a risk of harm, trafficking, exploitation, or other safety concerns. 8 U.S.C. § 1232(c)(3)(A).

107. Petitioners entered ORR custody on January 22, 2026. Petitioner's biological mother immediately came forward to sponsor her children and participated in ORR's reunification process.

108. ORR verified Mother's identity and relationship to Petitioner, obtained Petitioner's birth certificate, reviewed Mother's sponsorship application, conducted background checks, evaluated trafficking concerns, and continued reviewing the application for months. ORR ultimately determined that Mother did not present a risk of abuse, maltreatment, exploitation, or trafficking.

109. Despite completing substantial portions of the sponsorship review process, ORR never approved Mother's application, denied Mother's application, or issued a Sponsor Suitability Determination.

110. ORR likewise failed to timely complete its concurrent-planning obligations and failed to approve or deny placement with an alternative caregiver willing to assume responsibility for Petitioner.

111. As a result, Petitioner has remained in ORR custody for more than six months without a reunification decision, despite the availability of both a biological parent and an alternative caregiver.

112. By failing to timely complete the sponsor determination process, failing to comply with the release framework established by Congress, and continuing to detain Petitioners without making the release determination contemplated by the statute, Respondents have violated the TVPRA, 8 U.S.C. § 1232.

COUNT TWO

Violation of Fifth Amendment: Substantive Due Process

113. Petitioners reallege and incorporate by reference all preceding paragraphs as though fully set forth herein.

114. The Due Process Clause of the Fifth Amendment protects all persons physically present within the United States, regardless of immigration status. U.S. Const. amend. V; *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001).

115. Freedom from physical restraint lies at the core of the liberty protected by the Due Process Clause. *Zadvydas*, 533 U.S. at 690.

116. Petitioners possess substantial liberty interests in freedom from unnecessary detention, family integrity, and reunification with ther biological mother.

117. Respondents' authority to detain Petitioner is limited to the purposes authorized by Congress, including protecting the child, evaluating potential sponsors, and facilitating safe release to an appropriate caregiver.

118. Petitioners have remained in ORR custody for more than six months despite Respondents' determination that her mother does not present a risk of abuse, maltreatment, exploitation, or trafficking.

119. Respondents have not identified any trafficking concern, safety concern, danger finding, flight-risk determination, or other lawful basis that would justify Petitioner's continued detention.

120. Respondents have likewise failed to approve a sponsor, deny a sponsor, issue a Sponsor Suitability Determination, or otherwise resolve Petitioners' reunification case.

121. As a result, Petitioners' continued detention no longer bears a reasonable relationship to the reunification, placement, and child-welfare purposes for which ORR was granted custodial authority under the TVPRA.

122. By continuing to detain Petitioners without a legitimate governmental justification and despite the availability of both a biological parent and an alternative caregiver willing to assume responsibility for her care, Respondents have infringed Petitioner's fundamental liberty interests in freedom from restraint and family unity.

123. Because Respondents' continued detention of Petitioners is arbitrary, excessive, and contrary to the purposes for which Congress authorized ORR custody, it violates Petitioner's substantive due process rights under the Fifth Amendment.

COUNT THREE

Violation of the Fifth Amendment: Procedural Due Process

124. Petitioners reallege and incorporate by reference all preceding paragraphs as though fully set forth herein.

125. The Due Process Clause of the Fifth Amendment prohibits the federal government from depriving any person of liberty without due process of law. U.S. Const. amend. V.

126. Petitioners possess protected liberty interests in freedom from physical restraint, family integrity, and reunification with her mother.

127. Petitioners also possess protected interests in the statutory rights and entitlements afforded to unaccompanied children under the TVPRA. *See, e.g.*, *Immigrant Defs. L. Ctr. v. U.S. Dep't of Homeland Sec.*, No. CV 21-0395 FMO (RAOx), 2025 WL 1191572, at *15 (C.D. Cal. Mar. 14, 2025).

128. Under *Mathews v. Eldridge*, courts evaluate procedural due process claims by balancing: (1) the private interests affected; (2) the risk of erroneous deprivation under the procedures used; and (3) the government's interest. 424 U.S. 319, 335 (1976).

129. The first factor strongly favors Petitioners. Petitioners are fifteen-year-old and thirteen-year-old children who have spent more than six months in federal custody and remain separated from their mother despite their mother's ongoing efforts to secure reunification.

130. The second factor likewise strongly favors Petitioners. Respondents failed to timely adjudicate Mother's sponsorship application, failed to issue a Sponsor Suitability Determination, failed to provide a written explanation for continued detention, and failed to issue a denial that would have triggered appeal rights and further review procedures.

131. Although ORR's regulations require prompt adjudication of sponsor applications, periodic supervisory review, and concurrent planning designed to

prevent prolonged detention, Respondents failed to carry out those protections in Petitioner's case.

132. As a result, Petitioners has remained detained for more than six months without receiving the procedural safeguards contemplated by federal law and regulation.

133. The third *Mathews* factor also favors Petitioners. Respondents have a legitimate interest in ensuring that children are released only to safe caregivers. However, that interest has already been accommodated through months of sponsor vetting, background checks, case reviews, trafficking assessments, and concurrent-planning efforts.

134. Accordingly, Respondents' continued detention of Petitioners without a sponsorship determination, meaningful review, or access to the procedural protections contemplated by the TVPRA and ORR's governing regulations violates Petitioner's procedural due process rights under the Fifth Amendment.

PRAYER FOR RELIEF

WHEREFORE, Petitioners respectfully requests this Court to grant the following:

1) Assume jurisdiction over this matter;
2) Issue a writ of habeas corpus directing Respondents to immediately release Petitioners R.M.L. and V.M.L. from ORR custody to the care and custody of her mother, B.L.G.;
3) In the alternative, order Respondents to immediately release Petitioners R.M.L. and V.M.L. to the ACG or another appropriate caregiver approved by the Court;

4) Declare that Respondents' continued detention of Petitioners violates the Trafficking Victims Protection Reauthorization Act, 8 U.S.C. § 1232.

5) Declare that Respondents' continued detention of Petitioners violates the Due Process Clause of the Fifth Amendment;

6) Enjoin Respondents from re-detaining Petitioners absent compliance with the procedural protections and statutory requirements governing release determinations for unaccompanied children;

7) Award Petitioners their attorneys' fees and costs pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412, and any other applicable authority;

8) Award such other and further relief as the Court deems just and proper.

Dated: August 4, 2026

Respectfully Submitted,

/s/ Stephanie Periban Palacios
Stephanie Periban Palacios

Pro Bono Counsel for Petitioners

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

I represent Petitioners, R.M.L. and V.M.L., and submit this verification on their 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 4th day of August 2026.

Respectfully Submitted,

/s/ Stephanie Periban Palacios
Stephanie Periban Palacios

Pro Bono Counsel for Petitioners