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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,

Petitioner,

v.

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

Respondents.

Case No. 2:26-cv-08585

Hon. Monica Ramirez Almadni
United States District Judge

Hon. Douglas F. McCormick
United States Magistrate Judge

PETITIONERS' TRAVERSE TO VERIFIED PETITION FOR WRIT OF HABEAS CORPUS

[Supplemental Declaration of Marion Donovon-Kaloust filed concurrently herewith]

INTRODUCTION

Petitioners R.M.L. and V.M.L. are 15 and 13-year-old unaccompanied minors who have been detained in ORR custody for **204 days**, despite having two sponsors who have each complied with ORR's vetting requirements. Still, ORR has issued no release decision and continues to detain Petitioners in violation of their rights under the TVPRA and the Fifth Amendment.

After nearly seven months in ORR custody, Respondents now identify only one remaining obstacle to Petitioner's release: requesting a category 1 waiver on behalf of sponsor due to the sponsor and Alternate Care Giver ("ACG") not possessing policy compliant proof of identification. Respondents' own records do not identify any substantive basis to deny release to sponsor B.L.G.

To the contrary, Respondents' evidence establishes that B.L.G received a positive home study recommendation, successfully completed extensive sponsor vetting, and provided court documentation on the sole identified potential issue (probation for driving under the influence) on the background check of the ACG, Respondents do not contend that B.L.G is unsuitable. They do not contend that release would place Petitioner at risk. They do not identify any unresolved concern involving danger, trafficking, abuse, neglect, or exploitation.

The Answer therefore confirms what this case has always been about: not child safety, but ORR's delays in sponsor vetting to limitlessly detain Petitioner. This cannot stand. The Court should grant the habeas petition in full and order the immediate release of Petitioner to her sponsor, B.L.G.

FACTUAL BACKGROUND

The facts alleged in Petitioner's Petition are incorporated by reference here. *See* ECF No. 1 ("Petition"). The following summarizes and briefly supplements those facts:

I. Petitioner Spends Nearly 7 Months In ORR Custody

Petitioners R.M.L. and V.M.L. ("Petitioners" or "Children") entered ORR custody on January 22, 2026, after DHS designated her an unaccompanied child. Petition ¶ 22; Answer at 14. At the filing of this reply, the Children have now remained in ORR custody for more than 204 days without any decision regarding their release to any sponsor. Petition ¶¶ 44-47, 85; Answer at 17.

II. ORR Never Decided The Sponsor Suitability Of Petitioners' Mother

Petitioners' mother, B.L.G., sought reunification immediately after the Child entered ORR custody and participated in ORR's sponsorship process for months. Petition ¶¶ 36-43; Answer at 14-17. She complied with ORR's requests, submitted supporting documentation, and remained actively involved in the reunification process. Petition ¶¶ 36-43; Answer at 14-17.

Although ORR later identified background-check issues involving other household members, not B.L.G. herself, she continued pursuing reunification and exploring alternative avenues to secure her daughter's release. Answer at 14-17. What remains undisputed is that ORR never approved B.L.G. as a sponsor, never denied her application, never issued a Sponsor Suitability Determination ("SSD"), and never provided appeal rights. Answer at 17. B.L.G. remains available and

willing to provide for her daughters' physical and emotional well-being. Petition ¶¶ 41, 79, 95.

III. June – July 2026 Background Checks Show No Suitability Issues

On June 3, 2026, 2026, ORR received B.L.G.'s results of her background check. Answer at 16. The June 2026 background check results did not disqualify B.L.G from sponsoring Petitioners. *Id.* On July 6, 2026, the results of the internet background check form B.L.G. were received. *Id.* On July 9, 2026, a positive home study report was received by ORR. *Id.* On July 22, 2026, DNA testing results were received by ORR, which confirmed the relationship between B.L.G. and the petitioners. *Id.* None of these results showed that B.L.G. had any suitability issues.

On July 16, 2026, ORR requested additional court documentation from the ACG being on probation for driving under the influence. *Id* at 17. On August 7, 2026, the sponsor provided court documents and meeting records for the ACG's court-mandated Alcoholics Anonymous meetings. *Id.* ORR does not maintain that the ACG has any suitability issues.

IV. THE REMAINING REQUIREMENT – CAT 1 WAIVER

Respondents now identify only one remaining obstacle to Petitioner's release: a category 1 waiver on behalf of the sponsor due to the sponsor and ACG not possessing policy-compliant proof of identification. Answer at 17.

B.L.G first connected with ORR on January 23, 2026. *Id.* at 14. Since March 31, 2026, ORR had a copy of B.L.G.'s passport. *Id.* at 15. It was not until August 4, 2026, that ORR emailed the Mexican consulate to request verification of the identification documents for B.L.G. and the ACG. *Id.* at 15. On August 5, 2026, the

Mexican consulate responded to ORR's request and confirmed that the documents identified were both valid and current. *Id.* Finally, on August 11, 2026, ORR submitted a request for a category 1 waiver on behalf of the sponsor due to the sponsor and ACG not possessing policy-compliant proof of identification. *Id.*

Concerningly, Respondents' allege that these waiver requests are "reviewed on a case-by-case basis upon receipt of a completed sponsor application and once sponsor vetting is completed." *Id.* However, Respondents fail to point to policy supporting that statement.

PROCEDURAL HISTORY

Petitioners filed their Verified Petition for Writ of Habeas Corpus on August 4, 2026, challenging their continued detention in ORR custody and asserting violations of the TVPRA and the Fifth Amendment. ECF No. 1 ("Petition"). The Court assigned this case to the calendar of the Honorable Judge Monica Ramirez Almadani and referred the matter to Magistrate Judge Rozella A. Oliver. ECF Nos. 5. The Court issued a briefing schedule pursuant to General Order 26-05 on July 6, 2026. ECF Nos. 6. On August 7, 2026, the Court granted Petitioner's application for appointment of Erica Santamaria as Guardian Ad Litem. ECF No. 8. Respondents filed their Answer, along with the Declaration of Elizabeth Kronk, on July 11, 2026. ECF No. 10. Petitioner now submits this Reply.

LEGAL FRAMEWORK

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

Children Bureau Policy Guide (the "Policy Guide"). *See* Answer at 7:23-9:23. Petitioner clarifies and supplements those procedures here.

I. Release Timing Requirements

Notably absent from Respondents' Answer are the timing requirements established by regulation that govern UC release. ORR must effectuate release to a vetted sponsor – with preference for 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. To ensure UCs are released "in a safe, efficient, manner without unnecessary delay," ORR has mandated timeframes to adjudicate a completed Family Reunification Packet ("FRP"). Absent complicating factors, ORR must adjudicate completed FRPs within 10 calendar days of parent sponsors and 14 calendar days for close relatives. 45 C.F.R § 410.1205(b). ORR is further required to periodically review pending FRPs –specifically, a *formal review every 90 days* for applications that remain pending – to ensure the reunification process does not stall. 45 C.F.R § 410.1207(a). This review is not cursory; ORR supervisory staff must timely resolve the reasons that a release application remains pending and determine possible steps to accelerate the child's safe release. *Id.* ORR must further update both potential sponsor and child, explain why the process is incomplete, and work with potential sponsors, relevant stakeholders, and ORR to address unresolved portions of the FRP.

II. Alternative Caregiver or Plan For Release

ORR policy requires concurrent release planning alongside the Family Reunification Packet ("FRP"). ORR's *Unaccompanied Child Manual of Procedures*, Section 2: *Safe and Timely Release from ORR Care* ("UC MAP § 2"), directs ORR personnel to identify and vet an alternate adult caregiver alongside the primary sponsor to ensure that a contingency caregiving plan exists if the sponsor becomes

unable to care for the child. *See* UC MAP § 2, at 29–30, 55–57. Sponsors must also provide information verifying the identity of adult household members and any adult caregivers identified in the sponsor care plan. *Id.* at 29.

ORR's concurrent-planning procedures require identification of an alternate potential sponsor or other release option when concerns arise during the assessment process or when the sponsor is unable to complete the assessment process in a timely manner. *See* UC MAP § 2, at 7, 9. If concurrent planning is undertaken, ORR personnel should document the reason for concurrent planning, any concerns regarding the potential sponsor, and any available information concerning additional sponsors or alternate release plans. *Id.* at 45

ARGUMENT

I. RESPONDENTS' EXHAUSTION ARGUMENT DEFEATS ITSELF

Petitioner was not required to exhaust administrative remedies because Respondents have never provided a final decision, including a sponsor denial, a suitability determination, or any other administratively appealable action. Respondents contend that judicial review is "untimely" because the "sponsorship applications for Petitioners are still incomplete." Answer at 17. Respondents' argument is fundamentally self-defeating. Under Respondents' reasoning, the longer ORR delays making a decision, the less judicial scrutiny becomes available. This is not the law. Respondents' argument fails for two reasons.

First, Respondents ignore ORR is withholding the decision that triggers any administrative remedy available to Petitioner. Their own description of the regulatory framework confirms that appeal rights arise only after ORR issues a denial decision. Answer at 10-11. Here, ORR has issued no such decision. Petition ¶¶ 28, 71, 73-75, 78,

101, 111 ; Answer at 23. By Respondents' account, ORR has spent the better part of a year, vetting B.L.G and the ACG, yet still has not rendered a final reunification decision. Answer at 14-17. Petition ¶¶ 24-28, 36-43. Petitioner's claim is therefore not premature. It arises from the absence of any decision after a reunification process that has effectively stalled. ORR continues to withhold the very determination that would trigger administrative review. Respondents therefore seek to use ORR's failure to act as a bar against judicial review of that failure. This is nonsensical.

Second, the futility exception to administrative exhaustion applies based on Respondents' own timeline. Exhaustion is excused where resort to administrative procedures would be futile. *Lieske v. Morlock*, 570 F. Supp. 1426, 1429 (N.D. Ill. 1983); Answer at 18 (citing same). Here, Respondents acknowledge that ORR completed the sponsor assessment for B.L.G., obtained a positive home study recommendation, resolved any background check issues, and now identifies only obtaining a category 1 waiver as the remaining step before a release decision. *Id.* at 17. Yet, Respondents still cannot identify any timeline for a final determination, claiming only that once the waiver is "completed and if granted, ORR will promptly make its final sponsor suitability determination on the Sponsor's application and release Petitioners to her custody, if appropriate" Kronk Decl. ¶¶ 66.

That is not a timeline to release. Respondents' position amounts to: because ORR has still not decided, Petitioner must continue waiting for ORR to decide. The law does not require endless deference to an administrative process that has produced no final decision. Indeed, courts have recognized that prolonged delays in ORR's reunification process raise serious liberty concerns and may warrant judicial intervention

notwithstanding ongoing administrative proceedings. *See Lucas R. v. Becerra*, 2022 WL 2177454, at *23-26 (C.D. Cal. Mar. 11, 2022) (recognizing due process concerns arising from prolonged delays in ORR's reunification process and lack of timelines for sponsorship determinations); *Saravia for A.H. v. Sessions*, 905 F.3d 1137, 1145-46 (9th Cir. 2018) (recognizing federal courts' authority to review continued ORR detention notwithstanding ongoing administrative processes).

The Court should therefore reject Respondents' exhaustion argument.

II. RESPONDENTS' ANSWER CONFIRMS ORR VIOLATED THE TVPRA

Under the TVPRA, Petitioner has the right to prompt placement in the least restrictive setting that is in her best interest. 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. *Flores v. Sessions,* 862 F.3d 863, 876 (9th Cir. 2017). ORR's assignment under the statute is narrow: to promptly 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). The now-codified Foundational Rule provides timing requirements to ORR to ensure a child's placement is prompt—parent-sponsor applications generally must be adjudicated ***within ten calendar days*** of receipt, close-relative sponsor applications ***within fourteen calendar days.*** 45 C.F.R. § 410.1205(b). And, ORR must 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). Respondents' Answer fails for two reasons: (1) it ignores Petitioner's right to prompt placement and the statutory deadlines imposed to protect that right; and (2) it explains its authority to vet

sponsors generally, and offers no credible defense for its failure to make any placement decision on either of the sponsors it vetted here.

A. Respondents Offer No Defense For Their Violation of The TVPRA

Respondents' Answer fails because it never seriously attempts to defend ORR's compliance with the TVPRA. Instead, Respondents devote nearly several pages to explaining ORR's authority to investigate sponsors, conduct background checks, order home studies, and assess sponsor suitability. Answer at 3-14. That authority is not in dispute. The issue before this Court is whether ORR violated the TVPRA when it exceeded the statutory timing requirements several times over to make a placement decision and holds Petitioner in custody without limit.

Congress enacted the TVPRA to ensure that children are promptly placed in safe homes, not indefinitely detained while ORR continues an ever-expanding review process. The statute requires prompt placement in the least restrictive setting appropriate to the child's needs. 8 U.S.C. § 1232(c)(2)(A). The Foundational Rule implements that mandate by requiring ORR to generally adjudicate parent-sponsor applications within ten calendar days, close-relative applications within fourteen calendar days, and conduct automatic review of pending applications within ninety days of a child's entry into ORR custody. 45 C.F.R. §§ 410.1205(b), 410.1207(a). Here, the contrast between the statutory deadlines and Respondents' conduct is stark. Congress contemplated decisions measured in days. Respondents seek to justify detention measured in months (nearly 10 months).

Notably, Respondents never argue ORR complied with any of the TVPRA's timing requirements. Respondents do not meaningfully address these requirements at all.

Instead, they change the subject and discuss ORR's vetting authority. Answer at 3-26. But, Respondents' authority to vet sponsors is not at issue. Congress already accounted for vetting in enacting the TVPRA. Here, ORR exceeded that vetting authority by disregarding any timing requirements.

Respondents' Answer effectively reads any timing protections out of the statute. It never mentions them. Under their theory, ORR may continue detaining a child so long as some aspect of sponsor review remains incomplete, regardless of how long the child has remained in custody, how many rounds of vetting have already occurred, or whether any actual safety concern remains. Answer at 14-17. Under that view, the ten-day, fourteen-day, and ninety-day requirements impose no meaningful constraint on ORR at all. That is exactly what happened here.

ORR's own evidence confirms that it failed to adjudicate any sponsorship decision within the timeframe required by statute. ORR obtained B.L.G.'s completed sponsor application on May 26, 2026. Petition ¶ 37. Yet ORR never adjudicated B.L.G.'s parent-sponsor application within the ten days contemplated by 45 C.F.R. § 410.1205(b), and never utilized the mandatory ninety-day review process to reach a final placement decision. 45 C.F.R. §§ 410.1205(b), 410.1207(a). Instead, Petitioner continues to languish in ORR custody while both sponsorship pathways remain pending.

Petitioner has now spent 204 days in ORR custody; Respondents offer no credible defense for that delay. Their Answer explains ORR's authority to vet sponsors generally but does nothing to defend its failure promptly release Petitioner to a sponsor here.

Accordingly, the Answer confirms, rather than refutes, Petitioner's claim that ORR violated the TVPRA.

B. Respondents' Own Evidence Establishes There Is No Basis To Continue Detaining Petitioner

In defense of their 204-day detention of Petitioner, Respondents vaguely argue, "ORR cannot simply release a child in its care on their own recognizance, or to just anyone who is willing to sponsor them." Answer at 19. Petitioner agrees, but this case is not about release to "just anyone." Here, ORR failed to release Petitioner or make any decision to a willing sponsors who complied with ORR's vetting requirements.

1. LACKING POLICY COMPLIANT IDENTIFICATION DOES NOT MAKE B.L.G UNSUITABLE

Respondents' claim they just need more time to complete a single step to vetting B.L.G.— a category 1 waiver on behalf of the sponsor due to the sponsor and ACG not possessing policy-compliant proof of identification. Answer at 17. On March 7, 2025, ORR Rule 2.2.4, Required Documents for Submission with the Sponsor Application for Release was updated. Declaration of Marion Donovan-Kaloust ("Donovan-Kaloust Decl.") at ¶ 8. Relevant here, one of those updates included changes to the list of acceptable documents to verify identity. *See* ORR Rule 2.2.4.

In Category 1 cases (cases in which the sponsor is a parent or legal guardian), sponsors may request a waiver of this requirement per ORR policy. Ms. Kronk's Declaration submitted with Respondents' answer states that "[t]hese waiver requests are reviewed on a case-by-case basis upon receipt of a completed sponsor application and once sponsor vetting is completed." However, multiple cases in which the sponsor was allowed to request the waiver, and the waiver adjudicated earlier in the reunification process, while ORR stated there were still outstanding reunification steps to complete.

Donovan-Kaloust Decl. at ¶ 9. There is no written policy that the waiver cannot be requested or adjudicated until after all other sponsor vetting steps are complete. *Id.*

Respondents, by their own admission, confirm that, on August 5, 2026, the Mexican consulate confirmed the identification documents for B.L.G. and the ACG were both valid and current. Answer at 17. But more concerningly, based on Respondents' own evidence the request for the waiver was only made post litigation on August 11, 2026. *Id.* This raises serious questions regarding whether they reflect a genuine essential requirement for release or are a post-litigation effort to justify ORR's continued delay.

2. B.L.G. IS FULLY VETTED AS A SPONSOR IN EVERY MATERIAL RESPECT

If the only pending requirement is to obtain a category 1 waiver on behalf of the sponsor due to the sponsor and ACG not possessing policy-compliant proof of identification, there is still no bar to releasing Petitioner. The previous vetting did not raise any concerns regarding release. As such, the waiver does not seem to be an "essential" vetting requirement as Respondent claims. Answer at 21.

As Respondents state in their Answer on August 11, 2026, that B.L.G received a positive home study recommendation, successfully completed extensive sponsor vetting, and provided court documentation on the sole identified potential issue (probation for driving under the influence) on the background check of the ACG. Answer at 16-17.

Outside of not having a policy compliant proof of identification, B.L.G. has been vetted in every material respect. On January 23, 2026, ORR identified B.L.G. as a sponsor and began vetting her. Answer at 13. On January 24, 2026, B.L.G. provided

proof of her relationship with Petitioners by providing Petitioners' birth certificates, showing she is the biological mother of the Children. Answer at 13. On July 9, 2026, a positive home study report was received by ORR. Answer at 16.

After months of vetting, Respondents identify only a category 1 waiver on behalf of the sponsor due to the sponsor and ACG not possessing policy-compliant proof of identification because ORR just made this request on August 11, 2026. Answer at 17. Remarkably, Respondents do not claim any issues with the identification provided by B.L.G. They do not claim B.L.G. is unsuitable. Nor that release would place Petitioners at risk. Nor could they, all those concerns have been cleared. Instead, Respondents seek to continue detention because ORR delay making a decision on the sponsorship application. *Id.* at 16-17.

The litigation timeline makes the point even clearer. Petitioner filed this habeas action on August 4, 2026. ECF No. 1. Only after the filing of this litigation, Respondents identified and initiated the waiver request (August 11, 2026). Answer at 17. The record reflects that reunification efforts accelerated only after Petitioner sought judicial intervention.

3. ORR IDENTIFIES NO BASIS TO DENY SPONSOR

Respondents' own factual narrative shows they have no basis to deny release of Petitioner. Respondents' Answer states ORR will deny release if: (1) the potential sponsor is not willing or able to provide for the child's physical or mental well-being; (2) the potential sponsor is not willing to complete the mandatory fingerprint check; (3) the physical environment of the home presents a risk to the child's safety or well-being; or (4) release of the UAC would present a risk to him or herself, the sponsor, household, or

community. Answer at 9; *see also* UACB Policy Guide § 2.7.4; 45 C.F.R. § 410.1205. Respondents identify none of those circumstances here. Nor could they.

As argued above, B.L.G. is willing and able to provide for the Children's physical and mental well-being. B.L.G. complied with ORR's fingerprinting requirements and has submitted to background screening requests by ORR. Answer at 14-17. The home study for B.L.G. was conducted on July 9, 2026, and resulted in a positive recommendation. Answer at 16. Lastly, there is no finding that release of the Child would present a risk to herself, the sponsor, household, or community. Indeed, the evidence clearly weighs to the contrary.

Unbelievably, Respondents rely on their previous failure to place children in a safe environment over a decade ago to try to justify their continued custody of Petitioner. Answer at 6 (discussing a congressional subcommittee investigation in 2015, following reports that ORR placed eight children with members of a human trafficking ring that forced the children to work on an egg farm for 12 hours a day, six or seven days a week.) While this placement failure is undisputably concerning, ORR's previous misplacement of those children does nothing to excuse their failure to render a decision to release the Child here. Though it may call into question ORR's ability to vet sponsors in the first place, it does not mean there are any credible safety concerns about the sponsors here. Indeed, there are not. B.L.G. passed multiple background checks, received a positive home study, and there is no evidence of suitability concerns. Answer at 16-17. Respondents devote substantial portions of the Answer explaining the circumstances under which ORR denies sponsorship applications. Yet they identify none of those circumstances here. Their own

evidence therefore confirms the central point of the Petition: this case is not about danger. It is about delay.

C. The TVPRA Requires Judicial Guidance

This Court has now repeatedly confronted challenges involving prolonged ORR detention while sponsorship determinations remain pending. *See,* e.g., *C.S.M. v. Hernandez*, No. 5:26-cv-01144-JWH-ACCV (C.D. Cal. Mar. 11, 2026) (habeas petition challenging prolonged ORR custody based on its failure to timely release to petitioner to sponsor); *Benigno S.Z. v. Babudar*, No. 5:26-cv-00701-AH-PD (C.D. Cal. Feb. 14, 2026) (same); *Osvaldo Joan R.A. v. Hernandez*, No. 2:26-cv-00482-AB-PD (C.D. Cal. Jan. 16, 2026) (same); *Gerardo M.M. v. Beltran*, No. 5:26-cv00085-SVW-PVC (C.D. Cal. Jan. 8, 2026) (same); *Hanny Sharline S.U. v. Beltran*, No. 2:25-cv-11073-MEMF-PVC (C.D. Cal. Nov. 18, 2025) (same). This case presents an unresolved and recurring question regarding ORR's authority under the TVPRA.

Throughout the Answer, Respondents defend ORR's authority to investigate sponsors. They do not identify any meaningful limit on how long a child may remain detained while that investigation continues. Answer at 17-26. Nor do they explain when ten-day, fourteen-day, and ninety-day timing requirements cease to matter. The Answer offers no limiting principle. Nothing in the TVPRA suggests Congress intended such a result.

To the contrary, the TVPRA and its implementing regulations impose mandatory timing requirements, require prompt placement efforts, and direct ORR to place children in the least restrictive setting appropriate to their circumstances. 8 U.S.C. § 1232(c)(2)(A); 45 C.F.R. §§ 410.1203, 410.1205, 410.1207.

Absent judicial guidance, the same dispute presented here will continue to recur: ORR will delay the sponsor vetting process, fail to make any release determination, the child will remain detained, litigation will follow, and ORR may then attempt to avoid review by finally rendering the decision it should have made months earlier. The Court should reject that cycle and resolve the legality of Respondents' conduct on the merits.

III. RESPONDENTS' INDEFINITE DETENTION OF PETITIONER VIOLATES THE FIFTH AMENDMENT

The Fifth Amendment prohibits the government from depriving any person of liberty without due process of law. U.S. Const. amend. V. Courts evaluate procedural due process claims by applying the *Mathews* balancing test, weighing: (1) the private interests at stake; (2) the risk of erroneous deprivation under existing procedures; and (3) the government's interest. *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976). Petition ¶¶ 89-103.

Respondents offer no meaningful response to that framework. Instead, as with the TVPRA claim, Respondents spend much of their Answer explaining ORR's authority to conduct sponsor vetting generally while largely ignoring what occurred here. Answer at 4-14. The issue before this Court is not whether ORR may investigate sponsors. It may. The issue is whether ORR may continue detaining a child for over 200 days without rendering a final reunification decision. Respondents' Answer provides no justification for their violation of the Child's due process rights.

A. Under the *Mathews* Balancing Test, All Factors Weigh In Favor of Petitioner

1. PETITIONER'S MOST FUNDAMENTAL INTERESTS—LIBERTY AND FAMILY-INTEGRITY ARE AT STAKE HERE

The first *Mathews* factor considers the private interests affected by the challenged government action. *Mathews*, 424 U.S. at 335. Those interests are extraordinary here.

Petitioners are children who has spent nearly seven months in federal custody. Petition ¶ 21. They have been separated from their family for the better part of a year, despite the availability of a willing caregiver. Petition ¶¶ 23. The liberty interest in freedom from institutional confinement lies at the core of the Due Process Clause. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). Petitioner also possesses a significant interest in family integrity and reunification with her mother. *Id.*

Respondents scarcely address these interests. Instead, they contend that neither Petitioner's liberty interest nor her family-integrity interest outweighs the remaining *Mathews* factors because the sponsorship process remains ongoing. Answer at 21-22. But that is not an argument about the magnitude of the liberty interests at stake. It is an argument about the adequacy of the procedures being employed and is properly addressed under the second and third factors.

Indeed, Respondents never seriously dispute that a child's interest in freedom from confinement and reunification with family members is substantial. Nor could they. The first *Mathews* factor overwhelmingly favors Petitioner

2. THE RISK OF ERRONEOUS DEPREVATION IS HIGH

The second *Mathews* factor examines the risk of erroneous deprivation under existing procedures. *Mathews*, 424 U.S. at 335. With no response to this Court's decision in *C.S.M.* See No. 5:26-cv-01144-JWH-ACCV (C.D. Cal.) (Report & Recommendation at 8–9) (concluding that a six-month detention during an unresolved sponsorship process created an unacceptably high risk of erroneous deprivation where ORR failed to provide

the timely review contemplated by its regulations.) Respondents merely assert they will make a sponsor determination and release decision at some point. Answer at 26.

Respondents' Answer confirms that ORR has issued no release decision. It has not approved sponsorship, denied sponsorship, or issued any determination on sponsor suitability. Answer at 17, 26 And so, it has not triggered any appeal rights. Moreover, it still cannot identify when a final decision will be made. *Id.* A process with no decision point ceases to be process and becomes indefinite detention.

Respondents' answer to this problem is no answer at all. First, they rely principally on *Lucas R.* and argue that ORR is not required to prove a sponsor is unfit under the clear and convincing evidence standard. Answer at 22. That argument misses the point. Petitioners are not demanding a pre-determination hearing or a heightened evidentiary burden. Petitioners are challenging ORR's failure to make any determination at all.

Second, ORR's own process is causing unreasonable delay. According to Respondents, the only remaining obstacle to release is a category 1 waiver on behalf of the sponsor due to the sponsor and ACG not possessing policy-compliant proof of identification. Answer at 17. Respondents identify no safety concern revealed by the prior checks. The Answer establishes that B.L.G. received a positive home study recommendation, and passed extensive vetting, Answer at 16-17. Thus, after more than 200 days in custody, the alleged remaining issue is not a concern regarding abuse, trafficking, neglect, or danger. It is an additional administrative step required by ORR that only remains outstanding because of ORR's own delay in the vetting process.

Respondents also argue that Petitioner cannot establish unreasonable delay because ORR continued working on the sponsorship applications. Answer at 24-25. But the existence of activity does not negate delay. Here, it highlights it.

The timeline of this case shows ORR's delays is unreasonable. ORR began vetting B.L.G. in January 2026 and yet, ORR still has not rendered any placement decision. Answer at 13- 17. That is not evidence that the procedures are working. It is evidence that the procedures have failed to produce a timely determination.

Respondents' own chronology therefore demonstrates a substantial risk of erroneous deprivation. After more than 200 days in custody, there is still no endpoint, no final determination, and no limiting principle governing how much longer this process may continue.

3. RESPONDENTS HAVE IDENTIFIED NO LEGITIMATE GOVERNMENT INTEREST

The government undoubtedly has a legitimate interest in ensuring that children are released only to safe and appropriate caregivers. Petitioners do not dispute that proposition. However, that interest does not outweigh a child's interest in freedom from confinement after nearly 7 months in custody.

Respondents repeatedly emphasize ORR's responsibility to protect children from trafficking and exploitation. Answer at 3-10. That governmental interest is real and important. But, Respondents identify no evidence that proposed sponsor presents such a risk. Indeed, their own evidence demonstrates the opposite and shows no safety concerns as to either sponsor. Answer at 16-17. The government's interest is at its lowest where Respondents identify no unresolved safety concern and no basis for denying release.

Nor does *Lucas R.* help Respondents. That case addressed ORR's authority to establish sponsorship procedures and the standard applicable to sponsorship determinations. It did not hold that ORR may indefinitely postpone a final determination while a child remains in custody. Answer at 21-23.

Balancing the *Mathews* factors confirms that Respondents' continued detention of Petitioners without a final reunification determination violates their procedural due process rights.

B. Respondents' Continued Detention of Petitioner Violates Substantive Due Process

Respondents argue that Petitioner's substantive due process claim fails because ORR's sponsor-vetting process does not "shock the conscience." Answer at 24. Respondents once again miss the point. Substantive due process prohibits government action that is arbitrary or not reasonably related to a legitimate governmental objective. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). Thus, even where the government may initially detain an individual for a legitimate purpose, continued detention becomes constitutionally problematic once it no longer bears a reasonable relationship to that purpose, as is the case here.

First, the Answer establishes that the purported safety concerns underlying ORR's investigation have already been addressed. B.L.G. completed the sponsorship process, passed a positive home study, and submitted to background checks. Answer at 14-17. As discussed above, Respondents identify no evidence that B.L.G. poses a danger to Petitioners and no evidence that release would expose Petitioners to trafficking, abuse, neglect, or exploitation. *Id.*

Indeed, Respondents do not contend that Petitioners remains detained because B.L.G. is unsuitable. They contend only that a waiver is needed for B.L.G. for not possessing policy-compliant proof of Identification. Answer at 17. More importantly, Respondents do not provide a timeframe for obtaining the waiver. Thus, after more than 204 days of detention, Respondents identify no substantive safety concern justifying Petitioner's continued custody.

Second, this case challenges ORR's failure to decide, not its decision to vet. That distinction matters. Throughout the Answer, Respondents defend ORR's authority to conduct vetting. Answer at 3-17. But Petitioners' substantive due process claim does not arise from the existence of the vetting process. It arises from ORR's inability to bring that process to an end. The Constitution does not permit the government to hold the Petitioner in detention indefinitely.

Third, continued detention no longer bears a reasonable relationship to the purpose that supposedly justified it. At the outset of custody, ORR's detention of Petitioners served a legitimate purpose: providing care while evaluating potential sponsors for their safe release. But after more than 200 days, positive vetting results, a favorable home study, and completion of background checks, that rationale has been exhausted. Answer at 16-17. The continued confinement of Petitioners now appears tied not to any identified danger, but to administrative inertia.

This case concerns the specific detention of a child for almost seven months where the sole remaining impediment to release is an administrative step. *Id.* at 17.

Accordingly, Respondents' continued detention of Petitioner violates substantive due process because it no longer bears a reasonable relationship to the governmental interests that justify detention in the first place.

IV. RESPONDENTS' ATTEMPT TO RECAST THIS PETITION AS AN APA CLAIM FAILS

Respondents attempt to recharacterize Petitioners' claims as APA challenges to agency action. Answer at 25. That argument fails because it is inconsistent with both the nature of Petitioners' claims and Respondents' own position in this litigation.

First, Petitioners does not seek review of an adverse agency decision under the TVPRA. There is no agency decision to review. Respondents repeatedly emphasize that B.L.G.'s sponsorship application remains pending and that ORR has not yet made a final suitability or release determination. Answer at 25. Petitioner's claims arise precisely because ORR has failed to act. Respondents cannot simultaneously argue that no final decision exists for purposes of exhaustion, while insisting that Petitioner's claims must be analyzed as challenges to final agency action. Those positions are irreconcilable.

Second, Respondents' argument that sovereign immunity bars Petitioners' TVPRA claim likewise fails. Answer at 25. Petitioner does not seek money damages, review of a completed agency action, or other retrospective relief against the United States. Rather, they invoke this Court's habeas jurisdiction under 28 U.S.C. § 2241 to challenge the legality of their ongoing detention and seeks prospective relief regarding that detention. Respondents cannot simultaneously continue detaining Petitioners while arguing that sovereign immunity shields the Executive's continued detention of a child from judicial review. Answer at 25. It does not. Habeas review exists precisely to test the legality of

executive detention, including detention occurring in the absence of any final agency decision.

Moreover, Petitioner invokes the TVPRA because it supplies the substantive legal standards governing ORR's custody and release decisions. This habeas action challenges the legality of Petitioner's continued detention in light of those statutory requirements and the Fifth Amendment. Petition ¶¶ 69-112. Federal courts have long exercised habeas jurisdiction to review the legality of executive detention, including detention of children in ORR custody. *See Saravia v. Sessions*, 280 F. Supp. 3d 1168, 1195-99 (N.D. Cal. 2017); *Saravia for A.H. v. Sessions*, 905 F.3d 1137, 1145-46 (9th Cir. 2018).

Third, Respondents' reliance on APA finality principles only highlights the problem presented here. If there is no final agency action because ORR has never issued a decision, then that absence of a decision is exactly what gives rise to Petitioners' claims. The government cannot insulate prolonged detention from judicial review by indefinitely withholding the very determination that would trigger review. As the *Lucas R.* litigation recognized, the absence of meaningful timelines for sponsorship decisions creates a substantial risk of prolonged detention. *See Lucas R. v. Becerra,* 2022 WL 2177454, at *20-26 (C.D. Cal. Mar. 11, 2022). Answer at 25.

Respondents APA arguments have little relevance to the claims actually before the Court.

V. SUBSEQUENT RELEASE DOES NOT MOOT PETITIONERS'S CLAIMS

Respondents repeatedly represent that once the waiver is "completed and if granted, ORR will promptly make its final sponsor suitability determination on the Sponsor's application and release Petitioners to her custody, if appropriate" Kronk Decl.

¶¶ 66. However, subsequent release of Petitioner would not eliminate this Court's ability to grant meaningful relief.

In *C.S.M. v. Hernandez*, this Court rejected a mootness argument after ORR released the child during the pendency of the habeas proceeding, pursuant to court order. No. 5:26-cv-01144-JWH-ACCV, Report & Recommendation at 2-6 (C.D. Cal. May 13, 2026). The court concluded that release did not extinguish the controversy because the child remained subject to future immigration proceedings and therefore retained a concrete interest in further habeas relief. *Id.* at 3-6. The court further reasoned that release did not deprive the court of the ability to enter prospective relief addressing the legality of the detention and recommended issuance of a writ prohibiting re-detention absent compliance with due process requirements and applicable regulations. *Id.* at 3,9. The same reasoning applies here. Petitioners seek more than immediate release. Petition at 28-29 (Prayer for Relief). Petitioners also seek a determination that Respondents' prolonged detention violated the TVPRA and the Fifth Amendment, attorneys fees and costs, and any other relief the Court may deem appropriate. *Id.* at 29 (Prayer for Relief ¶¶ 4-8). Those claims do not disappear merely because Respondents elect to release Petitioners after litigation has commenced. As *C.S.M.* recognized, release alone does not provide lasting protection against future unlawful detention, nor does it resolve the legality of the challenged conduct.

CONCLUSION

Respondents' Answer confirms that Petitioners have remained in ORR custody for 204 days despite the availability of two vetted sponsors. This case is not about danger. It is about delay.

Pursuant to General Order 26-05, "[t]he matter will stand submitted for final disposition upon filing of the reply." C.D. Cal. Gen. Ord. 26-05 § 2. Petitioners have now filed their Reply and the matter is therefore deemed submitted. Petitioners respectfully requests that the Court render judgment and grant the Petition in full, including her immediately release to B.L.G.

Dated: August 14, 2026

Respectfully Submitted,

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