UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION

R.M.L. et al.,[1] Petitioners, v. RUBY HERNANDEZ et al., Respondents.	Case No. 2:26-cv-08585-MRA-DFM Report and Recommendation of United States Magistrate Judge

This Report and Recommendation is submitted to the Honorable Mónica Ramírez Almadani, United States District Judge, under 28 U.S.C. § 636 and General Order 05-07 of the United States District Court for the Central District of California.

I. INTRODUCTION

Petitioners R.M.L. and V.M.L. are sisters who were placed in the custody of the Office of Refugee Resettlement ("ORR") in January 2026 while their mother sought to sponsor their release. On August 4, 2026, they petitioned for a writ of habeas corpus under 28 U.S.C. § 2241, alleging that ORR's failure to adjudicate their mother's sponsorship applications violated

[1] Petitioners proceed by pseudonym, and portions of the record are sealed, under the Court's August 7, 2026 order. See Dkt. 8. The Court refers to Petitioners by their initials.

the Trafficking Victims Protection Reauthorization Act, 8 U.S.C. § 1232 (Count One), and the substantive and procedural components of the Due Process Clause (Counts Two and Three). See Dkt. 1 ("Petition") ¶¶ 104-34.

Petitioners sought immediate release to their mother, declarations that their detention was unlawful, an injunction barring re-detention absent compliance with the requirements governing release of unaccompanied children, and fees and costs. See Petition at 29-30. Respondents answered on August 11, 2026, see Dkt. 10 ("Answer"), supported by the declaration of Elizabeth Kronk, see Dkt. 10-1 ("Kronk Decl."). Petitioners filed a traverse on August 14, 2026. See Dkt. 11.

After the Court twice ordered supplemental briefing, see Dkts. 12, 14, Respondents established that ORR approved release of both Petitioners to their mother on August 20, 2026, and that both children were released to her on August 21, 2026, at approximately 7:33 p.m. See Dkt. 13-1 ("First Biswas Decl.") ¶ 6; Dkt. 15 ("Second Biswas Decl.") at 2. Petitioners concede the release but contend the action remains live because the Court can still declare the detention unlawful, because collateral consequences persist, and because the conduct is capable of repetition yet evading review. See Dkt. 16 ("Petitioners' Resp.") at 5-8. Respondents were permitted an optional reply by 5:00 p.m. on August 28, 2026, after which the matter stood submitted. See Dkt. 14 at 2.

For the reasons set forth below, the Court recommends that the Petition and this action be **DISMISSED** without prejudice as moot.

II. BACKGROUND

Petitioners were encountered by U.S. Customs and Border Protection on January 21, 2026, determined to be unaccompanied alien children, and transferred to ORR custody the next day. See Kronk Decl. ¶¶ 28-29; 8 U.S.C. § 1232(b)(3). ORR placed them together at a foster family agency in Ontario,

California, and contacted their mother on January 23, 2026; she confirmed her interest in sponsoring her daughters and began the sponsor application that day. See id. ¶¶ 30-32.

Sponsor vetting continued from February through July 2026. Respondents' declarant describes repeated obstacles during this period. See id. ¶¶ 33-61. A positive home study report was received on July 9, 2026. See id. ¶ 56; Second Biswas Decl. at 6 (field note stating that "[t]he home study report remains pending"). DNA results confirming the sponsor's relationship to Petitioners were received July 22, 2026. See Kronk Decl. ¶ 61.

The Petition was filed August 4, 2026. On August 11, 2026, the day Respondents answered, ORR requested a Category 1 waiver because the sponsor and the alternate caregiver lacked policy-compliant proof of identification. See id. ¶ 65. On August 17, 2026, the Court ordered a supplemental declaration on custody status, the waiver, the sponsor determination, the application-completion date, and any reviews under 45 C.F.R. § 410.1207. See Dkt. 12 at 1-2. Respondents responded on August 22: ORR approved the waiver on August 20, deemed the applications complete that day under 45 C.F.R. § 410.1205, and approved release, with release anticipated August 21. See First Biswas Decl. ¶¶ 5-6. Because that declaration neither confirmed release nor attached the review records it described, the Court ordered both on August 24 and directed Petitioners to address mootness. See Dkt. 14 at 1-2. Respondents then attested that "[o]n August 21, 2026, at approximately 7:33 PM, both Petitioners were released from ORR custody to the sponsor, their mother, following ORR's approval of release under 45 C.F.R. § 410.1205(b)," and lodged redacted Federal Field Specialist case notes dated April through August 2026. See Second Biswas Decl. at 2, 4-7.

Petitioners concede release, note that they were held for 212 days, and contend that ORR conditioned release on an internal identification policy the

regulations do not require, that the sponsor application was complete on May 26 or at the latest July 9, 2026, and that ORR did not conduct the supervisory reviews or make the communications § 410.1207 requires. See Petitioners' Resp. at 2-5.

III. DISCUSSION

A federal court may grant a writ of habeas corpus to a petitioner "in custody in violation of the Constitution or laws or treaties of the United States." 28 U.S.C. § 2241(c)(3). Habeas jurisdiction extends to noncitizens challenging the constitutionality of their immigration detention. See Zadvydas v. Davis, 533 U.S. 678, 687-88 (2001).

Custody at filing is not enough. The "case-or-controversy requirement subsists through all stages of federal judicial proceedings," and the party invoking jurisdiction "must have suffered, or be threatened with, an actual injury traceable to the defendant and likely to be redressed by a favorable judicial decision." Spencer v. Kemna, 523 U.S. 1, 7 (1998) (citation omitted). When a matter becomes moot, "a federal court must dismiss the case." FBI v. Fikre, 601 U.S. 234, 240 (2024) (citation omitted). A case stays live so long as a court can grant "any effectual relief whatever," Knox v. Serv. Emps. Int'l Union, Local 1000, 567 U.S. 298, 307 (2012) (citation omitted), but "[n]o matter how vehemently the parties continue to dispute the lawfulness of the conduct that precipitated the lawsuit, the case is moot if the dispute 'is no longer embedded in any actual controversy about the plaintiffs' particular legal rights,'" Brach v. Newsom, 38 F.4th 6, 11-12 (9th Cir. 2022) (en banc) (citation omitted).

After release, a habeas petitioner must identify "some remaining 'collateral consequence' that may be redressed by success on the petition"; claims "fully resolved by release from custody" are moot. Abdala v. INS, 488 F.3d 1061, 1064-65 (9th Cir. 2007) (citing Spencer, 523 U.S. at 7).

The capable-of-repetition exception requires that "(1) the challenged action [is] in its duration too short to be fully litigated prior to cessation or expiration, and (2) there [is] a reasonable expectation that the same complaining party [will] be subject to the same action again," Spencer, 523 U.S. at 17 (citations omitted), and it applies "only where the named plaintiff can make a reasonable showing that he will again be subjected to the alleged illegality," Alvarez v. Smith, 558 U.S. 87, 93 (2009) (citation omitted). Voluntary cessation runs the other way: a defendant may not "automatically moot a case" by "suspending its challenged conduct after it is sued," and voluntary cessation moots a case only if the defendant shows the practice cannot "reasonably be expected to recur"—a "formidable burden" that "holds for governmental defendants no less than for private ones." Fikre, 601 U.S. at 241-42 (citations omitted). However, "the mere power to reenact a challenged [policy] is not a sufficient basis on which a court can conclude that a reasonable expectation of recurrence exists," and a "[r]easonable expectation means something more than 'a mere physical or theoretical possibility.'" Brach, 38 F.4th at 14 (citations omitted).

A. The Request for Release Is Moot

The Petition's central request was an order directing Respondents to release Petitioners to their mother. See Petition at 29. Respondents' evidence establishes that ORR approved release to that sponsor and released both children to her the following evening, First Biswas Decl. ¶ 6; Second Biswas Decl. at 2, and Petitioners do not dispute it, Petitioners' Resp. at 2. Petitioners thus "secure[d] outside of litigation all the relief [they] might have won in it," and the Court cannot order a release that has occurred. Fikre, 601 U.S. at 240.

B. Petitioners Identify No Redressable Continuing Consequence

Petitioners bear the burden of identifying a concrete and continuing injury that success on the Petition would redress. See Spencer, 523 U.S. at 7;

Abdala, 488 F.3d at 1064. They say that months of confinement during adolescence disrupted their development, education, and emotional stability, and that separation from their mother invaded their interests in liberty and family integrity. See Petitioners' Resp. at 6-7. Those are serious harms. But the question is not whether an injury was serious; it is whether a judgment would remedy an injury that persists. A habeas writ affords no damages, and Petitioners identify no legal disability, restraint, or condition presently imposed on them by reason of the completed custody. Federal courts "are not in the business of pronouncing that past actions which have no demonstrable continuing effect were right or wrong." Spencer, 523 U.S. at 18.

Petitioners additionally note that they remain in immigration proceedings, continue to be designated as unaccompanied children, and so remain subject to ORR's authority over placement, transfer, and custody. See Petitioners' Resp. at 8. Even assuming they retain that designation, the assumption that ORR remains custodial authority over them appears incorrect: "After release, ORR does not have legal custody of the unaccompanied child, and the sponsor becomes responsible for providing for the unaccompanied child's physical and mental well-being." 45 C.F.R. § 410.1001 (defining "Release"). The provisions Petitioners cite do not suggest otherwise: 6 U.S.C. § 279 and 8 U.S.C. § 1232 assign ORR responsibility for unaccompanied children in federal custody and direct other agencies to transfer such children to ORR, but neither provides a manner by which ORR may retake a child released to an approved parent. See Petitioners' Resp. at 8 n.6. Regardless, continuing removal proceedings follow from Petitioners' immigration status and age, not from the length of the custody they challenge.

Separately, Petitioners' request for fees and costs does not preserve a controversy that has otherwise ended. An "interest in attorney's fees is, of course, insufficient to create an Article III case or controversy where none

exists on the merits of the underlying claim." Lewis v. Cont'l Bank Corp., 494 U.S. 472, 480 (1990).

C. Declaratory Relief

Petitioners argue that the Court retains power to grant effectual relief because the Petition sought declarations that the detention was unlawful. See Petitioners' Resp. at 5-6. However, a declaration must resolve something about the parties' present legal relationship. Where the parties "continue to dispute the lawfulness of" the challenged conduct but "that dispute is no longer embedded in any actual controversy about the plaintiffs' particular legal rights," what remains is "an abstract dispute about the law," outside "the constitutional words 'Cases' and 'Controversies.'" Alvarez, 558 U.S. at 93 (citations omitted). That is true here: the applications are no longer pending, the requested sponsor has been approved, and the custody has ended. A declaration would compel no act, remove no restraint, and govern no pending agency decision.

The authorities Petitioners cite are distinguishable. In Super Tire Eng'g Co. v. McCorkle, 416 U.S. 115 (1974), the strike had ended but the challenged benefits policy had not; it was "fixed and definite," "not contingent upon executive discretion," and by "its continuing and brooding presence" continued to affect "every existing collective-bargaining agreement" to which the employers were party. Id. at 122, 124. Knox turned on relief that remained available, i.e., a live dispute over the adequacy of a union's refund notice. See Knox, 567 U.S. at 307. And in Trinh v. Homan, 333 F. Supp. 3d 984 (C.D. Cal. 2018), the petitioners had final removal orders and remained on discretionarily revocable orders of supervision. Petitioners challenge no fixed policy presently governing their relationship with ORR and are subject to no continuing condition of release.

D. Capable of Repetition, Yet Evading Review

Petitioners have not shown "a reasonable expectation that the same complaining party [will] be subject to the same action again." Spencer, 523 U.S. at 17 (citations omitted). The fact that Respondents will continue to have authority over unaccompanied children is not evidence that it will be exercised over Petitioners. For the challenged action to recur, Petitioners would have to be encountered again by a federal agency, determined again to be unaccompanied children, transferred agoain to ORR, and left again awaiting adjudication of a sponsor application. See 8 U.S.C. § 1232(b)(3). That theoretical possibility is not sufficient on the present record.

IV. RECOMMENDATION

IT IS THEREFORE RECOMMENDED that the District Judge issue an Order: (1) accepting this Report and Recommendation; (2) dismissing this action without prejudice as moot and, accordingly, for lack of subject-matter jurisdiction, and dismissing as moot all remaining requests for release, declaratory, and prospective relief; (3) directing that Judgment be entered dismissing this action without prejudice; and (4) directing that this case be closed without prejudice to any timely application for fees and/or costs.[2]

Date: September 8, 2026

DOUGLAS F. McCORMICK
United States Magistrate Judge

[2] Given the Court's recommendation, Petitioners' application for appointment of guardian ad litem (Dkt. 3) is denied as moot.