

1 CYNTHIA ISABEL FELIX (CA SBN 316049)
2 *cynthia@immdef.org*
3 IMMIGRANT DEFENDERS LAW CENTER
4 634 S. Spring Street, 10th Floor
5 Los Angeles, CA 90014
6 Telephone: 213-634-0999
7 Facsimile: 213-282-3133

8 *Attorneys for Petitioners*

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

12 A.H.C.D.L.C., a minor; G.S.R.J., a minor; Case No. 2:26-cv-9996
13 by and through Erica Santamaria, as Next
14 Friend of Minors

15 **VERIFIED PETITION FOR WRIT OF**
16 **HABEAS CORPUS**

17 Petitioners,

18 v.

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

Respondents.

INTRODUCTION

1. Petitioners are Unaccompanied Children¹ (“UC”) who were transferred from U.S. Customs and Border Protection (“CBP”) to the Office of Refugee Resettlement (“ORR”) upon arrival to the United States. Petitioner A.H.C.D.L.C. was transferred to ORR on May 7, 2026; Petitioner G.S.R.J. was transferred to ORR on June 1, 2026.

2. ORR has detained Petitioners at ORR-subcontracted facilities Hanna’s House Rancho Cucamonga (“HH-RC”) in Rancho Cucamonga, California, and A Greater Love Whittier (“AGL-W”), in Whittier, California, for 119 and 94 days, respectively. From the outset of their detention, Petitioners have sought reunification with their mothers, a biological sponsor² in the United States who is available and willing to assume their custody and care.

3. Upon Petitioners’ placement in ORR custody, each of Petitioners’ sponsors initiated the reunification process and meaningfully engaged in the process for submitting the documentation that ORR requires to be considered as a sponsor for a UC, the Family Reunification Packet (“FRP”). Inexplicably, ORR has failed to schedule appointments for tasks they deem essential for reunification to move forward, including DNA testing, ID verification, and exemptions due to non-compliant ID’s submitted by sponsors.

4. The reunification between Petitioners and their families therefore remains indefinitely delayed as it does not appear that ORR is promptly working on any of Petitioner’s FRPs as mandated under the Trafficking Victims Protection Reauthorization Act (“TVPRA”).

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

² Under ORR Policy Guide, 2.2.1 Identification of Qualified Sponsors, ORR has grouped unaccompanied alien children cases into the following categories: **Category 1:** Parent or legal guardian. **Category 2:** A brother; sister; grandparent or other immediate relatives (e.g., aunt, uncle, first cousin).

5. Throughout months of investigation and review, ORR's own records consistently reflect that Petitioners' sponsors do not present a risk of abuse, maltreatment, exploitation or trafficking to Petitioners.

6. These ongoing violations have resulted in continued, unnecessary detention and emotional distress for Petitioners. For example, G.S.R.J. reports experiencing significant sadness due to the length of her stay in ORR custody. She also reports feeling increasingly emotional as the prolonged uncertainty continues. A.H.C.D.L.C. reports that she is struggling with sleeping and eating due to the length of stay in ORR custody. Although she is trying to remain patient, the uncertainty surrounding her reunification has been difficult and she continues to express wanting to be with her mother.

7. Each day that Petitioners languish in detention is another day ORR is in violation of the TVPRA, the ORR Foundational Rule, and the U.S. Constitution. Accordingly, to vindicate Petitioners' constitutional and statutory rights, this Court should grant the instant petition for a writ of habeas corpus and order immediate release.

JURISDICTION

8. 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).

9. 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).

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

1 Act, 28 U.S.C. § 1651.

2 **VENUE**

3 11. Petitioners all lie within the jurisdiction of the United States District Court
4 for the Central District of California because they are detained in ORR-subcontracted
5 facilities in Whittier and Rancho Cucamonga, California, respectively.

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

10 **PARTIES**

11 **I. Petitioners**

12 13. Petitioner A.H.C.D.L.C. is a 16-year-old girl. Petitioner is currently detained
13 at HH-RC. Petitioner A.H.C.D.L.C. is in the custody, and under the direct control, of
14 Respondents and their agents. Petitioner A.H.C.D.L.C.'s parent and sponsor is A.D.L.C.S.³

15 14. Petitioner G.S.R.J. is a 9-year-old girl. Petitioner is currently detained at
16 AGL-W. Petitioner G.S.R.J. is in the custody, and under the direct control of Respondents
17 and their agents. Petitioner G.S.R.J.'s parent and sponsor is F.M.J.R. *See Supra Footnote*
18 *3.*

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

23
24
25 ³ The use of F.M.J.R.'s (sponsor-mother) initials further ensures G.S.R.J.'s (petitioner-
26 child) privacy. *See Fed. R. Civ. P. 5.2(a), (c), (h)* (mandating use of a minor's initials,
27 providing for limited access to files in proceedings related to immigration detention
28 "unless the court orders otherwise," and noting that failure to redact personal information
in the first instance constitutes a waiver of that protection).

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

1 Support of Verified Petition for Writ of Habeas Corpus. Petitioners appear collectively by
2 and through their Next Friend, Mrs. Santamaria.

3 **II. Respondents**

4 16. Respondent "Federal Field Specialist" is sued in their official capacity as an
5 ORR Federal Field Specialist ("FFS"). In this role, FFS is responsible for determining
6 Petitioners' placements and has authority to approve their respective releases to an
7 appropriate sponsor's care. Respondent FFS is thereby a legal custodian of Petitioners.
8

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

15 18. Respondent Angie Salazar is sued in her official capacity as the Acting
16 Director of ORR, the component of the U.S. Department of Health and Human Services
17 ("HHS") responsible for implementing the Department's obligations to unaccompanied
18 minors who are immigrants. ORR is the government entity directly responsible for the
19 continued detention of Petitioners and has the authority to release them. Respondent
20 Salazar is thereby a legal custodian of Petitioners.
21

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

27 20. Respondent Robert Kennedy, Jr. is sued in his official capacity as the
28

1 Secretary of HHS. In this capacity Secretary Kennedy oversees ACF and ORR and is
2 therefore the “head” of those agencies. 6 U.S.C. § 271(a)(2). HHS is responsible for the
3 care and placement of UC in federal custody. *See* 8 U.S.C. § 1232(c); 6 U.S.C. § 279. HHS
4 and ORR enter contracts with public and private entities to house, care for, and provide
5 legal assistance to UC apprehended by the Department of Homeland Security (“DHS”)
6 pursuant to the Immigration and Nationality Act (“INA”). *See* 6 U.S.C. § 279. Respondent
7 Secretary Kennedy is thereby a legal custodian of Petitioners.
8

9 **STATEMENT OF FACTS**

10 **Petitioner A.H.C.D.L.C.**

11 21. Petitioner A.H.C.D.L.C. is a 16-year-old child. Petitioner was designated as
12 a UC by DHS upon her arrival in the United States on May 5, 2025. On May 7, 2026, she
13 was transferred into ORR custody and placed at Hanna’s House Rancho Cucamonga.

14 22. Petitioner fled her home country after [REDACTED]

15 [REDACTED] These events prompted Petitioner to flee and seek reunification with her
16 mother, A.D.L.C.S., who had been living in the United States.

17 23. On May 29, 2026, A.D.L.C.S. submitted her proof of income and
18 fingerprints.

19 24. On June 29, 2026, the initial FRP documents were executed by A.D.L.C.S.
20 and uploaded by the ORR intake team and the case was assigned to a Division of Sponsored
21 Programs Administration Family Field Specialist (“DSA-FFS”).
22

23 25. On July 01, 2026, A.D.L.C.S. notified ORR that she had secured a new
24 residence and DSA FFS requested for A.D.L.C.S to make the necessary changes to sponsor
25 application.

26 26. A home study was completed with A.D.L.C.S on July 26, 2026, with results
27 due on July 30, 2026. The home study resulted in a positive recommendation in support of
28

1 reunification.

2 27. Throughout July and August 2026, A.D.L.C.S. actively worked to satisfy
3 ORR's reunification requirements.

4 28. On August 18, 2026, Petitioner's counsel emailed a formal letter to ORR
5 Acting Director Angie Salazar, demanding either a final decision on the FRP or immediate
6 release to their mother. Said correspondence was never acknowledged.

7 29. On August 25, 2026, A.D.L.C.S. submitted her Mexican passport and
8 consular identification documents to ORR and completed her ID verification in person.
9 Petitioner's counsel was informed that that A.D.L.C.S. is a lawful permanent resident
10 ("LPR") and despite not taking her LPR card to the verification appointment, it is now
11 uploaded in UC portal.

12 30. On August 31, 2026, the DNA results confirmed the mother-daughter
13 relationship.

14 31. On September 4, 2026, Petitioner's counsel was informed that the only
15 sponsor requirement that remains outstanding is the sponsor identification as directed by
16 the DSV-FFS. Petitioner's counsel was also informed that a language barrier likely exists
17 because A.D.L.C.S.'s primary language is Mixteco, thereby explaining why A.D.L.C.S. did
18 not take the LPR card to the ID verification appointment.

19 32. Petitioner A.H.C.D.L.C. has suffered significant emotional and
20 psychological harm during her prolonged detention. ORR records reflect A.H.C.D.L.C.
21 verbalizing that she wants to go live with her mother. A.H.C.D.L.C expressed that
22 reunification is taking a long time, and she fears that it will only take longer, which is
23 affecting her sleeping and eating habits. A.H.C.D.L.C also shared that she is tired of being
24 in the facility and would like to be with her mother as soon as possible. A.H.C.D.L.C. gets
25 sad thinking about not being with her family, and there are days when she does not have
26
27
28

1 an appetite due to her emotional state.

2 33. As of the filing of this Petition, Petitioner remains in ORR custody despite
3 her mother's continued efforts to satisfy ORR's sponsorship requirements and despite her
4 having secured independent housing to facilitate reunification.

5 **I. Petitioner G.S.R.J.**

6 34. Petitioner G.S.R.J., is a 9-year-old minor. G.S.R.J. Petitioner was designated
7 a UC by DHS upon her arrival in the United States on May 31, 2026. On June 1, 2026,
8 Petitioner was transferred to the custody of ORR and placed at A Greater Love Whittier.

9 35. Petitioner seeks reunification with her sponsor F.M.J.R., who is the mother
10 of G.S.R.J.

11 36. On June 5, 2026, F.M.J.R. submitted her identification documents to ORR,
12 and on June 8, 2026, F.M.J.R. submitted her fingerprints, which were clear. Similarly, the
13 alternate adult caregiver's fingerprints were received on July 10, 2026, and were clear.

14 37. On July 23, 2026, F.M.J.R. submitted her proof of income.

15 38. ORR records dated July 23, 2026, continued to reflect that the FRA had been
16 completed and uploaded to the UC portal, and that the home study remained pending.

17 39. On July 27, 2026, F.M.J.R. provided proof of an ITIN application.

18 40. On August 18, 2026, Petitioners' counsel emailed a formal letter to ORR
19 Acting Director Angie Salazar, demanding either a final decision on their FRA or
20 immediate release to their sponsor. Said correspondence was never acknowledged.

21 41. A home study was completed with F.M.J.R on August 18, 2026, with results
22 due on August 24, 2026. The results were returned on August 28, 2026, with a positive
23 recommendation including a safety plan with local resources and family sessions to review
24 post-release expectations.

25 42. As of August 24, 2026, G.S.R.J.'s case manager conveyed that the sponsor
26
27
28

1 application is pending ID verification DNA appointments for both G.S.R.J. and F.M.J.R.,
2 Division of Vetting (“DOV”) summary, and submission of a category 1 sponsor
3 identification waiver.

4 43. During her prolonged stay in ORR custody, Petitioner G.S.R.J. has
5 experienced emotional distress resulting from their continued detention and uncertainty
6 regarding reunification. At one point, G.S.R.J. expressed an episode of sadness triggered
7 by food during her mother’s in person visit at the shelter, which led to tearfulness related
8 to missing her family. G.S.R.J. is described as a resilient 9-year-old given her
9 circumstances, even after weekly visits at the shelter by her mother.
10

11 44. As of the filing of this Petition, despite three months of reunification efforts,
12 Petitioner remains in ORR custody awaiting reunification with her sponsor.

13 LEGAL FRAMEWORK

14 **I. Law and Procedure Governing this Habeas Petition**

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

19 46. A habeas court’s role is at its “most extensive in cases of pretrial and
20 noncriminal detention,” especially “where there ha[s] been little or no previous judicial
21 review of the cause for detention,” as is the case here. *Boumediene v. Bush*, 553 U.S. 723,
22 780 (2008).
23

24 47. The Court must grant the petition for writ of habeas corpus or issue an order
25 to show cause (“OSC”) to Respondents “forthwith,” unless Petitioners are not entitled to
26 relief. 28 U.S.C. § 2243. If an OSC is issued, this Court must require Respondents to file a
27 return “within *three days* unless for good cause additional time, not exceeding twenty days,
28

1 is allowed.” *Id.* (emphasis added). The writ or OSC shall be directed to the person having
2 custody of the person detained. *Id.*

3 **II. Legal Framework Governing the Care and Custody of UCs**

4 48. Three key laws and agreements govern the federal government’s treatment
5 and custody of unaccompanied immigrant children: (1) the 1997 *Flores* Settlement
6 Agreement (“FSA”), largely codified into the federal regulatory scheme through ORR’s
7 promulgation of its Foundational Rule in 2024; (2) the Homeland Security Act of 2002
8 (“HSA”); and (3) the Trafficking Victims Protection Reauthorization Act (“TVPRA”) of
9 2008.
10

11 **A. The *Flores* Settlement Agreement**

12 49. The FSA arose from a lawsuit filed by a group of immigrant children
13 challenging their detention and seeking to be released to family members or sponsors
14 within the United States. *See Flores v. Sessions*, 862 F.3d 863, 869 (9th Cir. 2017)
15 (discussing history of the *Flores* litigation). In 1997, the plaintiff children entered into a
16 consent decree with the federal government to create a nationwide policy governing the
17 custody and release of immigrant children. *See Stipulated Settlement Agreement, Flores v.*
18 *Reno*, No. CV-85-4544 (C.D. Cal. Jan. 17, 1997).⁵
19

20 50. The FSA remains under the supervision of U.S. District Judge Dolly M. Gee
21 in the Central District of California. *See Flores v. Bondi*, No. CV 85-4544-DMG (AGRx).⁶

22 **B. The Homeland Security Act of 2002**

23 51. Enacted in 2002, the HSA divided responsibilities for the processing and
24

25 ⁵ Available at:

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

27 ⁶ Following the promulgation of the ORR Foundational Rule, described *infra*, the FSA
28 was partially terminated as to children in HHS custody. *Flores v. Garland*, 2024 WL 3467715, CV 85-4544-DMG (AGRx) (C.D. Cal. Jun. 28, 2024).

1 treatment of UC between ORR – a sub-department of the Department of Health and Human
 2 Services – and the then-newly created Department of Homeland Security.⁷ See 6 U.S.C. §
 3 279(a). ORR was assigned functions including “coordinating and implementing the care
 4 and placement” of UC in appropriate custody. 6 U.S.C. § 279(b).

5 **C. The Trafficking Victims Protection Reauthorization Act**

6
 7 52. Enacted in 2008,⁸ the TVPRA requires federal officials to screen
 8 unaccompanied immigrant children for certain vulnerabilities upon their arrival in the
 9 United States. See 8 U.S.C. § 1232(a)(4). It mandates that custody of an UC be transferred
 10 to the HHS Secretary within 72 hours of their arrival in the United States.⁹ 8 U.S.C. §
 11 1232(b)(3).

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

16 **D. The ORR Foundational Rule**

17 54. In 2024, after a notice and comment period, HHS adopted a final rule
 18 intended to further codify key aspects of the framework governing care and placement of
 19

20
 21 ⁷ Prior to the creation of DHS, all matters related to the custody, detention, and
 22 deportation of immigrant children was managed by the Immigration and Naturalization
 Service (“INS”), which was abolished simultaneously with the creation of DHS.

23 ⁸ The TVPRA is a reauthorization of the Trafficking Victims Protection Act of 2000,
 24 intended to combat the trafficking of persons. See Pub. L. No. 106-386, 114 Stat. 1464
 (Oct. 28, 2000). Through the 2008 Reauthorization, Congress established certain rights
 25 for unaccompanied children navigating the immigration process, recognizing that they
 26 are a “particularly vulnerable population” to whom the country “owes a special
 obligation” to treat “humanely and fairly.” 154 Cong. Rec. S10866 (daily ed. Dec. 10,
 2008) (statement of Sen. Feinstein).

27 ⁹ In most cases, custody of an unaccompanied child is transferred to HHS, and ultimately
 28 ORR, from DHS, which houses Immigration and Customs Enforcement (“ICE”) and
 Customs and Border Protection (“CBP”).

1 UC as required by the HSA and TVPRA, and to implement the substantive requirements
2 of the FSA. *See generally* UC Foundational Rule (Jul. 1, 2024) (“Foundational Rule”). 45
3 C.F.R. Part 410.

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

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

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

27 58. Absent “an unexpected delay,” ORR is mandated to adjudicate a completed
28

1 sponsor application for a relative who has previously been the child's primary caregiver
2 "within 10 calendar days of receipt of the completed sponsor application," and to
3 adjudicate applications by relatives who were not previously the child's primary caregiver
4 within 14 calendar days. 45 C.F.R. § 410.1205(b).

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

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

23 **E. Substantive and Procedural Due Process**

24 61. It is axiomatic that civil immigration detention is limited by both substantive
25 and procedural due process protections, which apply "to all 'persons' within the United
26 States."

1 States, including [noncitizens], whether their presence here is lawful, unlawful, temporary,
2 or permanent.” *Zadvydas*, 533 U.S. at 693. Indeed, freedom “from imprisonment – from
3 government custody, detention, or other forms of physical restraint – lies at the heart of the
4 liberty” that the Due Process Clause protects. *Id.* at 690.

5
6 62. In addition, courts in this District have found that UCs have a protected
7 interest in their statutory entitlements under the TVPRA. *See e.g., Immigrant Defs. L. Ctr.*
8 *v. U.S. Dep’t of Homeland Sec.*, No. CV 21-0395 FMO (RAOX), 2025 WL 1191572, at
9 *15 (C.D. Cal. Mar. 14, 2025) (finding “statutory entitlements [under the TVPRA] are
10 constitutionally protected property interests”) (collecting cases); *Lucas R. v. Azar*, No. CV
11 18-5741-DMG (PLAx), 2018 WL 7200716, at *9, (C.D. Cal. Dec. 27, 2018) (noting that a
12 statute can create “a substantive interest protected by the Due Process Clause by using
13 ‘mandatory language’ that imposes an obligation on government officials, and referring to
14 such mandatory language in the TVPRA) (citing 8 U.S.C. § 1232(c)(2)(A): a UC “*shall* be
15 promptly placed in the least restrictive setting that is in the best interest of the child”)
16 (emphasis in original).

17 ARGUMENT

18 **A. Petitioners’ Claims are Cognizable as a Habeas Action, and Administrative** 19 **Exhaustion is Not Required.**

20
21 63. Petitioners seek habeas relief pursuant to the TVPRA and both the
22 substantive and procedural components of the Due Process Clause of the Fifth Amendment.
23 These claims may properly sound in habeas, as “challenges to the statutory framework
24 authorizing detention, questions of law raised in the application or interpretation of statutes,
25 and constitutional claims, such as claims that the discretionary process itself was
26 constitutionally flawed,” have been found to “fit comfortably” within the scope of the
27 habeas statute. *Alam v. Keeton*, CV-19-05538-PHX-MTL (CDB), 2020 WL 5439513, at *4
28

1 (D. Ariz. 2020) (quoting *Jennings v. Rodriguez*, 583 U.S. 281, 296 (2018); *Leonardo v.*
2 *Crawford*, 646 F.3d 1157, 1160 (9th Cir. 2011); *Singh v. Holder*, 638 F.3d 1196, 1202 (9th
3 Cir. 2011)) (internal quotation marks omitted).

4 64. In addition, Petitioners are not required to exhaust administrative remedies,
5 as exhaustion in the habeas context is prudential, rather than jurisdictional. *See Laing v.*
6 *Ashcroft*, 370 F.3d 994, 997 (9th Cir. 2004); *Hernandez v. Sessions*, 872 F.3d 976, 988 (9th
7 Cir. 2017). Even prudential exhaustion is not required if “administrative remedies are
8 inadequate or not efficacious, pursuit of administrative remedies would be a futile gesture,
9 [or] irreparable injury will result.” *Laing*, 370 F.3d at 1000; *see also Hernandez*, 872 F.3d
10 at 988. In any event, where Petitioners’ parents – who would be eligible to appeal a denial
11 of their application under controlling regulations – have received no decision from ORR
12 on their sponsorship applications, there is no administrative remedy available for
13 Petitioners to pursue.

14 65. Despite compliance to the best of their ability with ORR’s requirements, the
15 ongoing delays – well beyond the 90-day review requirement outlined in ORR’s own
16 guidance, 45 C.F.R. § 410.1205(b) – have resulted in each child and their parents being left
17 in a state of limbo. Indeed, to date, Petitioners have been languishing in ORR custody for
18 approximately 95 to 120 days.

19 66. Requiring exhaustion would also cause Petitioners irreparable harm in the
20 form of additional detention in ORR custody, and continued separation from their readily
21 available sponsors and family. *See Cortez v. Sessions*, 318 F. Supp. 3d 1134, 1139 (N.D.
22 Cal. 2018) (habeas petitioner “suffers potentially irreparable harm every day that [they]
23 remain[] in custody without a hearing, which could ultimately result in [their] release from
24 detention”).

25 **B. Petitioners’ Continued Detention Violates the TVPRA Because the**
26
27
28

**Statute Mandates Release to a Sponsor Unless the Government
Designates Them a Danger or a Flight Risk.**

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

68. Indeed, the “focus on care and placement – rather than on detention – is evident” from both the text of the TVPRA and the HSA. *Flores*, 862 F.3d at 876. Respondents have made no findings that any of the Petitioners are flight risks or dangerous to themselves or the community. Nor could they, as demonstrated by the fact that Petitioners have been detained in unlocked ORR-subcontracted facilities without absconding since their arrivals into ORR custody. Further, there is no evidence indicating any Petitioner named herein has ever engaged in conduct causing harm to themselves or others, clearly establishing they are not dangers to anyone.

69. Petitioners’ continued detention despite the availability of their parents to assume their care is also clearly at odds with the TVPRA’s mandate that ORR focus on care and placement in each child’s best interest. Respondents disregard their responsibility to Petitioners by allowing them to languish in unfamiliar facilities full of strangers for months on end, while failing to provide any reason why their sponsors’ applications to assume their care have not been approved.

70. By failing to timely resolve their sponsors’ applications to assume their care and custody, Respondents flout their mandate to protect Petitioners, instead allowing them to languish inside ORR facilities for months on end, without answers, and away from

1 family and any semblance of a normal life.

2 **C. Petitioners' Continued Detention Violates Substantive Due Process**
3 **Because it is Unnecessarily Punitive and Needlessly Infringes Upon**
4 **Their Right to Family Unity.**

5 71. Petitioners' prolonged detention violates each of their substantive due
6 process rights. Substantive due process "forbids the government to infringe certain
7 'fundamental' liberty interests *at all*, no matter what process is provided, unless the
8 infringement is narrowly tailored to serve a compelling state interest." *Reno v. Flores*, 507
9 U.S. 292, 302 (1993) (emphasis in original). In *Reno*, the Supreme Court held that where
10 an UC had no "parent, close relative, or legal guardian," keeping them in government
11 custody to "promot[e] the welfare of the child" was "not punitive since it [was] not
12 excessive in relation to that valid purpose." *Id.* at 303. By extension, where, as here, each
13 Petitioner *does* have a close family member available to assume their care, continuing to
14 detain them in government custody is needlessly punitive.

15 72. In this context, courts in this District have emphasized the well-established
16 nature of the "substantive due process right to family integrity or to familial association."
17 *Lucas R.*, 2018 WL 7200716, at *9 (quoting *Rosenbaum v. Washoe City*, 663 F.3d 1071,
18 1079 (9th Cir. 2011)); *Ms. L. v. U.S. Immigration and Customs Enforcem.*, 310 F. Supp. 3d
19 1133, 1148 (S.D. Cal. 2018), *modified sub nom*, *Ms. L. v. U.S. Immigr. & Customs Enf't*,
20 330 F.R.D. 284 (S.D. Cal. 2019) (finding the government needed to achieve its stated
21 purpose "in a way that preserves the class members' constitutional rights to family
22 association and integrity"). Respondents, in continuing to detain Petitioners, away from
23 their parents, for 6 months and longer, have considerably encroached upon this right.

24 73. Further, by allowing their parents' sponsor applications to assume
25 Petitioners' care and custody to remain undecided, Respondents infringe "perhaps the
26
27
28

1 oldest of the fundamental liberty interests” recognized by the Supreme Court: “the interest
2 of parents in the care, custody, and control of their children.” *Troxel v. Granville*, 530 U.S.
3 57, 65 (2000). Similarly, other courts have recognized that children have a reciprocal right
4 to be “raised and nurtured by their parents.” *D.B. v. Cardall*, 826 F.3d 721, 740 (4th Cir.
5 2016) (quoting *Berman v. Young*, 291 F.3d 976, 983 (7th Cir. 2002)) (internal quotation
6 marks omitted). Each day Petitioners remain detained in ORR custody, Respondents are
7 clearly violating these rights.
8

9 74. In addition, a statute may create a substantive interest protected by the Due
10 Process Clause by using “mandatory language” that imposes an obligation on government
11 officials. Courts in this District have held that the TVPRA’s mandatory language gives rise
12 to such a substantive right in the UC for whose benefit the statute was enacted. *See e.g.*,
13 *Immigrant Defs. L. Ctr. v. U.S. Dep’t of Homeland Sec.*, No. CV 21-0395 FMO (RAOX),
14 2025 WL 1191572, at *15 (C.D. Cal. Mar. 14, 2025) (finding “statutory entitlements [under
15 the TVPRA] are constitutionally protected property interests”). Here, Petitioners again can
16 individually establish that their substantive rights pursuant to the TVPRA are being
17 violated by Respondents.
18

19 75. To date, A.H.C.D.L.C. has been detained, and thereby separated from
20 A.D.L.C.S., for 120 days. Despite her diligence, A.D.L.C.S. has not been notified as to a
21 timeline for approval of her application or when her daughter will be released.

22 76. To date, G.S.R.J., has been detained, and thereby separated from F.M.J.R.,
23 for 95 days. Despite her diligence, F.M.J.R. has not been notified as to a timeline for
24 approval of her application or when her daughter will be released.

25 77. Because of the strength of these liberty interests, Petitioners’ continued
26 detention is needlessly punitive, and infringes on each of their rights to family unity and to
27 be raised by their parents.
28

D. Petitioners' Continued Detention Violates Procedural Due Process Because They Have No Effective Means by Which to Challenge Their Continued Detention and Separation from Their Parents/Sponsors.

78. All individuals in immigration detention have a protected liberty interest in their release, “*inherent* in the Due Process Clause.” *R.D.T.M. v. Wofford*, 2025 WL 2617255, 1:25-cv-01141-KES-SKO (HC), at *4 (E.D. Cal. Sept. 9, 2025) (quoting *Guillermo M.R. v. Kaiser*, 2025 WL 1983677, 25-cv-05436-RFL, at *4 (N.D. Cal. Jul. 17, 2025)) (emphasis in original). In addition, the substantive family unity interest described above may underlie a procedural due process claim. *See Lucas R.*, 2018 WL 7200716, at *9. The TVPRA also provides statutory entitlements to which individuals have protected property interests in. *See* 8 U.S.C. § 1232 (c)(2)(A), (c)(5); *see also Immigrant Defs. L. Ctr.*, 2025 WL 1191572, at *15 (“statutory entitlements [under the TVPRA] are constitutionally protected property interests”).

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

80. In the context of immigration detention writ large, the Ninth Circuit has found it “well-settled” that due process “requires adequate procedural protections to ensure the government’s asserted justification for physical confinement outweighs the individual’s constitutionally protected interest in avoiding physical restraint.” *Hernandez*, 872 F.3d at 990 (internal citations and quotations omitted). Thereby, Petitioners’ “constitutionally protected interest” in release from ORR custody should be considered with the utmost

1 solemnity.

2 81. Courts in this Circuit have found a cognizable claim for due process relief in
3 the context of earlier family separation policies, emphasizing that the “absence of
4 established procedures” for ensuring prompt reunification left families “in a vacuum,
5 without knowledge of the well-being and location of their children . . . result[ing] in a
6 number of different scenarios, all of which are negative – some profoundly so.” *Ms. L.*, 310
7 F. Supp. 3d at 1144. Here, the risk of negative impact on Petitioners, in both the short and
8 long term, is equally apparent.

9 82. First, Petitioners have a strong private interest in their liberty, as well as a
10 substantive interest in being reunified with, and ultimately raised by, their parents.

11 83. Second, Respondents have allowed Petitioners to remain stuck in ORR’s
12 custody for extended periods of time. Respondents have not even followed *their own*
13 regulatory process for completing and adjudicating sponsorship applications, instead
14 allowing the children to languish in custody without explanation. Respondents have
15 therefore erroneously deprived Petitioners of their due process rights, including by denying
16 their parents the opportunity to appeal a potential denial of their FRP, given that no decision
17 has ever been issued as to any of their sponsorship applications.

18 84. Lastly, Respondents have not provided Petitioners’ counsel, Petitioners or
19 their sponsors with any countervailing reason why the sponsorship applications in question
20 have not been approved, much less ruled on at all.

21 85. Accordingly, Petitioners clearly have a cognizable claim for relief sounding
22 in procedural due process under the *Mathews* test.

23 **CLAIMS FOR RELIEF**

24 **COUNT ONE**

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

1 86. The allegations in the above paragraphs are realleged and incorporated
2 herein.

3 87. Unaccompanied immigrant children in the custody of HHS “shall be
4 promptly placed in the least restrictive setting that is in the best interest of the child.” 8
5 U.S.C. § 1232(c)(2) (emphasis added). When a potential sponsor has been identified for an
6 UC, the HHS Secretary must make a “determination that the proposed custodian is capable
7 of providing for the child’s physical and mental well-being,” by evaluating “the custodian’s
8 identity and relationship to the child,” as well as making “an independent finding that the
9 individual has not engaged in any activity that would indicate a potential risk to the child.”¹⁰
10 8 U.S.C. § 1232(c)(3)(A).

12 88. Here, Respondents’ sponsors have completed the core sponsor suitability
13 inquiries required by 8 U.S.C. § 1232(c)(3)(A), namely verification of identity and
14 relationship to the child and submitting to fingerprinting to ensure they have not engaged
15 in conduct that would indicate a risk to the child. The record contains no adverse findings
16 indicating that the sponsors present any risk to Petitioners’ physical or mental well-being
17 or other safety concerns. These measures constitute the baseline statutory inquiries used to
18 determine whether a proposed sponsor is capable of safely caring for a child.

19 89. Despite any unfavorable suitability findings, Petitioners remain
20 unnecessarily detained as ORR has failed to timely process the application or provide any
21 meaningful explanation for the continued delay, resulting in Petitioners’ prolonged and
22 unjustified detention. Continued detention under these circumstances is inconsistent with
23 the TVPRA’s purpose and exceeds the authority Congress granted ORR to delay
24 reunification.

26 90. Accordingly, Respondents’ failure to release Petitioners into the custody and
27

28 ¹⁰ The statute further authorizes a home study, if necessary. 8 U.S.C. § 1232(c)(3)(B).

1 care of their parents violates the TVPRA.

2 **COUNT TWO**

3 **Violation of Fifth Amendment: Substantive Due Process**

4 91. The allegations in the above paragraphs are realleged and incorporated
5 herein.

6 92. The Due Process Clause of the Fifth Amendment provides that the
7 government shall not “deprive any person of life, liberty, or property without due process
8 of law.” U.S. CONST. AMEND. V. The Due Process Clause applies to “all ‘persons’ within
9 the United States . . . whether their presence here is lawful, unlawful, temporary, or
10 permanent.” *Zadvydas*, 533 U.S. at 693. Any individual within the United States is
11 therefore entitled to a timely and meaningful opportunity to demonstrate that they should
12 not be detained by the government.

13 93. Here, Petitioners’ continued detention is untethered to any legitimate
14 government interest because they are neither flight risks nor a danger to themselves or to
15 the community, and each has an appropriate sponsor – their parent – available and eager to
16 care for them outside of detention. *See* 8 U.S.C. § 1232(b)(2)(A) (requiring consideration
17 of potential “danger to self, danger to the community, and risk of flight” in making
18 placement decisions, and permitting placement with suitable family members). Petitioners’
19 ages are 16 and 9, they have no criminal history here in the United States or anywhere in
20 the world, and there is no evidence that they have engaged in any conduct causing harm to
21 themselves or others.

22 94. Further, both Petitioners and their parents have a substantive liberty interest
23 in family integrity and, as children who have now been separated from their families for
24 many months, Petitioners are suffering grave harm due to their continued detention by
25 ORR. *Ms. L.*, 310 F. Supp. 3d at 1137.

1 95. Respondents' actions, as set forth above, have infringed upon Petitioners'
2 substantive liberty interests to be free from detention and their liberty interests in family
3 integrity.

4 96. Accordingly, Respondents' continued detention of Petitioners violates their
5 substantive due process rights.

6
7 **COUNT THREE**

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

9 97. The allegations in the above paragraphs are realleged and incorporated
10 herein.

11 98. The Due Process Clause of the Fifth Amendment provides that the
12 government shall not "deprive any person of life, liberty, or property without due process
13 of law." U.S. CONST. AMEND. V.

14 99. UC are entitled to the protections of the TVPRA, and therefore have a
15 protected property interest in their statutory entitlements thereunder. *See, e.g., Immigrant*
16 *Defs. L. Ctr. v. U.S. Dep't of Homeland Sec.*, No. CV 21-0395 FMO (RAOX), 2025 WL
17 1191572, at *15 (C.D. Cal. Mar. 14, 2025) (finding "statutory entitlements [under the
18 TVPRA] are constitutionally protected property interests") (collecting cases). The TVPRA
19 expressly grants robust rights to such UC and directs HHS to establish procedures to
20 provide for and protect said rights.

21
22 100. Petitioners' interest in their liberty and in being reunited with their parents is
23 unquestionably strong. *See Mathews*, 424 U.S. at 335.

24 101. Petitioners have been erroneously deprived of their liberty due to ORR's
25 failure to timely adjudicate their sponsorship applications, much less even provide their
26 sponsors or counsel any information about why their attempts to reunite remain undecided.
27 This lack of any decision also prohibits Petitioners' parents from availing themselves of
28

1 ORR's own internal appeal process should their FRP theoretically be denied.

2 102. In contrast to Petitioners' robust interests in their liberty and family
3 reunification, the government's interest in continuing to detain Petitioners, despite the
4 availability of their parents to assume their custody and care, is minimal at best.

5 103. Accordingly, Respondents' continued detention of Petitioners, despite the
6 availability of their parents, and in light of Respondents' failure to timely adjudicate their
7 parents' sponsorship applications, violates Petitioners' procedural due process rights.
8

9 **PRAYER FOR RELIEF**

10 WHEREFORE, Petitioners respectfully request this Court to grant the following:

- 11 (1) Assume jurisdiction over this matter;
12 (2) Issue a writ of habeas corpus compelling Respondents to immediately release
13 Petitioners to their parent sponsors;
14 (3) Issue a writ of habeas corpus prohibiting the re-detention of petitioners absent
15 compliance with procedural protections and relevant regulations;
16 (4) Declare that Petitioners' detention violates the Due Process Clause of the Fifth
17 Amendment, 8 U.S.C. § 1232, and/or 45 C.F.R. § 410.1001 *et seq.*;
18 (5) Award Petitioners attorney's fees and costs under the Equal Access to Justice Act,
19 28 U.S.C. § 2412, and on any other basis justified under law; and
20 (6) Grant any further relief this Court deems just and proper.
21

22
23 Dated: 9/4/2026

Respectfully Submitted,
24 /s/ Cynthia Isabel Felix
Cynthia Isabel Felix

25 *Attorney for Petitioner*
26
27
28

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

I represent Petitioners, A.H.C.D.L.C. and G.S.R.J., 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 September, 2026.

Respectfully Submitted,

/s/ Cynthia Isabel Felix
Cynthia Isabel Felix

Attorney for Petitioner