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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
13 minor; by and through Erica
14 Santamaria, as Next Friend of
15 Minors

16 Petitioner,

17 v.

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

Respondents.

Case No. 2:26-CV-9996

PETITIONER'S TRAVERSE IN
SUPPORT OF VERIFIED
PETITION FOR WRIT OF
HABEAS CORPUS

PETITIONER'S TRAVERSE IN SUPPORT OF VERIFIED PETITION FOR WRIT OF
HABEAS CORPUS

1 **I. INTRODUCTION**

2 This case concerns two unaccompanied children, A.H.C.D.L.C. (a 16-year-
3 old) and G.S.R.J. (a 9-year-old), who unnecessarily remain in federal custody after
4 132 and 108 days, respectively, despite Congress's direction that they be "promptly
5 placed in the least restrictive setting that is in the best interest of the child." 8 U.S.C.
6 § 1232(c)(2)(A). Both Petitioners have spent this time detained in Office of Refugee
7 Resettlement's ("ORR") custody while their mothers, for the same period, have been
8 attempting to secure their release.

9 For all its detail, Respondents' Answer rests on a simple proposition: the child
10 must remain detained because ORR's prolonged reunification process is not yet
11 complete. Yet Respondents do not contend that Petitioners are dangerous, a flight
12 risk, or otherwise require continued detention. Nor do they contend that Petitioners'
13 mothers, or any of the members of the household to which Petitioners would be
14 released, pose any risk to the Petitioners. Instead, even after all these months,
15 Respondents maintain that *additional* review, vetting, and reunification steps are still
16 needed to process the family reunification applications. Congress's command that
17 unaccompanied children be "promptly placed" in the least restrictive setting cannot
18 be reconciled with a process that permits detention to continue for as long as the
19 Government can identify another task to complete.

20 Petitioners do not challenge ORR's authority to vet potential sponsors. The
21 question is whether that authority permits ORR to continue detaining these
22 unaccompanied children under its current practices.¹ Congress's mandate of prompt
23 placement, reinforced by ORR's own regulations, contemplates sponsor
24 adjudications measured in days, not detention measured in hundreds of days, as here.

25 Respondents' procedural arguments fare no better. Respondents' reliance on
26 *Lucas R.* is misplaced, as that case concerned the process governing release decisions
27 and sponsor denials. See *Lucas R. v. Becerra*, No. CV 18-5741-DMG (PLAx), 2022

28

¹ As discussed *infra*, the process ORR states still remains to be completed will
undoubtedly extend this amount of time. Answer at 15:5-19:23.

1 WL 2177454 (C.D. Cal. Mar. 11, 2022). It did not authorize prolonged detention
2 while ORR stalls reunification.

3 Respondents also contend that habeas relief is premature because the
4 sponsorship process remains ongoing. This argument describes the injury rather than
5 answering it. Petitioners have spent more than 100 days in federal custody awaiting
6 reunification with their mothers that Congress intended to be prompt. The TVPRA,
7 ORR's Foundational Rule, and the Fifth Amendment do not permit detention to
8 continue indefinitely simply because additional agency action remains outstanding.
9 This Petition should be granted.

10 II. FACTUAL AND PROCEDURAL BACKGROUND

11 The Petition for Writ of Habeas Corpus ("Petition;" "Pet."), Dkt. No. 4, the
12 Declaration of Erica Santamaria ("Santamaria Decl."), Dkt. No. 4-1 are incorporated
13 by reference. The following summary reflects largely undisputed facts drawn from
14 those filings.

15 Petitioner A.H.C.D.L.C.

16 Petitioner A.H.C.D.L.C. entered ORR custody on May 7, 2026. Pet. ¶ 21. Her
17 mother was identified as a Category 1 sponsor that same day. Answer at 13:11-12.
18 She has consistently expressed her desire to reunify with her family. Pet. ¶ 32. Her
19 mother has proved cooperative and diligent with ORR sponsorship procedures. *E.g.*,
20 Answer at 13:22-16:26. The following is a summary of the relevant vetting tasks
that have been completed:

- 21 • By May 26, 2027, the DSA FFS reviewed the ARI and the non-conforming
Mexican passport. *Id.* at 14:8-9.
- 22 • May 27, 2026, she had completed **fingerprinting** and provided **identification**
23 **documents**. *Id.* at 14:8-19.
- 24 • May 29, 2026, A.D.L.C.S. provided the DSA FFS with the only document she
possessed **to prove her address**. *Id.* at 14:24-25.
- 25 • May 29, 2026, the ARI for the ACG was received, but it was lacking the 18-
26 year address history; that document has been revised and resubmitted and
received on June 1, 2026. *Id.* at 14:25-27.
- 27 • The ACG's IBC (Internet Background Check) was requested, and a
28 fingerprint appointment was scheduled for June 3, 2026. *Id.* at 15:1-2. The

1 results from the ACG's fingerprint appointment were mitigated on July 16,
2026. *Id.* at 15:21.

- 2 • On June 17, 2026, A.D.L.C.S. reported the homeowner where she lived would
3 not be willing to undergo the required vetting process. On July 1, 2026,
4 A.D.L.C.S. notified the DSA FFS she had relocated to another residence. *Id.*
5 at 15:7-16.
- 6 • On July 13, 2026, the Case manager informed the DSA FFS that there were
7 *continuing language barriers* (emphasis added) for A.D.L.C.S. and the
8 continued assistance of a Mixteco Bajo interpreter was needed. *Id.* at 15:18-
9 20.
- 10 • By July 16, 2026, ORR received the ITIN's for A.D.L.C.S. and the ACG. *Id.*
11 at 15:22.
- 12 • On July 20, 2026, the DSA FFS received the Mexican consulate's verification
13 of A.D.L.C.S.' identity. *Id.* at 15:22-25.
- 14 • On July 30, 2026, ORR received the **home study report with a positive**
15 **recommendation for reunification.** *Id.* at 15:27-16:1.
- 16 • By August 18, 2026, the DSA FFS received the **DOV report** for the sponsor,
17 which returned as "clear with a caveat" as A.D.L.C.S. was a possible Entry
18 Without Inspection; *Id.* at 16:10-12. It was noted that this information did not
19 likely impact A.D.L.C.S.'s suitability as a potential sponsor. *Id.* at 16:12-13.
- 20 • August 25, 2026, A.D.L.C.S.L completed the **DNA collection and in-person**
21 **identification verification.** *Id.* at 16:13-15.
- 22 • On August 31, 2026, DNA results confirmed the mother-daughter
23 relationship. Pet. ¶ 30.
- 24 • On August 31, 2026, a category 1 exemption was submitted for non-
25 confirming identifications for A.D.L.C.S. and the ACG. Answer at 16:22.
26 ORR has within its possession A.D.L.C.S.'s legal permanent resident card.
27 Pet. ¶ 31.
- 28 • As of September 18, 2026, the Category 1 exemption remains pending, along
with a sponsor suitability determination and final release decision. Answer at
16:24-26.

Petitioner G.S.R.J.

23 Petitioner G.S.R.J. entered ORR custody on June 1, 2026. Pet. ¶ 34. Her
24 mother was identified as a Category 1 sponsor that same day. Answer at 17:7-8.
25 She has consistently expressed her desire to reunify with her family. Pet. ¶ 43. Her
26 mother has proved cooperative and diligent with ORR sponsorship procedures,
27 *E.g.*, Answer at 17:2-19:23, and has visited G.S.R.J. at the shelter throughout her
28

1 detention. Pet. ¶ 43. The following is a summary of the relevant vetting tasks that
2 have been completed:

- 3 • On June 2, 2026, F.M.J.R. completed parts 1 and 2 of the Sponsor Application.
4 *Id.* at 17:11-12.
- 5 • By June 8, 2026, F.M.J.R. completed the ARI and uploaded it to the portal.
6 *Id.* at 17:16-17.
- 7 • By June 25, 2026, F.M.J.R. provided a **self-attestation letter regarding her**
8 **income** and supplemental bank statements. *Id.* at 17:24-25. On June 30, 2026,
9 F.M.J.R. supplemented the proof of income with her partner's income. *Id.* at
10 17:27-28.
- 11 • On June 30, 2026, F.M.J.R. provided a non-compliant **proof of address** (a
12 medical bill), which required additional supervisory review *Id.* at 18:1-2.
- 13 • On July 17, 2026, the **need for a Category 1 waiver was documented** after
14 F.M.J.R. provided a foreign identification. *Id.* at 18:8-9.
- 15 • On July 17 and July 21, 2026, the DSA FFS reached out to the ACG for
16 clarification about an incident that was noted in the ACG's internet
17 background check and traffic violations requiring documentation regarding
18 the charge. *Id.* 18:10-16. The ACG claimed the charges were too old and that
19 the court does not keep records for old traffic violations. *Id.* at 18:16-18.
- 20 • On July 23, 2026, F.M.J.R.'s **application was complete** and uploaded to the
21 portal. CITE.
- 22 • On July 23, 2026, the ACG's IBC returned with an undisclosed/determined
23 offense in Riverside County. *Id.* at 18:20-21. By August 14, 2026, the court
24 documentation was provided to the DSA FFS and uploaded. *Id.* at 18:26-27.
- 25 • On July 27, 2026, F.M.J.R. **applied for an ITIN** and provided proof of the
26 ITIN application. *Id.* at 18:23-24.
- 27 • On August 26, 2026, F.M.J.R.'s birth certificate and provided identification
28 were sent to the consulate for verification. *Id.* at 19:6-7.
- On August 28, 2026, the **home study report** was received by ORR with a
positive recommendation. *Id.* at 19:7-8.
- On September 1, 2026, the DSA FFS requested valid proof of address. *Id.*
19:10. F.M.J.R. stated that she did not have proof of address, CITE; The DSA
FFS requested Proof of Address documenting the ACG's name in the
alternative. *Id.* at 19:12-13. That same day, the DSA FFS requested the ACG's
Social Security Number and a copy of the Social Security card. *Id.* 19:8-10.
- On September 11, 2026, the DSA FFS submitted the **category 1 exemption**
for approval. *Id.* at 18-19.
- On September 15, 2026, ORR received the **results of the DNA testing,**
confirming the biological relationship between F.M.J.R. and G.S.R.J. *Id.* at
19-20.

- As of September 18, 2026, the category 1 exemption remains pending, as well as a sponsor suitability determination and final release decision. *Id.* at 19:21-23.

III. LEGAL STANDARD

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 8:12-11:18 ("Answer"). Petitioner supplements those procedures here.

a. 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 for 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.

IV. ARGUMENT

a. Petitioner's Continued Detention Is Subject To Judicial Review

Respondents contend that habeas relief is untimely because the sponsorship

1 process remains ongoing and sponsorship applications remain incomplete. *See*
2 Answer at 19:26-20:15. But Petitioners do not challenge sponsor adjudications;
3 they challenge their continued detention while reunification remains unresolved
4 with no end in sight. A.H.C.D.L.C. and G.S.R.J. have been in ORR custody for
5 months and the government contends that more, time-consuming, vetting steps
6 remain before reunification with their mothers could occur. Answer at 16:22-25,
7 19:18-23.

8 Indeed, Respondent's provide no timeline for approval of the sponsor ID
9 exemption request, sponsor suitability assessment, or final release decision. Similar
10 facts were before this Court just a month prior to the filing of this instant Petition.
11 In the case of *I.R.L.M. v. Salazar*, No. 5:26-cv-04335-DTB, 2026 WL 2597933, the
12 court expressed concern regarding the delay in releasing Petition into the care and
13 custody of his mother given the positive recommendation of the home study
14 assessment and the clear background and fingerprint checks for all of the
15 inhabitants identified in the home. *Id.* at 2. Petitioner's mother was a lawful
16 permanent resident. *Id.* Throughout the reunification process ORR repeatedly
17 documented that [sponsor] did not present a risk of abuse, maltreatment,
18 exploitation, or trafficking to Petitioner. *Id.* The Court found that, "Other than the
19 mere fact of pendency of the outstanding ORR DOV report and the CA/N check,
20 Respondents have not pointed to any particularized, identifiable, cognizable risk or
21 threat to Petitioner's health or welfare, or to any risk of flight, such that his
22 continued detention would be warranted under the TVPRA." *Id.* at 3. The Court
23 further found that Respondents violated his right to procedural due process by
24 continuing to detain him rather than releasing him to his mother. *Id.* "Electing form
25 over substance, however, ignores TVPRA's mandate that the child be placed
26 promptly into the least restrictive setting that is in the best interest of the child, and
27 also ignores the extreme and emotional harm being inflicted on Petitioner by his
28 continued separation from his mother and family members, particularly in light of
the positive information regarding reunification Respondents have already

1 confirmed.” *Id.* at 6. After finding that Petitioner’s due process rights [had] been
2 violated due to his prolonged detention attributable to the delay in releasing
3 Petitioner to his [sponsor’s] custody, Petitioner’s petition for a Writ of Habeas
4 Corpus was granted and the Court ordered Respondents to immediately release
5 Petitioner to the custody and care of his mother. *Id.* at 10-11.

6 Additionally, here, Respondents’ Answer shows delays in its account of the
7 reunification process, including those tasks most recently initiated after months of
8 having the underlying information allowing them to act. A.D.L.C.S. first provided
9 a copy of her Mexican passport and a photograph via text message on May 15,
10 2026. Answer at 13:19-23. Yet, it was not until August 31, 2026, that ORR
11 requested a category 1 exemption to the identification requirement. And, although
12 the record is lacking as to why A.D.L.C.S. did not provide her legal permanent
13 resident card at the verification appointment (though most certainly due to the
14 language barrier that was documented throughout the entire reunification process),
15 now that ORR has the valid identification document in their possession, they *insist*
16 the category 1 exception must be approved. *Id.* Similarly, F.M.J.R.’s category 1
17 exception request was not made until September 11, 2026. *Id.* at 19:18-19. In
18 neither case has ORR provided a timeline for approval of the exception. ORR
19 raises no question as to the identity of the sponsors or the validity of either
20 document. Moreover, no timeline for when ORR will make a sponsor suitability
21 determination or a final release decision for either Petitioner is identified.

22 Respondents’ exhaustion argument ultimately describes the injury rather
23 than addressing it. Under Respondents’ theory, judicial review would become
24 available only after ORR completes the very process whose delay Petitioners are
25 challenging. Petitioners are not challenging completed sponsorship determinations.
26 They challenge ongoing detention during a reunification process that, by
27 Respondents’ own account, remains unresolved for several months after Petitioners
28 entered ORR custody. Habeas relief exists precisely to test the legality of such
custody. *See* 28 U.S.C. § 2241(c)(3).

b. ORR's Vetting of Sponsors Does Not Authorize Prolonged Detention

Respondents contend that because sponsor vetting remains ongoing, their custody of Petitioners is "required by statute." Answer at 21:12-22:15. Petitioners do not dispute that ORR possesses statutory authority to evaluate sponsor suitability. *See* 8 U.S.C. § 1232(c)(3)(A); 45 C.F.R. § 410.1202. Instead, Petitioners question whether ORR may continue to detain them for months (and potentially longer) while outstanding tasks remain unresolved. Respondents identify no statute, regulation, or case authorizing detention of that duration based solely on an unfinished reunification process. Nor do Respondents identify any determination that Petitioners pose a danger to the community or present a flight risk, *see generally* Answer at 13-19², or that their sponsors present any risk of abuse, maltreatment, exploitation, or trafficking to Petitioners. *Id.*

Respondents' own chronology illustrates the problem. As set forth above, A.H.C.D.L.C. entered ORR custody on May 7, 2026, and G.S.R.J. entered ORR custody on June 1, 2026. ORR identified a Category 1 sponsors immediately. *Id.* at 13:11-13; 14:7-8. ORR's vetting requirements led to delays that began in May and June 2026 and continue to date with no predictable end. *See also* Answer at 16:22-26; 19:18-23 (outstanding tasks). As a result, A.H.C.D.L.C. and G.S.R.J. remain detained without a decision on their reunification.

The authority Respondents invoke is authority to maintain temporary custody while sponsor suitability is assessed and reunification is pursued. The detention described in Respondents' own chronology bears little resemblance to the temporary and transitional custody contemplated by the TVPRA and ORR's own regulations.

Congress directed that unaccompanied children be "promptly placed in the

² Even under Respondents' reliance on OBBBA § 87001, the record reflects extensive sponsor-review efforts. Respondents acknowledge that ORR has undertaken identity verification, household member verification, sponsor and household member fingerprinting, residential history, home study, and criminal-background screening during the reunification process. *See* Answer at 14:10-15; Biswas Decl. at ¶¶ 37-57.

1 least restrictive setting that is in the best interest of the child.” 8 U.S.C. §
 2 1232(c)(2)(A). ORR’s regulations similarly require prompt and continuous efforts
 3 toward release, release without unnecessary delay, and periodic supervisory review
 4 of reunification applications that remain pending. *See* 45 C.F.R. §§ 410.1200,
 5 410.1201, 410.1203(a), 410.1207(a). ORR is specifically required to “make and
 6 record prompt and continuous efforts toward the release of children in its custody.”
 7 45 C.F.R. § 410.1203(a). These provisions reflect a central premise of the statutory
 8 scheme: ORR custody is temporary. Sponsor review exists to facilitate safe
 9 reunification, not to transform temporary child-welfare custody into confinement
 10 measured in many months.³

11 Respondents’ contention that they are “acting in accordance with the
 12 TVPRA’s requirements,” Answer at 22:13, is without grounds as they have ignored
 13 other regulations that exist for the sole purpose of moving along the reunification
 14 process. These regulations contemplate formal supervisory review every ninety
 15 days, identification of barriers to release, and affirmative efforts to resolve those
 16 barriers. *See* 45 C.F.R. § 410.1207(a). Petitioners have remained in ORR custody
 17 through at least one ninety-day review cycle while reunification remains unresolved.
 18 Respondents identify no final release determination.

19 If ORR may continue detaining children and delaying their release by simply
 20 identifying more unresolved administrative steps, the statutory requirement of
 21 prompt placement would have no practical meaning.⁴ The consequences of these

22 ³ Since the beginning of 2025, ORR has imposed numerous additional sponsor-vetting
 23 requirements. *See* Answer at 9:2-10:8. Those changes have been accompanied by a
 24 dramatic increase in the average length of stay for unaccompanied children in ORR
 25 custody, from approximately 30 days in 2024 to 117 days in 2025. *See* Data, Office of
 26 Refugee Resettlement, Admin. For Child. & Fams., U.S. Dep’t of Health & Hum. Servs.
 27 <https://acf.gov/orr/about/ucs/facts-and-data> (last visited Sept. 18, 2026).

28 ⁴ As our colleagues from the ACLU of Virginia recently put it in a similar Habeas
 Petition also involving UCs detained for more than 300 days: “Respondents’ delays [in
 timely adjudicating a FRP] created a self-fulfilling trap. As months passed, previously
 completed background checks expired and had to be repeated, generating new rounds of
 delay. This is despite the absence of any identified trafficking concern, criminal concern,
 or danger to the children. These delays in reunification are part of an escalating pattern by

1 delays are not abstract. ORR's own records reflect that Petitioners are experiencing
 2 significant emotional and psychological harm, disruption in sleeping and eating
 3 habits, loss of appetite, sadness, emotional distress, uncertainty, and tearfulness. *See*
 4 Pet. ¶¶ 32 and 43. Congress's command of prompt placement reflects the recognition
 5 that prolonged institutional custody itself carries significant costs for children
 6 awaiting reunification with family members.⁵ At some point, detention ceases to
 7 resemble the temporary child-welfare custody authorized by Congress and instead
 8 becomes the consequence of an administrative process that has failed to reach a
 9 timely conclusion.

10 After months of confinement, Respondents have failed to establish that
 11 Petitioners' continued detention remains reasonably related to the temporary child-
 12 welfare purposes underlying ORR custody. The record instead reflects that
 13 Petitioners are bearing the consequences of delay in a reunification process that
 14 Congress expected ORR to promptly complete. The TVPRA and Foundational Rule
 15 require ORR to act with diligence, not to rely on its incompleteness as a continuing
 16 justification for confinement. Nothing in either authority permits prolonged
 17 detention simply because ORR continues to identify additional steps before making
 18 a reunification decision.

19 **c. Petitioners' Detention Violates Due Process**

20
 21
 22 Respondents to prevent children from being released." *See*

23 [https://www.acluva.org/cases/jane-p-et-al-v-salazar-et-al/?document=ECF-1-Petition-for-](https://www.acluva.org/cases/jane-p-et-al-v-salazar-et-al/?document=ECF-1-Petition-for-Writ-of-Habeas-Corpus-and-Complaint)
 24 [Writ-of-Habeas-Corpus-and-Complaint](https://www.acluva.org/cases/jane-p-et-al-v-salazar-et-al/?document=ECF-1-Petition-for-Writ-of-Habeas-Corpus-and-Complaint) ¶4.

25 ⁵ Those costs are well documented. HHS's Office of Inspector General reported that ORR
 26 mental-health clinicians observed that children's mental health often deteriorates as their
 27 length of stay in ORR custody increases. *See* U.S. Dep't of Health & Hum. Servs., Off. of
 28 Inspector Gen., *Care Provider Facilities Described Challenges Addressing Mental Health Needs of Children in HHS Custody*, OEI-09-18-00431, at 12 (Sept. 4, 2019).
 Courts have likewise recognized the serious psychological consequences associated with
 prolonged family separation and detention affecting children. *See Ms. L. v. ICE*, 310 F.
 Supp. 3d 1133, 1146 (S.D. Cal. 2018).

**i. Petitioners' Continued Detention Violates
Procedural Due Process**

Procedural due process requires adequate procedural protections to ensure that the government's asserted justification for detention outweighs an individual's constitutionally protected interest in avoiding physical restraint. *Hernandez v. Sessions*, 872 F.3d 976, 990 (9th Cir. 2017). Under *Mathews v. Eldridge*, courts consider: (1) the private interests affected; (2) the risk of erroneous deprivation under the procedures used and the value of additional safeguards; and (3) the government's interest. 424 U.S. 319, 335 (1976). Each factor favors Petitioners.

**ii. Petitioners Are Being Deprived of Fundamental
Liberty Interests**

Freedom from physical restraint lies at the core of the liberty protected by the Due Process Clause. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). Children likewise possess a constitutionally protected interest in freedom from institutional confinement. *Reno v. Flores*, 507 U.S. 292, 302-03 (1993). Petitioners have spent months in ORR custody while separated from family members seeking reunification. See Pet. ¶¶ 21, 34. The Constitution also protects family integrity and familial association. *Rosenbaum v. Washoe County*, 663 F.3d 1071, 1079 (9th Cir. 2011); *Moore v. City of East Cleveland*, 431 U.S. 494, 504-05 (1977). For a child, confinement means more than physical restraint; it means continued separation from their mother and family during a critical period of emotional, social and personal development, and the loss of a portion of childhood that no later reunification can restore. Thus, Petitioner's continued confinement implicates substantial liberty interests.

**iii. The Risk of Erroneous Deprivation Is
Substantial**

The second *Mathews* factor likewise strongly favors Petitioners. Respondents repeatedly rely on ORR's administrative review process and the procedures approved in *Lucas R.* as evidence that adequate procedural protections exist. See

1 Answer at 24:13-25:7. But those procedures largely become meaningful only after
2 ORR reaches and communicates a reunification determination. Petitioners'
3 challenges arise from the absence of such determination despite months of continued
4 detention.

5 Petitioners challenge prolonged detention during unresolved reunification
6 proceedings. Until ORR reaches a final decision, they remain confined while the
7 very basis for their continued detention goes unresolved. In effect, Petitioners remain
8 trapped in procedural limbo. The procedures identified by Respondents may protect
9 against erroneous sponsor determinations; they do not protect against prolonged
10 detention while no determination is made.

11 Respondents' reliance on *Lucas R.* is misplaced. Respondents invoke *Lucas*
12 *R.* as evidence that ORR's reunification framework satisfies due process. But *Lucas*
13 *R.* assumed the existence of a reunification determination subject to administrative
14 review. See *Lucas R. v. Becerra*, No. CV 18-5741-DMG (PLAx), 2022 WL
15 2177454, at *28 (C.D. Cal. Mar. 11, 2022)⁶. It did not address whether children
16 may remain detained for months while that determination remains unresolved.

17 The risk of erroneous deprivation is not hypothetical. A.H.C.D.L.C. and
18 G.S.R.J. remain detained while ORR continues to request verification items,
19 evaluate the sponsor applications, and delays further as it waits approval of
20 identification exceptions, summary of sponsor suitability, and a final release
21 decision. In light of the delays documented in the record, Respondents have provided
22 no assurance that Petitioners will be released from ORR custody any time soon.
23 Consequently, Petitioners do not have a meaningful mechanism through which to

24 ⁶ *Lucas R.* did not merely recognize ORR's authority to vet sponsors. It also required
25 periodic supervisory review of pending reunification applications to identify barriers to
26 release and advance safe reunification. See *Lucas R. v. Becerra*, No. CV 18-5741-DMG
27 (PLAx), 2022 WL 2177454, at *28-29 (C.D. Cal. Mar. 11, 2022). Those reviews were
28 intended to prevent children from remaining in ORR custody while reunification efforts
stagnated. *Id.* The Biswas Declaration does not indicate whether such ninety-day reviews
occurred, what steps were identified to advance reunification, or whether those efforts
resulted in meaningful progress toward release. See generally Biswas Decl. Petitioner had
been in ORR custody well beyond 90 days and reunification remains unresolved.

1 obtain timely review of the detention they challenge here.

2 Procedural due process requires an opportunity to be heard “at a meaningful
3 time and in a meaningful manner.” *Mathews*, 424 U.S. at 333. Where continued
4 detention depends on ORR’s reunification determination, procedures that become
5 available only after that determination is made provide little protection against the
6 deprivation Petitioner challenges here. The second *Mathews* factor therefore
7 strongly favors Petitioner.

8 **d. Respondents’ Interests Do Not Justify Prolonged Delay**

9 Respondents unquestionably possess a legitimate interest in protecting
10 children from trafficking, abuse, neglect, and exploitation. 8 U.S.C. § 1232(c)(3)(A);
11 6 U.S.C. § 279(b)(2)(A)(ii). Petitioners do not dispute that interest. But the
12 government has a substantial interest in careful sponsor review, not in delay itself.
13 With respect to just the outstanding items ORR states are required to complete
14 vetting, it was ORR that submitted exceptions for identification documents *months*
15 after noting in their own records that such exceptions would be required. It is ORR
16 that has yet to initiate a sponsor suitability determination despite having the
17 underlying evidence readily available. And it is ORR that has not provided a timeline
18 for when any of these items will be completed or when a final release decision will
19 be rendered.

20 Respondents suggest, without any case law support, that Petitioners claims as
21 to this factor also fall short because they have “not made any showing of
22 unreasonable delay.” Answer at 25:8. But, no such showing is necessary. The
23 TVPRA reflects Congress’s judgment that children’s interests are ordinarily served
24 through prompt placement in family-based settings once appropriate vetting has
25 occurred. *See* 8 U.S.C. § 1232(c)(2)(A). Nor would additional safeguards impose a
26 substantial burden. Petitioners do not seek to eliminate sponsor vetting. They seek
27 timely adjudication of reunification requests and meaningful review of prolonged
28 detention. Requiring ORR to follow the procedures and timelines reflected in its own
regulations would impose little burden while substantially reducing the risk of

1 erroneous deprivation. See 45 C.F.R. §§ 410.1205, 410.1207. Balancing all three
2 *Mathews* factors, Petitioner's continued detention violates procedural due process.

3 **e. Respondents Violated Petitioner's Substantive Due Process Rights**

4 Substantive due process protects against arbitrary governmental interference
5 with fundamental liberty interests, including family integrity, the parent-child
6 relationship, and freedom from unnecessary physical restraint. *Reno v. Flores*, 507
7 U.S. 292, 302 (1993); *Troxel v. Granville*, 530 U.S. 57, 65 (2000); *Ms. L. v. ICE*,
8 310 F. Supp. 3d 1133, 1142 (S.D. Cal. 2018). Respondents argue that ORR's conduct
9 remains constitutional because reunification proceedings continue. They contend—
10 despite the record showing ORR's repeated determination that Petitioners' mothers
11 present no risk of abuse, maltreatment, exploitation, or trafficking—that A.D.L.C.S.
12 and F.M.J.R. have neither an absolute nor unqualified constitutional liberty interest
13 in raising their daughters and that ORR has a countervailing interest in protecting
14 A.H.C.D.L.C. and G.S.R.J. from the risk of harm upon their release. Answer at
15 26:13-17. Respondents further contend that ORR has put in place “ample due
16 process procedures in its regulations and policy” related to potential sponsors who
17 are parents to contest ORR's release decisions. *Id.* at 26:20-22. Finally, they argue
18 that the process in which they have engaged with A.D.L.C.S. and F.M.J.R. does not
19 “shock[] the conscience,” as it is not outside traditional norms. *Id.* at 27:3-11. These
20 arguments are without grounds.

21 The existence of ongoing administrative activity does not, by itself, establish
22 that continued detention remains reasonably related to ORR's stated objectives. The
23 issue is not whether ORR may investigate sponsor suitability. It is whether
24 Petitioners' continued confinement remains reasonably related to the temporary
25 child-welfare purposes that justify ORR custody in the first instance. The vetting
26 process for sponsors began immediately after Petitioners entered custody, and
27 continues to date. ORR has completed a sponsor assessment, fingerprint-based
28 background checks that returned as clear, and internet-based background checks that
returned as clear. Notwithstanding those completed vetting measures, ORR has

1 identified no determination that A.D.L.C.S. or F.M.J.R. is unsuitable to sponsor their
2 daughters.

3 The Constitution permits reasonable investigation into sponsor suitability. It
4 does not permit prolonged separation from available family members while the
5 process used to justify that separation remains indefinitely unresolved. See *Ms. L.*,
6 310 F. Supp. 3d at 1142-46; *E.H.C.F. v. Kennedy*, No. 3:25-cv-2142, 2026 WL
7 145229, at *10 (D. Conn. Jan. 16, 2026). At some point, prolonged detention
8 resulting from an unresolved administrative process ceases to be a means of
9 assessing sponsor suitability and becomes an end in itself. Under these
10 circumstances, Respondents have failed to show that Petitioners' continued
11 detention remains reasonably related to ORR's stated objectives. Continued
12 confinement based on an unresolved reunification process, without a determination
13 that A.D.L.C.S. or F.M.J.R. is unsuitable and without any identified endpoint, is
14 arbitrary in relation to the temporary child-welfare purposes underlying ORR
15 custody and therefore violates substantive due process. Contrary to what
16 Respondents contend, the lengthy vetting process that has kept Petitioners in ORR
17 custody and away from their mothers for months with no end in sight due to
18 additional procedural hurdles does "shock the conscience."

19 **f. Petitioner's TVPRA Claim is Properly Before this Court**

20 Respondents argue that because the "TVPRA does not provide a standalone
21 cause of action," Petitioners must bring their challenge under the APA. *Id.* at
22 42:23-44:3. Respondents' APA argument suffers from the same flaw as their
23 administrative exhaustion one, *see supra* § IV.a. Respondents contend that judicial
24 review is unavailable because ORR has not yet issued a final reunification or
25 release decision. *See id.* at 33-35. But again, Petitioners do not seek review of a
26 completed agency adjudication. They challenge ongoing detention while
27 reunification remains unresolved. Under Respondents' theory, ORR could continue
28 detaining children while simultaneously avoiding judicial review simply by leaving
reunification proceedings unfinished. Neither the APA nor habeas principles

1 permit such a result, particularly because the APA does *not* bar habeas review of
2 ongoing unlawful detention.

3 In any event, exhaustion is prudential rather than jurisdictional. *McCarthy v.*
4 *Madigan*, 503 U.S. 140, 144 (1992); *Laing v. Ashcroft*, 370 F.3d 994, 997, 1000
5 (9th Cir. 2004). Prudential exhaustion is not required where administrative
6 remedies are inadequate, futile, or would result in irreparable harm. *Laing*, 370
7 F.3d at 1000. Those circumstances are present here. Petitioners remain detained
8 while ORR's reunification process continues without resolution, and the
9 procedures identified by Respondents provide no timely mechanism through which
10 to obtain review of this detention.

11 V. CONCLUSION

12 For the foregoing reasons, this Court should grant the relief sought in
13 Petitioners' Petition or hold an evidentiary hearing. This Court should order
14 Petitioners immediately released from ORR detention to their sponsors.

15 Respectfully submitted on September 18, 2026.

16
17 /s/ Cynthia Isabel Felix

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