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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION

J.E.S.R., a minor; by and through Erica Santamaria, as Next Friend of Minor

Petitioner,

v.

ROBERT F. KENNEDY, JR., Secretary of the U.S. Department of Health and Human Services; ANGIE SALAZAR, Acting Director of the Office of Refugee Resettlement; ALEX J. ADAMS, Assistant Secretary of the Administration for Children and Families; ANTONIO GONZALEZ, Federal Field Specialist Supervisor, Office of Refugee Resettlement; and JESSICA FUENTES-VELA, Federal Field Specialist, Office of Refugee Resettlement,

Respondents.

Case No. 2:26-cv-13220

VERIFIED PETITION FOR WRIT OF HABEAS CORPUS

INTRODUCTION

1. Petitioner J.E.S.R. ("Petitioner") has been detained in the custody of the Office of Refugee Resettlement ("ORR") since May 2, 2026—a total of **194 days**. His continued detention violates the Trafficking Victims Protection Reauthorization Act ("TVPRA") and the Due Process Clause of the Fifth Amendment.

2. This case concerns a seventeen-year-old unaccompanied child[1] ("UC") whose biological grandfather, J.D.J.S.[2], came forward to sponsor his grandson's release from ORR custody. J.D.J.S. is a Lawful Permanent Resident who resides in Los Angeles, California with his wife, a United States citizen.

3. Since early May 2026, Petitioner's family members in California have attempted to sponsor Petitioner and secure his release from ORR custody. Despite Petitioner's family's best efforts, ORR has continued to hold Petitioner in custody for over six months. He will turn eighteen years old on November [redacted], 2026.

4. His grandfather, J.D.J.S., has complied with all requirements requested of him by ORR: he has provided his ID, Social Security Number, release authorization, proof of address, proof of income, fingerprints, and background checks for himself and his wife. He also completed a home study, which resulted in a positive recommendation.

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[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] The use of J.D.J.S.'s (sponsor-grandfather) initials further ensures J.E.S.R.'s (petitioner-child) privacy. *See* Fed. R. Civ. P. 5.2(a), (c), (h) (mandating use of a minor's initials, providing for limited access to files in proceedings related to immigration detention "unless the court orders otherwise," and noting that failure to redact personal information in the first instance constitutes a waiver of that protection).

5. The last possible step in the sponsorship process is DNA testing. ORR collected DNA samples on November 7, 2026. ORR is solely responsible for completing the DNA testing, which it has not yet done.

6. By early September 2026, ORR wrote in its own records that Petitioner "*will be reunifying with grandfather*." Yet, more than six months after Petitioner first entered ORR custody, ORR still has not approved a sponsor, denied a sponsor, issued a Sponsor Suitability Determination, or identified any trafficking concern, safety concern, danger finding, or flight-risk determination justifying continued detention.

7. On November 6, 2026, Petitioner's counsel sent a demand letter to Respondents Salazar, Fuentes-Vela, and Gonzalez, explaining that, unless Respondents released Petitioner or completed DNA testing by November 10, 2026, Petitioner would file this Petition. Respondents have still not released Petitioner or completed DNA testing.

8. What remains is not an active reunification process. It is unlawful prolonged detention without a reunification decision.

9. The harms of prolonged detention to a child are particularly acute in this case, where ORR's own records reflect that Petitioner's physical and mental wellbeing have deteriorated during over six months of continued detention and separation from the care of his family.

10. Petitioner remains detained in direct violation of mandatory timing requirements governing sponsor adjudications and even though he has an extensively vetted biological grandparent ready and willing to care for him.

11. Congress enacted the TVPRA and ORR promulgated regulations to ensure that children are *promptly* released from government custody and do not languish in detention while reunification decisions remain unresolved. ORR's flouting of federal law and its own regulations is harming Petitioner and preventing him from immediately reuniting with his family.

12. Each day Petitioner languishes in detention is another day ORR is in violation of the TVPRA, ORR regulations, and the U.S. Constitution. Accordingly, to vindicate Petitioner's constitutional and statutory rights, this Court should grant this Petition for a writ of habeas corpus and order immediate release, as other courts in this District and across the nation have done under materially similar facts.

JURISDICTION

13. 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).

14. 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).

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

VENUE

16. Petitioner is within the jurisdiction of the United States District Court for the Central District of California because he is detained in an ORR-subcontracted facility, Trinity Youth Services ("TYS") in El Monte, California.

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

PARTIES

I. Petitioner

18. Petitioner J.E.S.R. is 17 years old. He is currently detained at TYS in

El Monte, California. Petitioner is in the custody, and under the direct control, of Respondents and their agents. Petitioner's grandparent and sponsor is J.D.J.S.

19. Petitioner's Next Friend, Erica Santamaria ("Mrs. Santamaria"),[3] is the Program Manager for the Detained Youth Empowerment Project ("DYEP") Team at Immigrant Defenders Law Center. *See* Declaration of Erica Santamaria in Support of Verified Petition for Writ of Habeas Corpus. Petitioner appears by and through his Next Friend, Mrs. Santamaria.

II. Respondents

20. Respondent Robert Kennedy, Jr. is sued in his official capacity as the Secretary of the U.S. Department of Health and Human Services ("HHS"). In this capacity Secretary Kennedy oversees the Administration for Children and Families ("ACF") and ORR and is therefore the "head" of those agencies. 8 U.S.C. § 1521. HHS is responsible for the care and placement of UC in federal custody. *See* 8 U.S.C. § 1232(c); 6 U.S.C. § 279. HHS and ORR enter contracts with public and private entities to house, care for, and provide legal assistance to UC apprehended by the Department of Homeland Security ("DHS") pursuant to the Immigration and Nationality Act ("INA"). *See* 6 U.S.C. § 279. Respondent Secretary Kennedy is thereby a legal custodian of Petitioner.

21. Respondent Angie Salazar is sued in her official capacity as the Acting Director of ORR, the component of HHS responsible for implementing the Department's obligations to unaccompanied minors who are immigrants. ORR is the government entity directly responsible for the continued detention of Petitioner and has the authority to release him. Respondent Salazar is thereby a legal custodian of Petitioner.

22. Respondent Alex J. Adams is sued in his official capacity as the Assistant Secretary of the ACF. ACF is comprised of 23 offices, including ORR,

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

and is responsible for the welfare of children and families. Respondent Adams is thereby responsible for Petitioner's continued detention and custody and is a legal custodian of Petitioner.

23. Respondent Antonio Gonzalez is sued in his official capacity as an ORR Federal Field Specialist ("FFS") Supervisor. FFS Supervisors are the government officials responsible for the care and custody of children in ORR facilities and supervise FFSs. In this role, Respondent Gonzalez is responsible for determining Petitioner's placements and has authority to approve his release to an appropriate sponsor's care. Respondent Gonzalez is thereby a legal custodian of Petitioner.

24. Respondent Jessica Fuentes-Vela is sued in her official capacity as an ORR FFS. In this role, Respondent Fuentes-Vela is responsible for determining Petitioner's placement and has authority to approve his release to an appropriate sponsor's care. Respondent Fuentes-Vela is thereby a legal custodian of Petitioner.

STATEMENT OF FACTS

25. Petitioner J.E.S.R. is a seventeen-year-old child who was designated an unaccompanied immigrant child[4] ("UC") upon his arrival in the United States on May 1, 2026. On May 2, 2026, he was transferred to ORR custody, where he remains today. As of the filing of this Petition, **he has been detained in ORR custody for *194 days***.

26. Petitioner's mother died two years ago. Petitioner left Guatemala for the United States after his mother died and after he suffered physical abuse from his father (with whom he lived), hoping to unite with his family, including his grandfather, J.D.J.S., in California.

27. J.D.J.S. is Petitioner's biological grandfather and sponsor for reunification. J.D.J.S. is a Lawful Permanent Resident who resides in Los Angeles,

[4] *See* 6 U.S.C. § 279(g)(2).

California with his wife, a United States citizen. Before Petitioner came to the United States, J.D.J.S. visited Petitioner frequently in Guatemala. Petitioner also has a close relationship with his grandfather's U.S.-citizen spouse, whom he has known since a young age.

28. During the more than six months Petitioner has been held in ORR custody, he has repeatedly expressed a desire to reunify with his grandfather, who visits Petitioner in person approximately every other weekend and is ready and available to care for Petitioner. ORR records reflect Petitioner's excitement when informed that his grandfather would be visiting him, and that visits from family are the one comfort that buoys his spirits.

29. ORR previously declined to release Petitioner to his aunt. ORR records reflect that, no later than May 4, 2026, ORR was contacted by Petitioner's maternal aunt who lives in Los Angeles, who informed ORR that she wished to sponsor Petitioner, and as of May 20, 2026, ORR collected information regarding Petitioner's aunt—including her ID, a selfie, required forms, and Social Security Number—and designated her as Petitioner's sponsor.

30. On May 28, 2026, Petitioner expressed frustration that there had been no progress in his reunification case with his aunt. Petitioner's case manager inquired by email as to the status of sponsorship, informing ORR that Petitioner's sponsor had gathered the required documents but had not been contacted by ORR. Nevertheless, the aunt's sponsorship remained stalled because ORR refused to accept the forms of ID Petitioner's aunt provided, even though that same California ID had already been uploaded onto the portal, added to the approved contact list, and approved for the aunt's in-person visit of Petitioner on May 3, 2026.

31. In early June, following the stalled sponsorship process with Petitioner's aunt, J.D.J.S. stepped in as sponsor for his grandson. ORR records reflect that: by June 19, 2026, ORR had internally designated J.D.J.S. as Petitioner's new sponsor; yet, on July 8, 2026, ORR informed Petitioner's aunt that the

reunification case remained stuck "in the intake process." Later that day, ORR confirmed internally that J.D.J.S.'s ID and "all supporting documents" had been uploaded to the ORR portal.

32. J.D.J.S. has complied with all requirements requested of him by ORR: he has provided his ID, Social Security Number, release authorization, proof of address, proof of income, fingerprints, and background checks for himself and his wife. A home study has been completed, which resulted in a positive recommendation in support of Petitioner's reunification with his grandfather. The only possible remaining step in the sponsorship process, testing the DNA samples ORR collected on November 7, 2026, is entirely in ORR's control but has not been completed by ORR.

33. J.D.J.S. has diligently followed up on the sponsorship process. ORR records reflect that, on July 24, 2026, he called Petitioner's case manager requesting clarification on the next step for sponsorship as he had not been contacted in over two weeks and wanted to know how to move along the process of reuniting with his grandson. He then visited his grandson in person a few days later on July 28, 2026.

34. According to ORR records, on August 13, 2026, Petitioner did not wish to call family members to ask for updates on reunification because he became upset upon learning there continued to be no progress. Petitioner continues to miss his family, typically speaks with them on the phone multiple times per week, and desperately hopes to reunite with his grandfather.

35. ORR records reflect that:

a. As of August 7, 2026, Petitioner was informed of ORR's position that the family reunification application "is almost complete as the only thing pending is to complete signatures"; yet Petitioner had spoken to his aunt who confirmed that the sponsor signature had already been completed prior to this date;

b. Petitioner was excited when informed on August 26, 2026 that ORR had received fingerprint results and that his grandfather's sponsorship was moving forward;

c. As of August 29, 2026, ORR maintained that the sponsor application was pending signature and Petitioner's father's birth certificate; yet, on a recent in-person visit, Petitioner's grandfather showed Petitioner that he had already submitted those documents to ORR prior to this date;

d. As of September 8, 2026 (with identical entries following for September 15, 18, and 28), ORR considered Petitioner "a [Category] 2A who will be reunifying with grandfather," and noted that the sponsor's fingerprints were cleared;

e. As of September 12, 2026, Petitioner's grandfather had not heard from ORR regarding reunification updates;

f. As of September 29, 2026, Petitioner "will be reunifying with sponsor" but the case was pending further assessment and checks;

g. Petitioner's virtual home study interview with a Family Support Specialist was completed on September 24, 2026, and resulted in a positive recommendation; and

h. As of October 1, 2026, ORR referred to Petitioner as "a [Category] 2A who will be reunifying with grandfather," and that his sponsor reached out the same day about visiting Petitioner in person.

36. Notwithstanding ORR's positive determination regarding J.D.J.S.'s sponsorship of his grandson and its own determination that Petitioner "*will be reunifying with his grandfather*," Petitioner remains in ORR custody.

37. During his prolonged stay in ORR custody, Petitioner has experienced emotional distress resulting from his continued detention and uncertainty regarding reunification. ORR records document Petitioner's sadness, concern regarding reunification delays and his peers being released despite their shorter lengths of

stay, and frustration with the lack of progress in his case. ORR records reflect that: by late May his mental health had already deteriorated under the physical restrictions of detention; in July, Petitioner was in low spirits due to continued separation from family; and in August, he had lost interest in activities at the facility and only wanted to "reunite with his family already."

38. Petitioner's psychological distress in custody is exacerbated by staff members at the facility who treat him aggressively, make judgmental remarks about his cultural practices, and control his movements and daily activities, including when he can use the restroom. ORR records reflect that: as of May 31, 2026, Petitioner was experiencing emotional distress from difficulties with other children at the facility and that, as of July 2, 2026 and September 3, 2026, Petitioner's psychological distress had grown worse as his 18th birthday (November [redacted], 2026) approaches and he worries he will remain stuck at TYS until he loses certain protections for juveniles when he turns 18.

39. Petitioner's physical health has also deteriorated during his six-month detention. ORR records reflect that: Petitioner has suffered a fractured finger, blurry vision/deteriorated eyesight stemming from worsening itchiness and redness of the eyes (diagnosed as dry eye syndrome, allergic conjunctivitis, and visual disturbances), and chronic fatigue while in ORR custody; Petitioner's vision issues are exacerbated by the harsh lighting in the facility, requiring him to put his head down to ease the pain (resulting in Petitioner being repeatedly written up by staff for "sleeping" in class); and as of August 6, 2026, Petitioner's conjunctivitis had become "severe."

40. As a UC, Petitioner is currently in immigration proceedings before the Santa Ana Immigration Court, located at 1241 E. Dyer Road, Suite 200, Santa Ana, California 92705. Because he remains in detention, counsel has been unable to fully assess potential forms of immigration relief. Moreover, Petitioner has been unable to initiate the Special Immigrant Juvenile Status ("SIJS") process because he has

not yet been reunified with a sponsor. His continued detention has prevented him from pursuing the necessary state court proceedings to seek the findings required for SIJS, thereby delaying his ability to pursue this potential form of immigration relief. Petitioner's immigration case has been continued multiple times pending his reunification, wasting judicial resources and prejudicing his ability to defend his case in immigration court. Petitioner has a Master Calendar Hearing scheduled for November 6, 2026, at 8:30 a.m., before Immigration Judge Olga E. Attia.

41. On November 6, 2026, Petitioner's counsel sent a demand letter to Respondents Salazar, Fuentes-Vela, and Gonzalez, attaching a draft of this Petition and explaining that, unless Respondents released Petitioner or completed DNA testing by November 10, 2026, Petitioner would file the Petition in this Court.

42. When ORR responded to Petitioner's demand letter on November 10, 2026, it informed Petitioner's counsel that it had collected DNA samples on November 7, 2026 but did not know when the samples would be tested or when, if at all, Petitioner would be released.

43. As of the filing of this Petition, ORR has neither reunited Petitioner with an alternate caregiver nor granted or denied his grandfather's sponsorship application, despite possessing evidence confirming his grandfather's identity, relationship to Petitioner, and willingness to care for Petitioner.

LEGAL FRAMEWORK

I. Law and Procedure Governing this Habeas Petition

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

45. A district court's role in a habeas proceeding is at its "most extensive in cases of pretrial and noncriminal detention," especially "where there ha[s] been little or no previous judicial review of the cause for detention," as is the case here.

Boumediene v. Bush, 553 U.S. 723, 780 (2008).

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

II. Legal Framework Governing the Care and Custody of UCs

47. Three key laws and agreements govern the federal government's treatment and custody of unaccompanied immigrant children: (1) the 1997 *Flores* Settlement Agreement ("FSA"), largely codified into the federal regulatory scheme through ORR's promulgation of its Foundational Rule in 2024; (2) the Homeland Security Act of 2002 ("HSA"); and (3) the Trafficking Victims Protection Reauthorization Act ("TVPRA") of 2008.

A. The *Flores* Settlement Agreement

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

[5] Available at: https://www.aclu.org/sites/default/files/assets/flores_settlement_final_plus_extension_of_settlement011797.pdf.

49. The FSA remains under the supervision of Chief United States District Judge Dolly M. Gee in this court. *See Flores v. Bondi*, No. CV 85-4544-DMG (AGRx).[6]

B. The Homeland Security Act of 2002

50. Enacted in 2002, the HSA divided responsibilities for the processing and treatment of UC between ORR—a sub-department of the Department of Health and Human Services—and the then-newly created Department of Homeland Security.[7] *See* 6 U.S.C. § 279(a). ORR was assigned functions including "coordinating and implementing the care and placement" of UC in appropriate custody. 6 U.S.C. § 279(b).

C. The Trafficking Victims Protection Reauthorization Act

51. Enacted in 2008,[8] the TVPRA requires federal officials to screen unaccompanied immigrant children for certain vulnerabilities upon their arrival in the United States. *See* 8 U.S.C. § 1232(a)(4). It mandates that custody of a UC be transferred to the HHS Secretary within 72 hours of their arrival in the United

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

[7] Prior to the creation of DHS, all matters related to the custody, detention, and deportation of immigrant children were managed by the Immigration and Naturalization Service ("INS"), which was abolished simultaneously with the creation of DHS.

[8] The TVPRA is a reauthorization of the Trafficking Victims Protection Act of 2000, 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 for unaccompanied children navigating the immigration process, recognizing that they are "the most vulnerable immigrants" to whom the country "ha[s] a special obligation" to treat "humanely and fairly." 154 Cong. Rec. S10866 (daily ed. Dec. 10, 2008) (statement of Sen. Feinstein).

States.[9] 8 U.S.C. § 1232(b)(3).

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

D. The ORR Foundational Rule

53. In 2024, after a notice and comment period, HHS adopted a final rule intended to further codify key aspects of the framework governing care and placement of UC as required by the HSA and TVPRA, and to implement the substantive requirements of the FSA. *See generally* UC Foundational Rule (Jul. 1, 2024) ("Foundational Rule"). 45 C.F.R. Part 410.

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

55. The Foundational Rule also provides a non-exhaustive list of 17 factors that ORR may consider when evaluating what is the "least restrictive setting that is in the best interest of the child," including danger to self; danger to community/others; runaway risk; trafficking or other safety concerns; age; gender; LGBTQI+ status or identity; disability; specialized services or treatment requested

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

or required; criminal background; location of potential sponsor and safe, timely release options; behavior; siblings in ORR custody; language access; whether they are pregnant or parenting; location of apprehension; and length of stay in ORR custody. 45 C.F.R. § 410.1103(a), (b).

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

57. Absent "an unexpected delay," ORR is mandated to adjudicate a completed sponsor application for a relative who has previously been the child's primary caregiver "within 10 calendar days of receipt of the completed sponsor application," and to adjudicate applications by relatives who were not previously the child's primary caregiver within 14 calendar days. 45 C.F.R. § 410.1205(b).

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

59. In addition to the above, ORR supervisory staff "who supervise field staff" are required to conduct "automatic review of all pending sponsor applications . . . within 90 days of an [UC] entering ORR custody." 45 C.F.R. § 410.1207(a). This "review" is not perfunctory, but rather is designed to keep the child and potential sponsor informed of outstanding issues in the reunification process and to work to resolve them. The Foundational Rule requires ORR and subcontracted

facility staff to "update the potential sponsor and [UC] on the status of the case, explaining the reasons that the release process is incomplete." 45 C.F.R. § 410.1207(b). Further, the Rule provides that ORR and subcontracted facility staff "shall work with the potential sponsor, relevant stakeholders, and ORR to address the portions of the sponsor application that remain unresolved." *Id.*

60. As part of the process to release unaccompanied children, ORR is responsible for conducting *concurrent* planning for release of all unaccompanied children.[10] ORR does this by identifying an Alternative Caregiver ("ACG") and vettingvets the ACG in tandem with the sponsor. 45 C.F.R. § 410.1203(f). ORR's concurrent planning includes indicating the reason for concurrent planning and any concerns with the potential sponsor, as well as any available information about the additional sponsor(s) or alternate release plans.[11] This process serves to "create a plan to cover a broad range of care," and to ensure a child does not get stuck in ORR custody because a sponsor becomes unavailable or is determined to be unsuitable. *Id.*

E. Policies Adopted Since 2025 Have Caused Prolonged Delays in the Release of Children from ORR Custody

61. Beginning in 2025 with the Trump Administration, Respondents have drastically restricted the placement of children in ORR custody with sponsors by modifying the ORR regulations and adding new onerous requirements for sponsor vetting to the UC Policy Guide. As a result, the sponsor reunification process has slowed to a near-stop.[12] The average length of time in ORR custody rose from 33

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

[11] *Id.* at page 45.

[12] *See, e.g.*, KUT NEWS, "The Trump administration has all but stopped reuniting detained migrant children with families," Dec. 19, 2025, available at

days in December 2024 to 182 days in August 2025.[13]

62. On March 25, 2025, the Administration promulgated an Interim Final Rule (IFR) to amend the ORR Foundational Rule and remove protections for undocumented sponsors of children in ORR custody. The amended rule now allows ORR to share sponsor immigration status information with law enforcement and immigration enforcement agencies and removes restrictions that previously prevented ORR from denying sponsors solely based on immigration status. This has led to Respondents engaging in unprecedented immigration enforcement activity, including detaining sponsors when they go through the sponsor application process and sending law enforcement officers to the homes of sponsors after a child's release.[14]

63. The Trump Administration has also made drastic changes to the ORR Policy Guide, heightening the sponsor vetting process. These changes include: narrowing documents accepted to prove identity, address, and relationship to those forms of documents largely available only to people with lawful immigration status; mandating that prospective sponsors appear for ORR interviews at which ICE agents have appeared and arrested prospective sponsors due to lack of lawful immigration status; requiring DNA testing for all claimed biological relationships;

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https://www.kut.org/crime-justice/2025-12-19/texas-trump-immigration-children-reunification.

[13] *See* Neha Desai, et al., *The Unraveling of ORR: A Quick and Calculated Undoing of a System Intended to Protect Children,* The National Center for Youth Law, at 11, published Sept. 2025, available at https://youthlaw.org/wp-content/uploads/ncyl_the-unraveling-of-orr_sept2025_final.pdf; *see also* KIND, *A Timeline Spotlight: ORR's Indefinite Detention of Unaccompanied Children Inflicts Trauma and Thwarts Due Process*, published March 2026, available at https://supportkind.org/wp-content/uploads/2026/04/26_Timeline-Spotlight-Indefinite-Detention-2.pdf.

[14] *See* Desai, *et al*, *supra* at 3.

mandating home studies; expanding fingerprinting and background check requirements to all sponsors, adult household members, and alternate caregivers; and requiring that all sponsors, adult household members, and alternate caregivers provide a Social Security Number or Individual Taxpayer Identification Number ("ITIN") or proof of ITIN application. These changes to the Policy Guide are subject to ongoing litigation.[15]

64. Several of these additional requirements have been added in a piecemeal fashion, creating a moving target for document-collection for sponsors seeking reunification with a child in ORR custody. For example, while the requirement for a U.S.-issued identification was added in March 2025, it was not until February 2026 that the SSN or ITIN requirement was added, and not until April 2026 that ORR confirmed that a home study was required in all cases, unless a very narrow exception applied.[16]

65. Courts across the country have concluded that these new sponsorship requirements are unlawful for various reasons. In terms of the overall delay caused by this process, "[s]everal courts have agreed that 'significant' and 'unexplained delay[s] in responding to [a proposed sponsor's] unification request' violate[] due

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[15] *See Angelica S. v. HHS*, No. 25-CV-1405 (DLF), 2025 WL 1635369, at *179 (D.D.C. June 9, 2025) (granting a motion for class certification and enjoining the new sponsor documentation and income requirements for youth in ORR custody on or before April 22, 2025 and finding that "it is substantially likely that ORR acted arbitrarily and capriciously by not providing adequate justification for its new sponsor documentation requirements").

[16] *See, e.g.*, Feb. 27, 2026 Update to UC Policy Guide 2.2.4, "ORR Unaccompanied Alien Children Bureau Policy Guide: Record of Posting and Revision Dates" (introducing "requirements for all potential sponsors, adult household members, and alternate caregivers to provide proof of Social Security Number (SSN) or Individual Tax Identification Number (ITIN) with the Sponsor Application for Release"), available at https://acf.gov/orr/policy-guidance/unaccompanied-children-program-policy-guide-record-posting-and-revision-dates.

process." *M.A. v. Molina*, No. 4:26-CV-415, 2026 WL 741623, at *6 (N.D. Ohio Mar. 17, 2026) (*quoting Lucas R. v. Becerra*, No. 18-CV-5741, 2022 WL 2177454, at *27 (C.D. Cal. Mar. 11, 2022) (collecting cases). Likewise, courts have found the U.S.-issued identification requirement to present due process concerns. *See E.F.E.L. v. Noem*, No. 26-CV-02507, 2026 WL 1045550, at *2 (N.D. Ill. Apr. 17, 2026) (ordering immediate release of unaccompanied minor held in ORR custody for five months for vetting where release was delayed due to a new Trump-era requirement that sponsor obtain a U.S.-issued identification card despite the fact that sponsor had previously been approved by ORR to receive the petitioner and describing these new vetting practices as "gross weaponization of the ORR process to further this administration's immigration enforcement efforts"); *Angelica S. v. HHS*, No. 25-CV-1405 (DLF), 2025 WL 1635369 (D.D.C. June 9, 2025) (enjoining for a sub-class of youth in ORR custody on or before April 22, 2025 the new U.S. identification requirement).

66. ORR continues to move the goalposts. This year, Respondents have begun invoking missing ITIN information as a reason for delaying a child's release to an immediate family member—even when ORR has no evidence to suggest that the family member is unfit to serve as the child's sponsor. This too has been successfully challenged. *See I.T. by & through Next Friend B.V.T.R. v. Kennedy*, No. 26-CV-02563 (JAV), 2026 WL 882917, at *2 (S.D.N.Y. Mar. 31, 2026) (granting preliminary relief where "ORR acknowledge[d]" a mother's sponsorship application was complete and "the only step that remain[ed] before a determination can be made [was] ORR's internal consideration of the waiver of the requirement that B.V.T.R. submit an ITIN."); *Molina*, 2026 WL 741623, at *6 (ordering the immediate release of unaccompanied minor in ORR custody and holding that the petitioner's due process rights were violated when he was detained nearly eight months after his immediate family member sponsor submitted a sponsorship application where, among other delays, the government compelled the sponsor to

apply for an ITIN despite previously approving her as a sponsor without said ITIN).

67. Similar to now, in 2018 under the first Trump administration, ORR also made policy changes which caused unaccompanied children's length of custody in ORR to increase significantly, with children spending months in congregate care designed to hold children for only a few weeks.[17] The then-Assistant Secretary for the Administration for Children and Families later conceded that the policy did not "add [] anything to the protection and safety of the children."[18] Extended lengths of stay in ORR custody harmed children's mental health and wellbeing.[19]

F. Substantive and Procedural Due Process

68. It is axiomatic that civil immigration detention is limited by both substantive and procedural due process protections, which apply "to all 'persons' within the United States, including [noncitizens], whether their presence here is

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[17] *See, e.g.*, Dep't of Health and Hum. Servs., Office of the Inspector Gen., *Care Provider Facilities Described Challenges Addressing Mental Health Needs of Children in HHS Custody*, 13 (Sept. 2019), https://perma.cc/YLT7-R3HP ("HHS OIG Report") ("[C]hildren's average length of stay in ORR custody increased markedly after ORR implemented the new fingerprinting policy in June 2018," from 61 days in June 2018 to 93 days in November 2018 and then decreased after ORR ended fingerprinting requirements for adult household members and then for parents, reaching 48 days in April 2019.)

[18] John Burnett, *Several Thousand Migrant Children In U.S. Custody Could Be Released Before Christmas*, NPR (Dec. 18, 2018), available at https://perma.cc/6WHS-BNR6.

[19] *See, e.g.*, HHS OIG Report at 13 (After implementing new restrictive reunification policies, ORR "facilities reported that it became more difficult to identify sponsors willing to accept children after the new fingerprinting requirements were implemented, which delayed placing children with sponsors, adding further stress and uncertainty."); *see also id.* at 12–13 ("According to facility staff, longer stays resulted in higher levels of defiance, hopelessness, and frustration among children, along with more instances of self-harm and suicidal ideation.").

lawful, unlawful, temporary, or permanent." *Zadvydas*, 533 U.S. at 693. Indeed, freedom "from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty" that the Due Process Clause protects. *Id.* at 690.

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

ARGUMENT

III. Petitioner's Claims are Cognizable as a Habeas Action, and Administrative Exhaustion is Not Required.

70. Petitioner seeks habeas relief pursuant to the TVPRA and both the substantive and procedural components of the Due Process Clause of the Fifth Amendment. As "challenges to the statutory framework authorizing detention, questions of law raised in the application or interpretation of statutes, and constitutional claims, such as claims that the discretionary process itself was constitutionally flawed," these claims have been found to "fit comfortably" within the scope of the habeas statute. *Alam v. Keeton*, No. CV-19-05538-PHX-MTL (CDB), 2020 WL 5439513, at *4 (D. Ariz. Sept. 9, 2020) (quoting *Jennings v. Rodriguez*, 583 U.S. 281, 296 (2018); *Leonardo v. Crawford*, 646 F.3d 1157, 1160

(9th Cir. 2011); *Singh v. Holder*, 638 F.3d 1196, 1202 (9th Cir. 2011)) (internal quotation marks omitted).

71. Petitioner is not required to exhaust administrative remedies before initiating this proceeding, as exhaustion in the habeas context is prudential, rather than jurisdictional. *See Laing v. Ashcroft*, 370 F.3d 994, 997 (9th Cir. 2004); *Hernandez v. Sessions*, 872 F.3d 976, 988 (9th Cir. 2017). Even prudential exhaustion is not required if "administrative remedies are inadequate or not efficacious, pursuit of administrative remedies would be a futile gesture, [or] irreparable injury will result." *Laing*, 370 F.3d at 1000; *see also Hernandez*, 872 F.3d at 988. In any event, where Petitioner's grandparent—who would be eligible to appeal a denial of his application under controlling regulations—has received no decision from ORR on his sponsorship application, there is no administrative remedy available for Petitioner to pursue.

72. Despite Petitioner's and his grandfather's compliance with ORR's requirements, the ongoing delays—well beyond the 90-day review requirement outlined in ORR's own regulations, 45 C.F.R. § 410.1207(a)—have resulted in Petitioner and his grandfather being stuck in a state of limbo and Petitioner languishing in ORR custody for 194 days.

73. Requiring exhaustion would also cause Petitioner irreparable harm in the form of additional detention in ORR custody, and continued separation from his readily available sponsor and family. *See Cortez v. Sessions*, 318 F. Supp. 3d 1134, 1139 (N.D. Cal. 2018) (habeas petitioner "suffers potentially irreparable harm every day that [they] remain[] in custody without a hearing, which could ultimately result in [their] release from detention").

IV. Petitioner's Continued Detention Violates the TVPRA Because the Statute Mandates Release to a Sponsor Unless the Government Designates Them a Danger or a Flight Risk.

74. 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), *aff'd sub nom. Saravia for A.H. v. Sessions*, 905 F.3d 1137 (9th Cir. 2018). 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.

75. 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 the Petitioner is a flight risk or dangerous to himself or the community. Nor could they, as demonstrated by the fact that Petitioner has been detained in an unlocked ORR-subcontracted facility without absconding since his arrival into ORR custody. Further, there is no evidence indicating Petitioner has ever engaged in conduct causing harm to himself or others, clearly establishing he is not a danger to anyone.

76. Petitioner's continued detention despite the availability of his grandparent to assume his care is also clearly at odds with the TVPRA's mandate that ORR focus on care and placement in each child's best interest.

77. By failing to timely resolve his sponsor's application to assume his care and custody, Respondents flout their mandate to protect Petitioner, instead allowing him to languish inside ORR facilities for months on end, without answers, and away from family and any semblance of a normal life.

V. Petitioner's Continued Detention Violates Substantive Due Process Because it is Unnecessarily Punitive and Needlessly Infringes Upon His Right to Family Unity.

78. Petitioner's prolonged detention also violates his substantive due process rights. Substantive due process "forbids the government to infringe certain 'fundamental' liberty interests *at all*, no matter what process is provided, unless the infringement is narrowly tailored to serve a compelling state interest." *Reno v.*

Flores, 507 U.S. 292, 302 (1993) (emphasis in original). In *Reno*, the Supreme Court held that where a UC had no "parent, close relative, or legal guardian," keeping them in government custody to "promot[e] the welfare of the child" was "not punitive since it [was] not excessive in relation to that valid purpose." *Id.* at 303. By extension, where, as here, Petitioner *does* have a close family member available to assume his care, continuing to detain him in government custody is needlessly punitive. When "government actors responsible for the 'care and custody' of migrant children . . . become their persecutors . . . that arbitrarily tears at the sacred bond between parent and child, and is emblematic of the 'exercise of power without any reasonable justification in the service of an otherwise legitimate governmental objective.'" *Ms. L. v. ICE*, 310 F. Supp. 3d 1133, 1167 (S.D. Cal. June 26, 2018) (quoting *County of Sacramento v. Lewis*, 523 U.S. 833, 846 (1998), and finding likely substantive due process violation stemming from "zero tolerance" policy of family separation).

79. "[T]he interest in being free from physical detention" by the state is "the most elemental of liberty interests." *Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004). A child's interest in being free from confinement is no narrower than that of an adult. *See In re Gault*, 387 U.S. 1, 13 (1967) ("[N]either the Fourteenth Amendment nor the Bill of Rights is for adults alone"). Further, "incarceration is rarely if ever a necessary condition for raising the living standards of those capable of surviving safely in freedom, on their own or with the help of family or friends." *O'Connor v. Donaldson*, 422 U.S. 563, 575 (1975). Therefore minors, like adults, have a substantial liberty interest "in avoiding unjustified physical restraint." *Molina*, 2026 WL 741623, at *3; *see also J.E.C.M. v. Marcos*, 689 F. Supp. 3d at 198 (explaining that age "does not negate a minor's interest in being free from restraints").

80. In this context, courts in this district have emphasized the well-established nature of the "substantive due process right to family integrity or to

familial association." *Lucas R.*, 2018 WL 7200716, at *9 (quoting *Rosenbaum v. Washoe Cnty.*, 663 F.3d 1071, 1079 (9th Cir. 2011)); *see Ms. L. v. U.S. Immigr. & Customs Enf't*, 310 F. Supp. 3d 1133, 1148 (S.D. Cal. 2018), *modified*, *Ms. L. v. U.S. Immigr. & Customs Enf't*, 330 F.R.D. 284 (S.D. Cal. 2019) (finding the government needed to achieve its stated purpose "in a way that preserves the class members' constitutional rights to family association and integrity"). Respondents have considerably encroached upon this right by continuing to detain Petitioner and separate him from his family for over six months.

81. Further, by allowing Petitioner's grandparent's sponsor application to remain undecided, Respondents are infringing upon Petitioner's and J.D.J.S.'s constitutional interest in family unity. *See Lucas R.*, 2022 WL 2177454, at *25 ("[M]inors with Category 2 close relative sponsors," including a "grandfather," "have a constitutional interest in associating with their family members."); *Moore v. City of E. Cleveland, Ohio*, 431 U.S. 494, 504 (1977) ("The tradition of uncles, aunts, cousins, and *especially grandparents* sharing a household along with parents and children has roots equally venerable and equally deserving of constitutional recognition.") (emphasis added). Each day Petitioner remains detained in ORR custody, Respondents are clearly violating these rights.

82. In addition, a statute may create a substantive interest protected by the Due Process Clause by using "mandatory language" that imposes an obligation on government officials. Courts in this District have held that the TVPRA's mandatory language gives rise to such a substantive right in the UC for whose benefit the statute was enacted. *See, e.g.*, *Immigr. Defs. L. Ctr.*, 2025 WL 1191572, at *15 (finding "statutory entitlements [under the TVPRA] are constitutionally protected property interests"). On this basis too, Petitioner can establish that his substantive due process rights are being violated by Respondents.

83. To date, Petitioner has been detained for 194 days. Despite J.D.J.S.'s diligence, he has not been notified as to a timeline for approval of his application

or when his grandson will be released.

84. Because of the strength of these liberty interests, Petitioner's continued detention is needlessly punitive, and infringes on each of his and his grandfather's rights to family unity.

VI. Petitioner's Continued Detention Violates Procedural Due Process Because He Has No Effective Means by Which to Challenge His Continued Detention and Separation from His Grandfather/Sponsor.

85. 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*, 1:25-cv-01141-KES-SKO (HC), 2025 WL 2617255, at *4 (E.D. Cal. Sept. 9, 2025) (quoting *Guillermo M.R. v. Kaiser*, 91 F. Supp. 3d 1021, 4 (N.D. Cal. 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. *See* 8 U.S.C. § 1232(c)(2)(A), (c)(5); *see also Immigr. Defs. L. Ctr.*, 2025 WL 1191572, at *15 ("statutory entitlements [under the TVPRA] are constitutionally protected property interests").

86. 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).

87. 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). Thus, Petitioner's "constitutionally protected interest" in release from ORR custody should be considered with the utmost solemnity.

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

89. *First*, Petitioner has a strong private interest in his liberty, as well as a substantive interest in family unity, as set forth above.

90. *Second*, Respondents have allowed Petitioner to remain stuck in ORR's custody for over six months. Respondents have not even followed *their own* regulatory process for completing and adjudicating sponsorship applications, instead allowing a child to languish in custody without explanation. Respondents have therefore erroneously deprived Petitioner of his due process rights, including by denying his grandfather the opportunity to appeal a potential denial of his Family Reunification Packet (FRP), given that no decision has ever been issued as to the sponsorship application. Where there is delay in processing reunification requests or an unreasonable burden placed on sponsors, courts have found that inadequate process has been afforded. *See, e.g., Lucas R.*, 2022 WL 2177454, at *27 (citing *Santos v. Smith*, 260 F. Supp. 3d 598, 613-14 (W.D. Va. 2017) ("'significant' and 'unexplained delay[s] in responding to [a proposed sponsor's] unification request' violate due process irrespective of other procedural defects.")).

91. *Third*, Respondents have not provided Petitioner, his counsel, or his sponsor an adequate reason why the sponsorship application has not been approved. ORR investigated Petitioner's grandfather, verified his identity and relationship to Petitioner, collected documentation, conducted background checks, reviewed the

household, and found no concerns. ORR has identified no specific governmental interest that justifies continuing Petitioner's detention after more than six months without a reunification decision.

92. Accordingly, Petitioner satisfies the *Mathews* test applicable to procedural due process claims.

93. A court in this district recently addressed materially similar circumstances in *C.S.M. v. Hernandez*, No. 5:26-cv-01144-JWH-ACCV (C.D. Cal.). There, a fourteen-year-old child remained in ORR custody for more than six months while a sponsorship application remained pending for release to his sister. Applying the *Mathews* factors, the court concluded that the child's continued detention violated procedural due process and granted habeas relief. *See* No. 5:26-cv-01144-JWH-ACCV (C.D. Cal.), Report & Recommendation (ECF No. 27) at 7–9, adopted by Judgment on June 2, 2026 (ECF No. 30). The same reasoning applies here, where Petitioner has remained in ORR custody for more than six months despite a biological grandparent willing to care for him.

94. Another close comparator is *I.R.L.M. v. Salazar*, No. 5:26-cv-04335-DTB (C.D. Cal.), where a 15-year-old was separated from his family for nearly seven months in ORR custody, where "family members have actively participated in the reunification process . . . [y]et reunification remains incomplete, and Petitioner remains in government custody." *I.R.L.M.*, ECF No. 25 (Order Granting Writ for Habeas Corpus, Sept. 2, 2026) at 8. Applying the *Mathews* factors, the court concluded that Respondents violated the child's "right to procedural due process by continuing to detain him rather than releasing him to his mother[,]" and ordered immediate release. *Id.* at 14. The same reasoning applies here.

95. Another close comparator is *A.H.C.D.L.C. v. Adams*, No. 2:26-cv-09996-KS (C.D. Cal.), where a 16-year-old was separated from her family for nearly five months while ORR claimed that the "vetting process remained ongoing[.]" *A.H.C.D.L.C.*, ECF No. 16 (Memorandum Order & Opinion, Oct. 5,

2026) at 13. Applying the *Mathews* factors, the court concluded that the child's continued detention violated procedural due process and granted habeas relief. The same reasoning applies here, especially where ORR has held Petitioner for over six months.

CLAIMS FOR RELIEF

COUNT ONE

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

96. The allegations in the above paragraphs are realleged and incorporated herein.

97. Unaccompanied immigrant children in ORR custody "*shall* be *promptly* placed in the least restrictive setting that is in the best interest of the child." 8 U.S.C. § 1232(c)(2) (emphasis added). When a potential sponsor has been identified for a UC, the HHS Secretary must make a "determination that the proposed custodian is capable of providing for the child's physical and mental well-being," by evaluating "the custodian's identity and relationship to the child," as well as making "an independent finding that the individual has not engaged in any activity that would indicate a potential risk to the child."[20] 8 U.S.C. § 1232(c)(3)(A).

98. Petitioner's sponsor has completed the core sponsor suitability inquiries required by 8 U.S.C. § 1232(c)(3)(A), namely, verification of identity and relationship to the child and submitting to fingerprinting to ensure he has not engaged in conduct that would indicate a risk to the child. The record contains no adverse findings indicating that J.D.J.S. presents any risk to Petitioner's physical or mental well-being or other safety concerns. These measures constitute the baseline statutory inquiries used to determine whether a proposed sponsor is capable of safely caring for a child.

99. Despite the absence of any unfavorable suitability findings, Petitioner

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

remains unlawfully detained as ORR has failed to timely process the application or provide any meaningful explanation for the continued delay, resulting in Petitioner's prolonged and unjustified detention. Continued detention under these circumstances is inconsistent with the TVPRA's purpose and exceeds the authority Congress granted ORR to delay reunification.

100. Respondents' failure to release Petitioner into the custody and care of his grandfather violates the TVPRA.

COUNT TWO

Violation of Fifth Amendment: Substantive Due Process

101. The allegations in the above paragraphs are realleged and incorporated herein.

102. The Due Process Clause of the Fifth Amendment provides that the government shall not "deprive[] [any person] of life, liberty, or property, without due process of law." U.S. Const. amend. V. The Due Process Clause applies to "all 'persons' within the United States . . . whether their presence here is lawful, unlawful, temporary, or permanent." *Zadvydas*, 533 U.S. at 693. Any individual within the United States is therefore entitled to a timely and meaningful opportunity to demonstrate that they should not be detained by the government.

103. Petitioner's continued detention is untethered to any legitimate government interest because he is neither a flight risk nor a danger to himself or to the community, and he has an appropriate sponsor, his grandparent, available and eager to care for him outside of detention. *See* 8 U.S.C. § 1232(b)(2)(A) (requiring consideration of potential "danger to self, danger to the community, and risk of flight" in making placement decisions, and permitting placement with suitable family members). Petitioner has no criminal history here in the United States or anywhere in the world, and there is no evidence that he has engaged in any conduct causing harm to himself or others.

104. Further, both Petitioner and his grandfather have a substantive liberty

interest in family integrity and, as a child who has now been separated from his family for many months, Petitioner is suffering grave harm due to his continued detention by ORR. *Ms. L.*, 310 F. Supp. 3d at 1137.

105. Respondents' actions, as set forth above, have infringed upon Petitioner's substantive liberty interest to be free from detention, as well as his and his grandfather's liberty interests in family integrity.

106. Respondents' continued detention of Petitioner violates his substantive due process rights.

COUNT THREE

Violation of the Fifth Amendment: Procedural Due Process

107. The allegations in the above paragraphs are realleged and incorporated herein.

108. The Due Process Clause of the Fifth Amendment provides that the government shall not "deprive[] [any person] of life, liberty, or property, without due process of law." U.S. Const. amend. V.

109. UCs are entitled to the protections of the TVPRA and therefore have a protected property interest in their statutory entitlements thereunder. *See, e.g.*, *Immigr. Defs. L. Ctr.*, 2025 WL 1191572, at *15 (finding "statutory entitlements [under the TVPRA] are constitutionally protected property interests") (collecting cases). The TVPRA expressly grants robust rights to such UC and directs HHS to establish procedures to provide for and protect said rights.

110. Petitioner's interest in his liberty and in being reunited with his grandparent is strong. *See Mathews*, 424 U.S. at 335.

111. Petitioner has been erroneously deprived of his liberty due to ORR's failure to timely adjudicate the sponsorship application, much less provide his sponsor or counsel information about why their attempts to reunite remain undecided. This lack of any decision also prohibits Petitioner's grandparent from availing himself of ORR's own internal appeal process should his FRP theoretically

be denied.

112. In contrast to Petitioner's robust interests in his liberty and family reunification, the government's interest in continuing to detain Petitioner, despite the availability of a grandparent to assume his custody and care, is minimal at best.

113. Respondents' continued detention of Petitioner, despite the availability of his grandparent as a viable sponsor, and in light of Respondents' failure to timely adjudicate J.D.J.S.'s sponsorship application, violates Petitioner's procedural due process rights.

PRAYER FOR RELIEF

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

(1) Assume jurisdiction over this matter;

(2) Issue a writ of habeas corpus compelling Respondents to immediately release Petitioner to his grandparent sponsor, J.D.J.S.;

(3) Issue a writ of habeas corpus prohibiting the re-detention of Petitioner absent compliance with procedural protections and relevant regulations;

(4) Declare that Petitioner's detention violates the Due Process Clause of the Fifth Amendment, 8 U.S.C. § 1232, and/or 45 C.F.R. § 410.1001 *et seq.*;

(5) Award Petitioner attorney's fees and costs under the Equal Access to Justice Act, 28 U.S.C. § 2412, and on any other basis justified under law; and

(6) Grant any further relief this Court deems just and proper.

Dated: November 12, 2026

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

I represent Petitioner J.E.S.R. and submit this verification on his 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 12th day of November, 2026.

Nick Bourland

Attorney for Petitioner J.E.S.R.