IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

G.T.G.V. and I.R.D.A., Petitioners,	)	
	)	Case No. 25-cv-14700
v.	)	
KRISTI NOEM, Secretary, U.S. Department of Homeland Security; ANGIE SALAZAR, Acting Director of the Office Of Refugee Resettlement, ROBERT F. KENNEDY, JR., Secretary of Health and Human Services; MARVENA TWIGG, President and Chief Executive Officer of the National Youth Advocate Program, Respondents.	)	

MEMORANDUM IN SUPPORT OF
PETITION FOR WRIT OF HABEAS CORPUS

Petitioners have sought a Writ of Habeas Corpus, seeking release from federal custody. As explained below, Petitioners are being held in violation of law, so a writ of habeas corpus should issue.

INTRODUCTION

The Petitioners are minor aliens whom the government detained after their entry into the United States. They seek their release from the custody of the Respondents, preferably to their parents. By retaining custody of the petitioners,

Respondents are violating the Trafficking Victims Protection Reauthorization Act (TVPRA), 8 U.S.C. § 1232, the Fifth Amendment, and the Administrative Procedure Act (APA), 5 U.S.C. § 706. The TVPRA mandates that the government "promptly" release children from its custody to the "least restrictive setting that is in the best interest of the child." *Id.* § 1232(c)(2). The Petitioners' parents can supply that setting and have applied to sponsor their children. The TVPRA requires that the Respondents act on the parents' applications within 10 days of submission. Despite the parents' suitability as sponsors, the Respondents have kept the children in their custody beyond this 10-day period and away from their parents. The Respondents have delayed release based on a newly created policy that requires the sponsors to furnish U.S.-issued forms of identification. The new policy (and the delays it has engendered) is unlawful. It is unrelated to the suitability of a sponsor or to the best interest of the children, it is not rationally related to a legitimate government interest, it yields indefinite detention, and it impedes parental custody. As such, it violates the TVPRA, the Petitioners' rights under the Fifth Amendment, and the APA. Therefore, under § 2241 the Petitioners seek their immediate release from federal control into the custody of their parents.

BACKGROUND

General Legal Framework

In 2008, the government passed the TVPRA to protect the welfare of unaccompanied minor aliens encountered at the border of the United States. 8 U.S.C. §§ 1232(a)(1), (a)(2)(A), (a)(3). This law codified the *Flores* settlement, a

class-action decree approved in 1997 to ensure family reunification of detained alien minors. *See Flores v. Sessions,* 862 F.3d 863, 869-70 (9th Cir. 2017). To deliver to such minors the best possible care while their immigration status is adjudicated, the law mandates how the government must handle their custody. TVPRA operates under two relevant principles, both of which concern the child's welfare.

The first principle requires the government to determine if, given the risks of human trafficking, the child can be safely repatriated to the child's home country. *Id.* § 1232(a)(2), (a)(3), (b). If the child can be safely repatriated and the government seeks to remove the child (and other technical conditions are met), then the government must use the statutory removal process. *Id.* § 1232(a)(5)(D). This process is set forth in the Immigration and Naturalization Act, 8 U.S.C. § 1229, and includes the opportunity to seek relief from removal, such as through an application for asylum, 8 U.S.C. § 1158(a)(1), or withholding of removal, 8 U.S.C. § 1231(b)(3).

The second rule concerns *who* has custody of the child while the government assesses the propriety of repatriation and removal process. It is the person who can assure the best interest of the child. While making that custodial selection, the Secretary of Health and Human Services and that department's Office of Refugee Resettlement, or ORR, shall briefly take custody of the unaccompanied child. *See* 8 U.S.C. § 1520. But to promote the child's welfare, the Secretary and ORR must "promptly place" the child into "the least restrictive setting that is in the best interest of the child." 8 U.S.C. § 1232(c)(2).

To implement this second rule, the Secretary has codified regulations ensuring the "release, without unnecessary delay" of an unaccompanied child held in the custody or ORR "to a vetted and approved sponsor." 45 C.F.R. § 410.1200. Specifically, when "the detention of the unaccompanied child is not required either to secure the child's timely appearance" before immigration officials "or to ensure the child's safety or that of others," ORR must "release a child from its custody without unnecessary delay ...." *Id.* § 410.1201.

The regulations list the order of preference of six possible sponsors of the child. The first in order of preference is the child's "parent." *Id.* § 410.1201. Next is a legal guardian of the child, then an adult relative, and then another adult or entity that a parent or legal guardian has designated as willing and capable. *Id.* The final two potential custodians are a willing, licensed program and, lastly, another adult when family unification does not appear reasonably possible. *Id.*

In assessing the suitability of a sponsor, ORR shall verify the "sponsor's identity, physical environment of the sponsor's home, and relationship to the unaccompanied child, if any ...." *Id.* § 410.1202(b). Importantly, identification documents need not come from the United States: "ORR may consult with the issuing agency (e.g., consulate or embassy) of the sponsor's identity documentation to verify the validity of the sponsor identity document presented." *Id.*

The suitability of a sponsor is based on the sponsor's ability to care for the child. In vetting a potential sponsor, the ORR shall determine whether the sponsor "is capable of providing for the unaccompanied child's physical and mental well-

being." *Id.* Likewise, ORR shall assess the potential sponsor's "understanding and awareness of responsibilities related to compliance with the unaccompanied child's immigration court proceedings...." *Id.* at 410.1202(h)(3). Finally, ORR may consider whether the potential sponsor has proposed a back-up sponsor who can care for the child in the event that the primary sponsor becomes unavailable.

ORR must act on a sponsorship application quickly and may deny it only under limited conditions and subject to review. ORR shall ordinarily adjudicate a parent's sponsorship application with 10 days (14 days for other relatives). *Id.* § 410.1205(b). ORR may deny a potential sponsorship only if it determines that the sponsor cannot provide for the "well-being" of the child or that placement with the sponsor would endanger the child or the community. 410 C.F.R. § 410.1205(a). If ORR intends to deny release, it must appoint a "neutral and detached decision maker" to "promptly" notify the potential sponsor of the decision. *Id.* § 410.1205(c). The decision must explain the reason for the denial, and (unless safety reasons or the law forbids it) the evidence upon which the denial is based. *Id.* The decision is subject to de novo review, with the opportunity for legal representation, at an administrative appellate hearing. *Id.* and § 410.1206.

Recent Change in Policy

In March of 2025, the government adopted a new policy, partly codified in regulation, for evaluating sponsors who have applied for custody. ORR now requires that a parent or adult-relative who seeks to sponsor a minor alien must present to ORR an identification document that the United States has issued. This new policy

conflicts with existing federal regulations, which contemplate that a parent may prove identity with a foreign-issued form of identification. *See* 45 C.F.R. § 410.1202(b). This new policy grants ORR limited discretion to waive this requirement, but only on a case-by-case basis, if waiver of the requirement is supported by unspecified "clear justification," and only for parent sponsors.[1]

Parental sponsors who are undocumented in the U.S. and have valid identification documents only from their home countries cannot expect to satisfy this new policy. As a result, parents who are otherwise suitable sponsors and who by law would be the first priority among all potential sponsors have had to withdraw their applications. These withdrawals, prompted by the government's new policy, have caused unnecessary delays in reuniting the children with their parents.

On April 25, 2025, after it had already begun to apply the new identification and income documentation requirements, ORR published a notice of information collection under the Paperwork Reduction Act to revise the FRA (to be renamed the "Sponsor Application"), with a 60-day comment period. On August 14, 2025, ORR published a Notice of Submission for OMB Review of the Sponsor Application Packet, with a comment period ending on September 15, 2025. Unaccompanied

[1] ORR's revisions to its Policy Guide are final agency actions and represent "the 'consummation' of the agency's decisionmaking process," determine "rights or obligations," and create "legal consequences." *Bennett v. Spear*, 520 U.S. 154, 177-78 (1997) (quoting *Chicago & S. Air Lines v. Waterman S. S. Corp.*, 333 U.S. 103, 113 (1948), and *Port of Bos. Marine Terminal Ass'n v. Rederiaktiebolaget Transatlantic*, 400 U.S. 62, 71 (1970)). ORR applies them "on regulated parties," blocking release of the Petitioner to their parents due to lacking the newly-required documentation. *Sierra Club v. EPA*, 955 F.3d 56, 63 (D.C. Cir. 2020) (quoting *Nat'l Mining Ass'n v. McCarthy*, 758 F.3d 243, 253 (D.C. Cir. 2014)).

Alien Children Sponsor Application Packet, 90 Fed.Reg. 39194. The proposed changes to the sponsorship application include changes to the required "Supporting Documents" related to proof of identification and proof of income and changes to the Authorization for Release of Information signed by sponsors. The federal respondents now require proof of income documents from sponsors, either the prior year's tax return, 60 days of continuous paystubs, or a letter from their employer. These are all difficult or impossible to secure for a sponsor who is undocumented. It amounts to a de facto bar to reunification with parents who are undocumented, contrary to the statute and regulations.

Petitioners allege, on information and belief, that in the past 60 days, not one child has been reunified with his or her parents, out of the over 100 children currently held in O.R.R. custody in the Chicago area. O.R.R. data shows that for children currently in O.R.R. custody, the "average length of care" is 169 days. Office of Refugee Resettlement, Data, available at https://acf.gov/orr/about/ucs/facts-and-data#book_content_1 (last accessed Dec. 15, 2025). Only 7 children were released to their parents in November. Id. at https://acf.gov/orr/about/ucs/facts-and-data#book_content_9. This is significantly longer than in prior months, and is traceable to the new policies.

Case-Specific Facts

The Petitioners were captured at the U.S. border in 2025, unaccompanied by an adult. They are: G.T.G.V., a 13-year-old girl from Honduras who has been detained since July 2025; and I.R.D.A., a 10-year-old boy from Honduras, detained

since June 2025. The federal respondents (the Secretary of the Department of Homeland Security, the Secretary of Health and Human Services, the Acting Director of ORR) are detaining Petitioners in Chicago, Illinois, under a federal contract with the National Youth Advocate Program. During these months in federal custody, the Respondents have severely restricted the Petitioners' freedom to move, and the Petitioners' well-being has deteriorated.

Months ago, both of Petitioners' parents applied to sponsor them. They supplied information that proves their parentage, and showing that they are suitable sponsors. Petitioners' parents meet or exceed the requirements of ensuring the well-being of their children and that the children meet all legal obligations. In two cases, the parents withdrew their applications after Respondents adopted the new document-identification policy, but these parents remain eager to sponsor their children. As to each Petitioner, a parent has an order of removal entered against them, but the orders are not disqualifying under the TVPRA. In addition, those two parents have supplied alternate, suitable sponsors who are lawful permanent residents or citizens in case the government seeks to enforce the removal orders or collateral attacks on them are unsuccessful.

Indeed, G.T.G.V.'s mother was told that if her alternate sponsor—her partner / boyfriend—was permitted to refunify with G.T.G.V., she (the child's mother) would have to leave the premises and rent another apartment. Apparently, since she cannot satisfy the sponsor criteria irrationally imposed by O.R.R., she is not allowed even to live in the same location as her child.

ARGUMENT

Petitioners' detention is unlawful. Under 28 U.S.C. § 2241(c)(3), a petitioner is entitled to a writ of habeas corpus if the petitioner "is in custody in violation of the Constitution or laws or treaties of the United States." Petitioners' custody violates their rights under the TVPRA (and the regulations codified under it, which independently justifies habeas relief, *see United States ex rel. Accardi v. Shaughnessy,* 347 U.S. 250 (1954)); the Fifth Amendment of the Constitution, and the Administrative Procedure Act, 5. U.S.C. § 701-706.[2]

I. The New Policy Violates the TVPRA

Through its new policies, the government is keeping the Petitioners in its custody in violation of the TVPRA, 8 U.S.C. § 1232(c)(2). It does so in two ways. First, it presumptively disqualifies numerous parents of unaccompanied minors simply because they lack legal status in the U.S.; but Congress mandates that the "best interests of the child" are paramount, and reuniting with parents is generally in a child's best interests. Second, the statute mandates that unaccompanied minors be reunited "promptly" with their parents or relatives. The new policies place numerous roadblocks on the path to reunification, keeping children separated from their parents for months or years.

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[2] Family separation and institutional custody are injuries sufficient to establish standing. *See, e.g., J.E.C.M. v. Lloyd,* 352 F. Supp. 3d 559, 579 (E.D. Va. 2018); Jacinto-Castamon de Nolasco v. ICE, 319 F. Supp. 3d 491, 502 (D.D.C. 2018). A plaintiff need not show that release from custody was guaranteed or automatic; or even that release is likely. *Gutierrez v. Saenz,* 145 S. Ct. 2258, 2268-69 (2025). "[T]he loss of an opportunity to pursue a benefit" is "a constitutionally cognizable injury" in and of itself. *See CC Distributors, Inc. v. United States,* 883 F.2d 146, 150 (D.C. Cir. 1989). Plaintiffs cannot be released until their sponsors submit the required information and thus, they are directly and predictably injured by the unlawful requirements. *See FDA v. All. For Hippocratic Med.*, 602 U.S. 367, 384-85 (2024).

A. Presumptive Disqualification of Sponsors, Including Parents, Is Contrary to the Best Interests of the Child

The TVPRA requires an individualized sponsorship assessment to ensure that every unaccompanied child is "promptly placed in the least restrictive setting that is in the best interest of the child." 8 U.S.C. § 1232(c)(2)(A). This is usually with "a suitable family member." 8 U.S.C. § 1232(c)(2)(A). ORR regulations have concluded "that, generally, placement with a vetted and approved family member or other vetted and approved sponsor, as opposed to placement in an ORR care provider facility, whenever feasible, is in the best interests of unaccompanied children." 89 Fed. Reg. at 34440.

Regulations implementing these principles set forth a normal preference for a child in ORR custody, requiring "release ... without unnecessary delay, in the following order of preference, to: (1) A parent; (2) A legal guardian; (3) An adult relative," and then to other adults or entities seeking custody. 45 C.F.R. § 410.1201(a).

As explained above, the new policy presumptively disqualifies otherwise suitable sponsors who are undisputably found to be—based on foreign-issued identification documents and confirmed by DNA testing—the parents of the Petitioners. As parents who are suitable sponsors, they should be the first priority for custody under the regulations. 45 C.F.R. § 410.1201. Yet, the Respondents refuse to release the Petitioners to their parents, because they cannot produce identity documents normally unavailable to undocumented parents and proof of income normally unavailable to undocumented parents.

Further, ORR now requires that information on sponsors be shared with immigration enforcement agencies, presumably for purposes of immigration enforcement. In adopting that rule, ORR reasoned that prior regulations, which normally precluded ORR from sharing information with ICE, violated 8 U.S.C. § 1373. Unaccompanied Children Program Foundational Rule; Update to Accord with Statutory Requirements, 90 Fed. Reg. 13,554, 13.555 (Mar. 25, 2025). Even if this were a correct reading of § 1373—it is not—a separate statute prohibits DHS from expending funds "to place in detention, remove, refer for a decision whether to initiate removal proceedings, or initiate removal proceedings against a sponsor, potential sponsor, or member of a household of a sponsor or potential sponsor of an unaccompanied alien child (as defined in section 462(g) of the Homeland Security Act of 2002 (6 U.S.C. 279(g))." Consolidated Appropriations Act, 2020, Pub. L. No. 116-93, Div. D, § 216(a), 133 Stat. 2317, 2513 (2019). Data sharing nakedly seeks to intimidate parental sponsors into not sponsoring their children for reunification, or to withdraw such sponsorship.

The new policy of requiring U.S.-issued identity documents contravenes the government's regulations under TVPRA. Those regulations provide that the government may determine identity using non-U.S.-issued documents: "ORR may consult with the issuing agency (e.g., consulate or embassy) of the sponsor's identity documentation to verify the validity of the sponsor identity document presented." 45 C.F.R. § 410.1202(b). By insisting on U.S.-issued identity documents, where they are known to be unavailable to many parents, the Respondents effectively condemn

those undocumented children to remain in ORR custody rather than being placed with their parents, which would presumably be in their "best interest." This violates Petitioners' rights under those regulations as well as the TVPRA itself.

In short, Respondents have adopted rules that have the effect of—if not the goal of—preventing reunification without regard to whether reunification is in the "best interest" of those children.

B. New Policy Undermines Congressional Mandate to Reunite "Promptly"

The TVPRA requires ORR to ensure that children are "promptly placed in the least restrictive setting that is in the best interest of the child." 8 U.S.C. § 1232(c)(2)(A). Regulations implementing this mandate require that ORR shall ordinarily adjudicate a sponsorship application with 10 days *Id.* § 410.1205(b). These regulations obligate ORR to release the Petitioners to their parents unless a neutral decision-maker has identified a valid basis for withholding custody, notified the parents of that decision, cited evidence for it, and subjected it to an appellate challenge. *Id.* § 410.1205-1206. This has not occurred at all, let alone with 10 days. By taking over 10 days to vet the suitability of the Petitioners' sponsors, and by not supplying a valid, evidence-based decision for denying custody, the Respondents have violated the Petitioners' right to a prompt release under the TVPRA.

Indeed, on information and belief, Respondents *have not reunified a single child in their custody* in the Chicago area for over 60 days. This is strong evidence that Respondents' new uncodified policy violates the "prompt release" command of the TVPRA.

The word "prompt" means "to act immediately, responding on the instant." Black's Law Dictionary 1093 (5th ed. 1979). Whatever interest the government has in ensuring the welfare of unaccompanied children, that interest "is de minimis" if the parent or other potential sponsor is in fact suitable. *Stanley v. Illinois*, 405 U.S. 645, 657-58 (1972). Moreover, in the abstract the government could argue that it must balance child welfare with a desire to act quickly, but in this context its actions must account for the Congressional command to act promptly.

II. The New Policy Violates Due Process

The government's policy of keeping noncitizen children separated from noncitizen parents on the ground that they are noncitizens is likely unconstitutional as well as unlawful.

A. Petitioners Have Protectable Liberty Interests.

The Petitioners have protected liberty interests implicated here, arising directly under the constitution and from pertinent statutes. Assessment of the interests at stake is the first step in the due process analysis. *See Wilkinson v. Austin*, 545 U.S. 209, 224-25 (2005).

First, minors have an interest in being free from institutional custody, even if that interest is tempered or reduced by the consideration that they are "always in some form of custody." *Schall v. Martin*, 467 U.S. 253, 265 (1984); see *Lucas R. v. Becerra*, No. 18-5741, 2022 WL 2177454, at *14 (C.D. Cal. Mar. 11, 2022). This is particularly true as detention lengthens; the Supreme Court has previously highlighted detention of six-months or longer as triggering heightened concern. *See*

Zadvydas v. Davis, 533 U.S. 678, 701 (2001). Both of the child Petitioners have now been detained for six months.

Minors also have a right to familial association with their parents and other close family members, rooted in the First and Fourteenth Amendments. *See Moore v. City of E. Cleveland*, 431 U.S. 494, 504 (1977).

Second, the pertinent statute assigns nondiscretionary duties to ORR regarding children in their care. The statute provides that ORR "may" place a child into an unaccompanied refugee program, only "if a suitable family member is not available to provide care." 8 U.S.C. § 1232(c)(2)(A). Further, it mandates that an unaccompanied minor "*shall* be promptly placed" in the least restrictive setting. *Id.* (emphasis added). This is mandatory language sufficient to impose an obligation on ORR officials. *See Arnett v. Kennedy*, 416 U.S. 134, 152 (1974). Indeed, these are not merely explicitly mandatory, but also contain "specified substantive predicates" limiting agency discretion. *Kentucky Dep't of Corr. v. Thompson*, 490 U.S. 454, 463 (1989).

Thus, even if a noncitizen child lacked a protectable interest directly under the constitution, the statute's commands to ORR, evidently designed to protect the interests of children like the Petitioners, would suffice to create a liberty interest.

B. Taking Noncitizen Children From Their Parents Implicates Substantitve Due Process.

The substantive component of the Due Process Clause protects liberty against "certain government actions regardless of the fairness of the procedures used to implement them." *Daniels v. Williams*, 474 U.S. 327, 331 (1986).

Substantive Due Process requires courts "to exercise the utmost care" whenever they are "asked to break new ground." *Collins v. City of Harker Heights, Tex.*, 503 U.S. 115, 125 (1992).

But Petitioners do not ask the Court to break new ground in this matter. Courts have repeatedly found the parent-child relationship to merit protection, such that government action seeking to break that bond "offends some principle of justice so rooted in the traditions and conscience of our people as to be ranked as fundamental." *Snyder v. Massachusetts*, 291 U.S. 97, 105 (1934). While some relevant cases have been brought by parents, the interests of parent and child on this point are held jointly: "the child and his parents share a vital interest in preventing erroneous termination of their natural relationship." *Santosky v. Kramer*, 455 U.S. 745, 760 (1982).

The substantive protection of family unity is "perhaps the oldest of the fundamental liberty interests." *Troxel v. Granville*, 530 U.S. 57, 65 (2000). "The child is not the mere creature of the State." *Pierce v. Society of Sisters*, 268 U.S. 510, 535 (1925). Rather, in this country, "It is cardinal ... that the custody, care and nurture of the child reside first in the parents." *Prince v. Massachusetts*, 321 U.S. 158, 166 (1944). Courts look to "[t]he history and culture of Western civilization" for the "strong tradition" of protecting families and allowing parents a primary role over "the nurture and upbringing of their children"; it has become "an enduring American tradition." *Wisconsin v. Yoder*, 406 U.S. 205, 232 (1972).

The nature of the restrictions imposed by the Respondents may best be seen by the rule they impose upon the mother of G.T.G.V. Respondents will not let her sponsor her own child, because her identification is foreign and she is undocumented. Her partner / boyfriend, a permanent resident, may sponsor G.T.G.V., but if the child goes to live with her boyfriend, the Respondents would force the child's mother to leave the home.

The Respondents impose draconian limits on the ability of noncitizen parents and children to live together, refuse to grant custody of children to the human beings most naturally able to, and called upon to be, their natural guardians: their parents. The lack U.S.-issued identification, however useful it may be for various purposes, is not a valid reason under the Fifth Amendment to deprive the Petitioners of their right to family unification.

C. The New Policy Violates Procedural Due Process

The federal Respondents' new policy also fails under procedural due process. The familiar test for procedural due process claims involves assessing the private interests (the liberty of the Petitioners and their interest in family unity), the risk of an erroneous deprivation of that interest without added procedural safeguards, and the government's interest (the welfare of the child). *See Matthews v. Eldridge,* 424 U.S. 319, 332 (1976).

As explained above, the private interests at stake here are of the highest order. First, Petitioner have significant interests directly under the constitution. First, they are being detained for lengthy periods of time, in contravention of

Congressional command. The prospect of civil detention until the child turns 18 is a weighty interest and normally requires an adequate, detainee-specific justification. *See Zadyvydas v. Davis,* 533 U.S. 678 (2001). This is doubly true when it comes to children, for whom those months may appear far longer than for adults. Moreover, though the Petitioners came to the U.S. to be with their parents, from whom they had been separated, the federal government persists in keeping parents and children apart, preventing the parents from offering guidance, wisdom, and direction.

Moreover, the Petitioners' interests also include the rights that Congress gave them by statute. The statute mandates that Respondents take into account their "best interests," without regard to any other government interests such as immigration law enforcement. Moreover, the statute mandates that Respondents make these decisions promptly.

The risk of erroneous deprivation is at its apex: Petitioners are suffering an ongoing deprivation, with no prospect of resolution for so long as the policy remains in effect and they remain minors. The deprivation is erroneous as a matter of law, since Congress has mandated that children be promptly reunited with family members capable of caring for them.

The Government has a conceded interest in ensuring that noncitizen children are not abused, and are reunited with people who are in fact their parents. The Government has already vindicated this interest by requiring DNA testing to confirm the family relationship. Once the biological relationship is confirmed by

science, the Government has little additional interest in the identity documents used by the Petitioners' parents to confirm their identity.

Further, whatever the value of additional safeguards for better ensuring the safety and well-being of these children, Congress has mandated that the federal bureaucracy not prioritize those concerns over family unity. Congress mandates that the reunification occur "promptly." Congress has, in effect, already given judgment on how to balance those competing concerns.

Respondents have not identified any reason, specific to Petitioners, such as flight risk, dangerousness, or mental illness, *see id.*, that might justify separating them from their parents. By excluding from their decision-making process the use of foreign-issued identity documents and by ignoring the regulatory 10-day rule, the Respondents are using procedures that deprive the Petitioners of their liberty without due process.

D. The New Policy Lacks a Rational Basis.

The Fifth Amendment's Due Process Clause includes an equal-protection component that applies to the federal government. *Bolling v. Sharpe*, 347 U.S. 497 (1954). Equal protection requires that the government supply a rational basis for treating undocumented aliens differently than documented aliens. *Plyer v. Doe,* 452 U.S. 202 (1982). The Respondent's refusal to grant custody of Petitioners to their otherwise suitable parent sponsors, based on their lack a U.S.-issued document of identification, where they would do so if the alien had a U.S.-issued document, is irrational. The refusal is irrational because, as Respondents own regulations show,

the Respondents can validate identity with documents not issued by the U.S. The Respondents' refusal thus violates the Petitioner's equal-protection rights under the Fifth Amendment.

III. Release is the Proper Remedy.

The improper detention of the Petitioners is unlawful, for the reasons offered above. The remedy for improper detention is release from custody under 28 U.S.C. § 2241: "the essence of habeas corpus is an attack by a person in custody upon the legality of that custody, and that the traditional function of the writ is to secure release from illegal custody." *Preiser v. Rodriguez*, 411 U.S. 475, 484 (1973).

Of course, Petitioners do not seek release onto the street. They are young children, who need to be cared for by responsible adults. They seek to be released into the custody of parents, "whom our society and this Court's jurisprudence have always presumed to be the preferred and primary custodians of their minor children." *Reno v. Flores*, 507 U.S. 292, 310 (1993).

Further the Court has authority to condition release under habeas, mandating that the Petitioner be released into the custody of their parents unless the Respondents reach a new reunification decision without the erroneous policies described above.

Respondents seek, ultimately, to transform the child reunification process from a child-welfare action under the TVPRA, into an immigration-enforcement tool. This violates the TVPRA, the Fifth Amendment, and the APA in the ways already discussed: The Respondents ignore the utility of foreign-issued identity

documents; they disregard the best interest of the Petitioners, their duty to release the Petitioners promptly, and the need to base custody decisions on evidence; and they rely on a policy that is not rational and can yield indefinite detention.

CONCLUSION

Petitioners respectfully urge the Court to GRANT their petition and to order release from custody.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on December 15, 2025, I electronically filed the foregoing with the Clerk of the Court of the United States District Court for the Northern District of Illinois by using the CM/ECF system. I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the CM/ECF system.

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