UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF TEXAS MCALLEN DIVISION

K.A.R.M, a minor, by and through his next friend, Maegan Faitsch,

Petitioner,

v.

KRISTI NOEM, Secretary of the U.S. Department of Homeland Security; **ROBERT F. KENNEDY, JR**, Secretary of Health and Human Services; **TODD LYONS**, Acting Director of the US. Immigration and Customs Enforcement; **ANGIE SALAZAR,** Acting Director of Office of Refugee Resettlement; **BLANCA FERNANDEZ**, Federal Field Specialist, Office of Refugee Resettlement; **JEISSA MELENDEZ**, Program Director, Refugio Alamo, in their official capacities; **U.S. DEPARTMENT OF HOMELAND SECURITY**; **U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT; U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES; OFFICE OF REFUGEE RESETTLEMENT**.

Respondents

Case No. 7:25-CV-00581

PETITION FOR WRIT OF HABEAS CORPUS AND COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

Date: December 16, 2025

PETITION FOR WRIT OF HABEAS CORPUS AND COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

TO THE HONORABLE UNITED STATES DISTRICT COURT JUDGE:

INTRODUCTION

1. Plaintiff-Petitioners K.A.R.M. and Maegan Faitsch, as K.A.R.M.'s next friend, file this petition for writ of habeas corpus and complaint for declaratory and injunctive relief seeking K.A.R.M.'s immediate release from Defendants-Respondents' ("Respondents") custody and immediate return to his family.

2. K.A.R.M. is a sixteen-year-old child who fled to the United States after surviving trauma and persecution in his home country of Ecuador. He is a valued member of his school and community in Meriden, Connecticut where he lived for nearly three years, excelled academically, participated in sports, and built deep family and community connections. Prior to his graduation, K.A.R.M. was detained by Immigration and Customs Enforcement ("ICE") at a routine check-in with his father.

2. K.A.R.M. is eligible for Special Immigrant Juvenile ("SIJ") status, which means that a juvenile court has determined that he was neglected by his parents, and that it is not in his best interest to be returned to his home country of Ecuador. He has a pending I-360 self-petition for SIJ status with the United States Citizenship and Immigration Service ("USCIS").

3. K.A.R.M. is under the full legal custody of his aunt, Maria Esther Rosero Rodriguez, by order of a Connecticut Probate Court.

4. Yet, after dutifully complying with an ICE directive that he present himself for a scheduled check-in appointment in Connecticut, Respondents arrested and detained him, and he is now being held in a detention facility within this District, even though he cannot lawfully be removed to the dangerous conditions in Ecuador where he faces imminent risk of death or serious bodily injury from gang violence. This fear has been legally articulated in his I-589 Asylum Application also filed with the USCIS.

3. On June 3, 2025, K.A.R.M.'s father appeared for his appointment with ICE. K.A.R.M., a high school student, was in class at the time. An ICE agent informed K.A.R.M.'s father to pick up his son and return to the office. His father complied and both K.A.R.M. and his father were detained by ICE.

4. K.A.R.M.'s detention was shocking to his family and the entire Meriden community. K.A.R.M. has remained detained since June 3, 2025, keeping him separated from his loved ones, high school, and larger community.

5. ICE's arrest of K.A.R.M. was pursuant to a removal order issued by the Hartford, Connecticut Immigration Court.

6. K.A.R.M. successfully petitioned to have his removal proceedings reopened, with the Immigration Court granting reopening on July 10, 2025.

6. Arrest and ongoing detention violate K.A.R.M.'s constitutional and statutory rights. Respondents' decision to summarily detain K.A.R.M. without notice or explanation violated his procedural due process rights and ICE's own regulations. His ongoing detention – without providing any individualized review – serves no lawful purpose and runs afoul of the substantive and procedural due process protections of the Fifth Amendment, the Administrative Procedure Act ("APA"), the *Accardi* doctrine, the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 ("TVPRA"), the Immigration and Nationality Act ("INA") and its implementing regulations.

7. K.A.R.M. brings this habeas petition challenging his unlawful arrest and detention. This petition does not challenge Respondents' ability to issue a removal order against K.A.R.M.; it strictly seeks to liberate K.A.R.M. from detention on the basis that his arrest was unlawful, his detention serves no lawful purpose, and his removal is not reasonably foreseeable.

8. K.A.R.M. respectfully asks this court to hold that his continued detention is unlawful and order his immediate release from custody, or in the alternative, hold a bond hearing. He also respectfully asks that this Court order his expedited transfer to his legal guardian in Connecticut or to the least restrictive community placement available.

8. This Court is also asked to consider whether K.A.R.M can even be held by the Office of Refugee Resettlement ("ORR") of the U.S. Department of Health and Human Services, since he is only in a temporary protected custody and not being held for purposes of INA § 242(g). In this sense the State of Connecticut has already found that the best interest of the

minor child K.A.R.M is to be placed with his paternal aunt in Meriden, Connecticut.

REQUIREMENTS OF 28 U.S.C. § 2243

9. The Court must grant the petition for writ of habeas corpus or order Respondents to show cause "forthwith" unless the Petitioner is not entitled to relief. 28 U.S.C. § 2243. If an order to show cause is issued, Respondents must file a return "within three days unless for good cause additional time, not exceeding twenty days, is allowed." *Id.*

10. Habeas corpus is "perhaps the most important writ known to the constitutional law…affording as it does a *swift* and imperative remedy in all cases of illegal restraint of confinement." *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis added). "The application for the writ usurps the attention and displaces the calendar of the judge or justice who entertains it and receives prompt action from him within the four corners of the application." *Yong v. I.N.S.*, 208 F.3d 1116, 1220 (9th Cir. 2000) (citation omitted).

PARTIES

11. Petitioner-Plaintiff (hereinafter "Petitioner") K.A.R.M. is a citizen of Ecuador and a resident of Meriden, Connecticut. He entered the United States with his father on or about February 14, 2023, seeking safety from gang violence and threats to K.A.R.M.'s life in Ecuador. He was summarily detained by ICE on June 3, 2025, and following the separation and deportation of his father, was transferred to the custody of the ORR where he has remained since July 18, 2025. He is presently in custody and direct control of Respondents and their agents, detained within the Southern District of Texas.

12. Next friend, Maegan Faitsch is K.A.R.M.'s attorney. They have maintained consistent contact with K.A.R.M. during his time in detention. Because K.A.R.M. is a minor, his mother and father are not in the United States and have been determined to have neglected him, they are unable to serve as K.A.R.M.'s representative in this action pursuant to Fed. R. Civ. P. 17(c)(1). Maegan Faitsch acts as K.A.R.M.'s next friend.

13. Respondent Todd Lyons is named in his official capacity as Acting Director of U.S. Immigration and Customs Enforcement. As the Acting Director of ICE, Respondent Lyons is a legal custodian of Petitioner and is responsible for immigration detention facilities and the detention and release policies and release policies affecting Petitioner.

14. Respondent Kristi Noem is named in her official capacity as the Secretary of Homeland Security in the United States Department of Homeland Security. In this capacity, she is responsible for the administration of the immigration laws pursuant to 8 U.S.C. § 1103(a); has authority over immigration detention facilities including those in the Southern District of Texas where Petitioner is held; is legally responsible for pursuing any effort to remove the Petitioner; and as such is a legal custodian of the Petitioner. Respondent Noem's address is U.S. Department of Homeland Security, 800 K Street N.W. #1000, Washington, District of Columbia 20528.

15. Respondent Robert F. Kennedy, Jr. is named in his official capacity as the Secretary of Health and Human Services ("HHS"). In this capacity, he ultimately oversees the ORR, a sub-component of HHS, that is responsible for the care of unaccompanied minors, including the detention facility where Petitioner is currently held.

16. Respondent Angie Salazar is named in her official capacity as Acting Director, Office of Refugee Resettlement. In this capacity, she oversees the staff of the ORR who are responsible for the care of unaccompanied immigrant children and manages the detention facilities where Petitioner is currently confined.

17. Respondent Blanca Fernandez is named in her official capacity as a Federal Field Specialist for the ORR. In this capacity, she issues recommendations on sponsorship applications and conducts oversight of ORR staff who are responsible for the care of unaccompanied immigrant children.

18. Respondent Jeissa Melendez is named in her official capacity as the Program Director at Urban Strategies – Refugio Alamo. In this capacity, she is responsible for the care and custody of K.A.R.M. and other children residing at her facility.

19. Respondent U.S. Department of Homeland Security ("DHS") is an executive department of the United States Government headquartered in Washington, D.C. DHS is the parent agency of Immigration and Customs Enforcement and has authority over the detention of Petitioner.

20. Respondent U.S. Immigration and Customs Enforcement ("ICE") is a component agency of DHS and is responsible for enforcing federal immigration law, including the detention and removal of immigrants. ICE is responsible for the detention of the Petitioner.

21. Respondent U.S. Department of Health and Human Services ("HHS") is an executive department of the United States Government headquartered in Washington, D.C. HHS is the parent agency of the ORR.

22. Respondent Office of Refugee Resettlement is a component agency of HHS and is responsible for the care, custody, and wellbeing of unaccompanied immigrant children, including Petitioner.

JURISDICTION AND VENUE

23. K.A.R.M. is in the physical custody of the Respondents. K.A.R.M. is detained at Urban Strategies - Refugio Alamo, Alamo, Texas.

24. This Court has subject matter jurisdiction under 28 U.S.C. § 2241 (habeas corpus), Art. I § 9, cl. 2 of the U.S. Constitution (Suspension Clause), 28 U.S.C. § 1331 (federal question jurisdiction), 28 U.S.C. § 1651 (All Writs Act), and 28 U.S.C. § 2201 (Declaratory Judgment Act).

25. This Court may grant relief pursuant to 28 U.S.C. § 2241, the Declaratory Judgment Act, 28 U.S.C. § 2201 et seq., and the All Writs Act, 28 U.S.C. § 1651.

26. Federal district courts have jurisdiction to hear habeas claims brought by noncitizens challenging the lawfulness of their detention. *See Demore v. Kim*, 538 U.S. 510, 516–17 (2003) (recognizing habeas jurisdiction over immigration detention challenges); *Zadvydas v. Davis*, 533 U.S. 678, 687 (2001) (same); *Tran v. Mukasey*, 515 F.3d 478, 482 (5th Cir. 2008) (same).

27. Venue is proper in this District under 28 U.S.C. §§ 1391(b) and (e)(1) because K.A.R.M. is currently detained within the Southern District of Texas,

his immediate physical custodian (ORR and ICE) is located and operates detention facilities within this District, K.A.R.M. is held in a detention facility in this District, and Respondents routinely transact business in this District including the operation of immigration detention facilities.

FACTUAL ALLEGATIONS

K.A.R.M.'s Childhood and Entry to the United States

28. K.A.R.M. was born on December 25, 2008, in Ambato, Ecuador.

29. K.A.R.M. spent most of his childhood hiding, living with his grandparents, [redacted]

30. [redacted]

31. Due to these grave threats to K.A.R.M.'s life and safety, K.A.R.M. and his father fled Ecuador and entered the United States on February 14, 2023, when K.A.R.M. was just 14 years old. *See* Exhibit A, Notice to Appear ("NTA"). After being arrested and briefly detained at the border, Customs and Border Patrol released K.A.R.M. and his father on their own recognizance. They were served with NTAs and put in removal proceedings before an Immigration Judge.

32. K.A.R.M. and his father traveled to Meriden, Connecticut where they lived with K.A.R.M.'s aunt – [redacted]

33. K.A.R.M. enrolled at [redacted] High School. He continued attending school where he was a member of the school's soccer team and was set to graduate in June 2025.

Immigration Proceedings and Reopened Removal Order

34. In the NTA, K.A.R.M. was charged with being subject to removal pursuant to Section 212(a)(6)(A)(i) of the INA (8 U.S.C. § 1182(a)(6)(A)(i)) and

directed to appear before an Immigration Judge on October 9, 2024, at the Hartford Immigration Court. His father was named as the lead respondent in the proceedings, with K.A.R.M. listed as a derivative respondent. *See* Exhibit 1, NTA.

35. As he was a minor at the time the NTA was served, K.A.R.M. was reliant on his guardian to ensure his appearance at the immigration court hearing. *See Flores-Chavez v. Ashcroft*, 362 F.3d 1150, 1157 (9th Cir. 2004) (under regulatory framework "juveniles are presumed unable to appear at immigration proceedings without the assistance of an adult" and charges adult guardian with responsibility for doing so); *Llanos-Fernandez v. Mukasey*, 535 F.3d 79, 84 (2d Cir. 2008) (noting same and quoting *Flores-Chavez*, 362 F.3d at 1157)).

36. As part of their release on their own recognizance, K.A.R.M. and his father were directed to comply with ICE check-in requirements in Hartford, Connecticut, which they did faithfully.

37. However, due to his father's confusion and reliance on unqualified *notario* assistance (individuals who falsely represented themselves as immigration attorneys), K.A.R.M. did not attend the October 9, 2024, Master Calendar hearing date. As previously noted, K.A.R.M. legally and actually relied on his guardian to ensure his appearance at the immigration court hearing. His father missed his court date and upon receiving the deportation order, believed a *notario* had helped him file an appeal, but this was never done. The *notario* fraudulently took fees from the family for services that were never performed.

38. Due to his absence from the October 9, 2024, hearing, an *in absentia* removal order was entered against K.A.R.M. on October 10, 2024, as a derivative respondent to his father's case.

39. On June 20, 2025, K.A.R.M.'s counsel filed a Motion to Rescind and Reopen his *in absentia* removal order before the Hartford Immigration Court in Connecticut, asserting: (1) exceptional circumstances warranting rescission

under INA § 240(b)(5)(C)(i); (2) *sua sponte* reopening pursuant to 8 C.F.R. § 1003.23(b)(1); and (3) new eligibility for relief under INA § 240(c)(7), including SIJ status and asylum.

40. The Hartford Immigration Court granted this motion on July 10, 2025, rescinding the *in absentia* removal order and reopening K.A.R.M.'s removal proceedings. *See* Exhibit E, Order of the Immigration Judge. This opened the pathway for K.A.R.M. to pursue SIJ status and other forms of relief.

41. Following the reopening of his proceedings, his removal case was administratively transferred to the Harlingen, Texas Immigration Court. K.A.R.M. presented an I-589 Application for Asylum to the USCIS on September 12, 2025. *See* Exhibit C, I-589 Receipt Notice. After presenting proof of this pending petition to the Immigration Court, K.A.R.M.'s removal proceedings were administratively closed on October 29, 2025. *See* Exhibit F, Order of the Immigration Judge. As such, K.A.R.M. has no future immigration court dates at this time.

State Court Custody Determinations and SIJ Findings

42. In June 2025, Connecticut Legal Services and K.A.R.M.'s pro bono counsel presented a petition to a Connecticut Probate Court to seek a legal guardian for K.A.R.M. and Special Immigrant Juvenile Findings.

43. On July 14, 2025, the Connecticut State Probate Court, Central Connecticut Regional Children's Probate Court (Judge Ariana F. Ceneviva, presiding), acting in its capacity as a Connecticut juvenile court, issued a Decree of Temporary Custody appointing K.A.R.M.'s aunt, [redacted], as temporary custodian of K.A.R.M. pending finalization of the removal of parental guardianship. The Court found that K.A.R.M had no suitable guardian and that placement with his aunt was in his best interests. *See* Exhibit G, Decree of Temporary Custody.

44. As part of this juvenile court process, an investigation was performed by the Connecticut Department of Children and Families on the suitability of [redacted] to serve as K.A.R.M.'s sole legal guardian. The

Department ultimately recommended the court grant the petition for appointment of [redacted] as guardian for K.A.R.M.

45. On October 6, 2025, the same Connecticut Probate Court issued a decree appointing [redacted] as K.A.R.M.'s permanent guardian. Exhibit H, Removal of Guardian Decree. The Court also issued a decree with SIJ findings. The Court made the following critical findings:

a. K.A.R.M is under 21 years of age and unmarried;

b. K.A.R.M is dependent upon the court because the court removed both [redacted] (his mother) and [redacted] (his father) as guardians;

c. [redacted] (K.A.R.M.'s aunt) was appointed as K.A.R.M's legal guardian;

d. Reunification with K.A.R.M.'s mother is not viable because the mother has abandoned and neglected K.A.R.M. The Court found K.A.R.M. would be at risk of serious harm if returned to Ecuador to live under her care;

e. Reunification with K.A.R.M.'s father is not viable because the father was returned to Ecuador and is currently unable to provide day-to-day care and has denied care to K.A.R.M. in the past;

f. It is not in K.A.R.M.'s best interest to be returned to Ecuador for several reasons: (1) K.A.R.M is at risk of serious physical harm if he returns there, [redacted]; (2) he cannot safely live with any family members in Ecuador; (3) K.A.R.M was attending high school and graduated in absentia in June 2025; (4) it is important that he remain in Connecticut with his aunt and family members so he may live safely and pursue opportunities such as studying at university that would not be available in Ecuador.

46. These findings by the Connecticut State Probate Court establish that K.A.R.M. meets all the statutory requirements for SIJ status under 8 U.S.C. § 1101(a)(27)(J).

47. Following the Probate Court's issuance of SIJ Findings on October 6, 2025, K.A.R.M.'s counsel filed an I-360 SIJ petition with the USCIS.

48. The USCIS received K.A.R.M.'s petition for SIJ status on October 27, 2025. *See* Exhibit D, USCIS Receipt Notice. This filing remains pending.

Community Ties and Educational Success

49. Since arriving in the United States in February 2023, K.A.R.M. has excelled in school. He learned English conversationally and became an honor roll student at Francis T. Maloney High School in Meriden, Connecticut.

50. On June 10, 2025, K.A.R.M. graduated from high school. Despite being detained in immigration custody, he graduated *in absentia*. He was on track to attend college and pursue a degree in engineering.

51. K.A.R.M. is a valued member of his high school and the broader Meriden community. He participated in soccer and other school activities.

52. Upon learning of K.A.R.M.'s detention, his high school community responded with profound emotion and sadness. [redacted]

53. K.A.R.M. has deep family ties in Connecticut. His legal guardian and aunt, [redacted] is committed to K.A.R.M.'s care and has been appointed by the Connecticut State Probate Court as his legal custodian and guardian. K.A.R.M. has lived with his aunt and is part of an extended family network in Connecticut.

54. Prior to his detention on June 3, 2025, K.A.R.M. was living with his aunt in Meriden, Connecticut, attending school, and was fully integrated into his school and community. He was in compliance with all government requirements and had no criminal history.

The Detention and Current Custody

55. Despite having a removal order, K.A.R.M.'s father attended his check-ins with ICE and at his check-in on June 3, 2025, he came without his son as he was

in school. But upon his arrival, K.A.R.M.'s father was told to collect his son and return to the office. Upon doing so, K.A.R.M. and his father were detained a week before K.A.R.M.'s high school graduation, without notice and without any prior indication that he would be taken into custody.

56. K.A.R.M. was initially detained at the ICE office in Hartford, Connecticut. He was quickly transferred from Connecticut to the South Texas Family Detention Center in Dilley, Texas. K.A.R.M. remained there with his father for over a month, until July 18, 2025. However, since the order of removal for K.A.R.M. had been rescinded by the Hartford Immigration Court, on July 10, 2025, ICE no longer had authority to detain him pursuant to a final order of removal. Therefore, officials made the decision to separate K.A.R.M. from his father and place him in the custody of the ORR.

Detention and Release Process with the ORR

57. K.A.R.M. was initially detained and continues to be held at Urban Strategies – Refugio Alamo, a detention facility for unaccompanied minor children operated by the ORR within the Southern District of Texas. He has remained at the shelter since July 18, 2025. The ORR is an agency under the HHS. However, based upon information and belief, the ORR is controlled (explicitly or implicitly) by the orders and directives of the DHS, as concerns the custody of minor noncitizen children.

58. On July 31, 2025, [redacted] submitted a finalized Sponsorship Application to the Office of Refugee Resettlement.

59. On August 4, 2024, [redacted] attended a fingerprinting appointment set for her by the ORR. Apart from her entry without inspection, [redacted] was found to have no criminal record.

60. As part of the sponsorship process, [redacted] provided countless documents to her reunification specialist, including pay stubs, identity documents, custody documents and even went through a process in Ecuador, contracting an Ecuadorian attorney, to obtain a power of attorney signed by both of K.A.R.M.'s parents. At no juncture did the ORR indicate that [redacted] was not in compliance or had submitted fraudulent documents.

61. For several months, the ORR vacillated on what further steps it would require of the sponsor. At one point, the sponsor was told that it would be necessary for her and K.A.R.M. to be DNA tested to prove their relationship. However, the relevant regulations regarding ORR sponsor suitability assessment do not include DNA testing as a proper aspect of the assessment, which regulations dictate is to determine whether the potential sponsor is "capable of providing for the unaccompanied child's physical and mental well-being." 5 C.F.R. § 410.1202.

62. Later, the family was informed that because [redacted] was only a half-sibling of K.A.R.M.'s father – DNA testing would be unnecessary as it would not be sufficiently probative of a biological relationship. Following this decision, the ORR decided that home study would be necessary. However, a home study was never performed – despite the fact it was requested on August 20, 2025, by the Reunification Specialist Alexa Villanueva. Still, after more than three months, no home study has been performed, and there is no indication that the ORR has taken any steps to perform one or there has been any other source of unexpected delay. Nor has the ORR indicated any reason why a home study should be conducted for K.A.R.M. Pursuant to 8 U.S.C. § 1232(c)(B), a "home study shall be conducted for a child who is a victim of a severe form of trafficking in persons, a special needs child with a disability (as defined in section 12102 of title 42), a child who has been a victim of physical or sexual abuse under circumstances that indicate that the child's health or welfare has been significantly harmed or threatened, or a child whose proposed sponsor clearly presents a risk of abuse, maltreatment, exploitation, or trafficking to the child based on all available objective evidence[.]" None of these criteria apply in this situation.

63. On October 22, 2025, [redacted] was ordered to report to the office of Homeland Security Investigations ("HSI") in New Haven, Connecticut where she was accompanied by counsel. At that appointment, HSI officers questioned [redacted] and a worker for the ORR reviewed her identity documents.

64. Following this meeting with HSI, Attorney Faitsch was informed by shelter staff that K.A.R.M. was recommended for release by FFS Trevino

and that the final decision would be made by the ORR Headquarters. K.A.R.M.'s family began preparing for his release, including locating funds to purchase his ticket and providing information regarding the nearest airports to their home to pick up the minor child.

65. According to internal ORR documents, on November 6, 2025, a "Positive Sponsor Suitability Determination" was made by Federal Field Specialist Molina for [redacted] finding her suitable to be K.A.R.M.'s sponsor. The case was then submitted to ORR Headquarters for a final decision on November 9, 2025 by shelter staff.

66. On November 20, 2025, long after the ten-day regulatory deadline had passed to issue a final decision on the Sponsorship Application, K.A.R.M.'s counsel issued a demand letter via e-mail to Defendants Angie Salazar, Pamela Trevino, and Jessica Vela requesting the ORR's compliance with their obligations under 45 C.F.R. § 410.1205(b). Shelter staff later confirmed the e-mail had been received.

67. On December 11, 2025, Ryan Thier, a TVPRA-Appointed Child Advocate for K.A.R.M. submitted a Best Interest Determination ("BID") to ORR, stating that "[t]o protect [redacted]s safety and well-being and advance his rights to liberty and family unity, we have determined that it is in [redacted]'s best interests to be reunified with Ms. [redacted] as soon as possible." *See* Exhibit B, Best Interest Determination ("BID") of Ryan Thier, The Young Center for Immigrant Children's Rights.

68. Nevertheless, K.A.R.M. remains in ICE/ORR custody in the Southern District of Texas without having received an individualized bond hearing or determination that his detention is justified.

69. In fact, based on the Connecticut State Probate Court's findings of facts indicating he meets the requirements for SIJ status, the fact that he has no final order of removal, and the fact that his removal is not reasonably foreseeable, his detention is not justified.

70. While in the ORR's custody, K.A.R.M. has been deprived of his liberty. He is restricted in his movement and activities. Progress towards his goals – such as enrolling in college – have been put to the side. He has also had precious

moments taken from him, like his high school graduation and holidays with his family. All of this has had a profound impact on his mental well-being. He had to process his father's deportation and their separation in detention on his own, without the physical support of his community in Connecticut.

71. As there has been no decision issued and K.A.R.M remains in detention, he brings this habeas action requesting the federal court order his release. K.A.R.M.'s removal is not reasonably foreseeable, as his removal proceedings are still ongoing. As a result, under longstanding precedent in *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001), a person cannot be detained indefinitely for a removal that is not reasonably foreseeable.

LEGAL FRAMEWORK

A. *Pursuant to the TVPRA and other statutory protections K.A.R.M. cannot be removed during the pendency of his removal proceedings.*

72. K.A.R.M. has pending relief with the USCIS that prevents him from being lawfully removed. Pursuant to the Trafficking Victims Protection Reauthorization Act of 2008 ("TVPRA"), the USCIS retains initial jurisdiction for asylum claims filed by unaccompanied children. 8 U.S.C. § 1158(b)(3)(c). As K.A.R.M. has been designated as an unaccompanied alien child and has filed his I-589 application for Asylum with the USCIS, he cannot be removed until his asylum filing has been adjudicated. His application remains pending with the agency. *See* Exhibit C, USCIS I-589 Receipt Notice.

73. The protections of the TVPRA provide that if the Department of Homeland Security seeks to remove an unaccompanied child, he must be placed in removal proceedings under INA § 240. *See* 8 U.S.C. § 1232(a)(5)(D). As a respondent in removal proceedings, K.A.R.M. is afforded the opportunity to present claims for relief from removal. The Harlingen Immigration Court recognized this fact when it administratively closed K.A.R.M.'s immigration proceedings pending a decision on his I-589 by USCIS. *See* Exhibit F, Order of the Immigration Judge. Thus, his removal is clearly not foreseeable at this time.

74. K.A.R.M. has additionally applied for SIJ status with the USCIS. SIJ status is a form of humanitarian relief specifically designed by Congress to protect children who cannot safely be returned to their home countries due to abuse, neglect, or abandonment by parents.

75. In 1990, Congress created SIJ status to protect vulnerable immigrant children and provide them a pathway to citizenship. Immigration Act of 1990, Pub. L. No. 101-649, § 153, 104 Stat. 4978 (1990) (amending various sections of the INA); Special Immigrant Status, 58 Fed. Reg. 42843, 43844 (Aug. 12, 1993). Since 1990, Congress has amended the INA multiple times to expand the protections of SIJ status, most recently in 2008, through the Trafficking Victims Protection Reauthorization Act, Pub. L. 110-457, § 235(d), 122 Stat. 5044 (2008).

76. To be granted SIJ status, youths like K.A.R.M must first satisfy a set of rigorous, congressionally defined eligibility criteria. Specifically, the INA provides that those eligible for SIJ designation, as relevant here, are noncitizen youth who are present in the United States; who have been declared dependent on a state juvenile court; who cannot be reunified with one or more parents because of abuse, neglect, or abandonment; and for whom it has been determined that it is not in their best interest to return to their country of origin. 8 U.S.C. § 1101(a)(27)(J); 8 C.F.R. § 204.11(c).

77. Crucially, a noncitizen youth is eligible for SIJ status only if he or she is "present in the United States." 8 U.S.C. § 1101(a)(27)(J) (emphasis added). This requirement makes perfect sense in light of the purpose of the SIJ statute. SIJ status is predicated on a state court finding that the youth cannot be safely reunited with parent(s), nor safely sent back to their country of origin. The design of this program "show[s] a congressional intent to assist a limited group of abused children to remain safely in the country with a means to apply for LPR status." *Garcia v. Holder*, 659 F.3d 1261, 1271 (9th Cir. 2011).

78. Youth can apply for SIJ status upon receipt of a state court order finding they cannot be safely reunited with parent(s) nor safely sent back to their country of origin. The application process includes submitting Form I-360, SIJ self-petition to the USCIS, along with the predicate state court order and other supporting evidence. *See* 8 C.F.R. § 204.11(b). The USCIS then considers the application and supporting documentation to determine whether to exercise its statutory "consent function" to approve the petition. *See* 8 U.S.C. § 1101(a)(27)(J)(iii). By exercising its statutory consent function to grant SIJ status, the agency recognizes the state court's determinations, including that the child's return to their country of origin would be contrary to their best interests. 8 U.S.C. § 1101(a)(27)(J)(iii).

79. SIJ status may be revoked only for what the Secretary of Homeland Security deems "good and sufficient cause." 8 U.S.C. § 1155; 8 C.F.R. § 205.2. According to the USCIS regulations, such revocation must be made upon notice to the youth in question, who must be permitted the opportunity to submit evidence in opposition to the revocation. *See* 8 C.F.R. § 205.2. If status is ultimately revoked, the youth is entitled to notice and the opportunity to appeal the decision. *See* 8 C.F.R. § 205.2(c)-(d). Revocation of a SIJ self-petition may only be performed by a USCIS officer authorized to approve such petition in the first instance. *See* 8 C.F.R. § 205.2(a).

80. The main benefit of SIJ status—and indeed, its core purpose—is that it confers on vulnerable young people like K.A.R.M. the right to seek lawful permanent resident status while remaining in the United States, through a process called adjustment of status. *See* 8 U.S.C. § 1255(h).

81. To facilitate this process, Congress removed numerous barriers to adjustment of status for SIJ status beneficiaries through amendments to the SIJ provisions in 1991 and again in 2008. For example, SIJ youth are "deemed . . . to have been paroled into the United States" for the purposes of adjustment of status. 8 U.S.C. § 1255(h)(1). Further, Congress exempted SIJ youth from many common inadmissibility grounds and created a generous waiver of many of the non-exempted inadmissibility grounds. 8 U.S.C. § 1255(h)(2). And

Congress explicitly provided that certain grounds for removal "shall not apply to a special immigrant described in section 1101(a)(27)(J) of this title [the SIJ statute] based upon circumstances that existed before the date the [noncitizen] was provided such special immigrant status." 8 U.S.C. § 1227(c).

82. While the USCIS has not yet adjudicated K.A.R.M.'s petition for SIJ status, a Connecticut Probate Court has issued a decree with key SIJ findings. These include that (1) K.A.R.M. is under 21 years of age and unmarried; (2) K.A.R.M. is dependent upon the court because it has removed both his parents as guardians; (3) [redacted] K.A.R.M.'s aunt, has been appointed his legal guardian; (4) reunification of K.A.R.M. with his mother is not viable and he would be at risk of serious harm if returned to Ecuador to live under her care; (5) reunification of K.A.R.M. with his father is not viable because his father has been returned to Ecuador and is unable to provide day-to-day care, and failed to effectively pursue immigration relief for K.A.R.M., leading to his detention; (6) it is not in K.A.R.M.'s best interest to be returned to Ecuador because (a) he is at risk of serious physical harm if returned there; (b) he cannot safely live with any family members in Ecuador; (c) he was attending high school and graduated in absentia in June 2025; (d) it is important that he remain in Connecticut with his aunt and family members so he may live safely and pursue opportunities such as studying at university that would not be available in Ecuador.

83. These findings by the Connecticut State Probate Court establish that K.A.R.M. meets all the statutory requirements for Special Immigrant Juvenile Status under 8 U.S.C. § 1101(a)(27)(J). There is no evidence or reason to doubt that the Probate Court's findings related to K.A.R.M.'s SIJ status are not well-founded.

B. ***Legal Framework and Policies Governing Custody and Release of Immigrant Children***

84. Each year, thousands of unaccompanied alien children ("UAC") flee violence, persecution, and abuse in their home countries, and seek protection in the United States. Many of these children come from countries where gang

violence, government corruption, and instability create conditions that make these regions among the most dangerous for children. According to the United Nations, nearly two-thirds of immigrant children from these regions have experienced harms that qualify them for international refugee protection. Federal law recognizes that minors are distinctively vulnerable and establishes a child-welfare framework, not a carceral one, to govern their custody and release.

85. The care and custody of UACs is governed largely by two statutes, 6 U.S.C. § 279 and 8 U.S.C. § 1232, as well as a settlement agreement binding on the relevant federal agencies. In the 1980s and 1990s, immigrant children who arrived in the United States were routinely locked up for months in unsafe and unsanitary jail cells, in remote facilities across the country. These conditions prompted a federal lawsuit, *Flores v. Reno*, which resulted in a 1997 consent decree that set national standards for the detention, release, and treatment of immigrants in government custody. In addition to setting certain minimal detention standards, *Flores* guarantees that children shall be released "without unnecessary delay" and requires the Government to undertake "prompt and continuous efforts" towards family reunification, as well as guarantees children the right to a bond hearing before an immigration judge. Although the government has attempted to replace Flores by regulation, federal courts have preserved its core protections for decades. In 2024, after the HHS promulgated comprehensive regulations governing the Unaccompanied Children (UC) program, the Flores court partially terminated the consent decree as to HHS, finding that the new rule "meets or exceeds" Flores's key standards, while leaving Flores in place as to the DHS. *See* 45 C.F.R. §§ 410.1000 et seq. These regulations enshrined many the Flores protections into law, specifically the obligation to place the child "in the least restrictive setting that is in the best interests of the child[.]" 45 C.F.R. § 410.1003(f).

86. In 2002, Congress passed the Homeland Security Act (HSA) which transferred the care and custody of unaccompanied immigrant children from the Immigration and Nationality Service (INS) to the ORR, housed within the HHS. The ORR is not a security agency; its mission is to "incorporat[e] child

welfare values" into the care and placement of unaccompanied immigrant children.

87. Congress further codified and strengthened these protections. The 2008 TVPRA requires that (1) DHS transfer unaccompanied children to HHS custody within 72 hours (absent exceptional circumstances), 8 U.S.C. § 1232(b)(3); (2) the ORR "promptly place[]" such children "in the least restrictive setting that is in the best interest of the child," *id.* § 1232(c)(2); and (3) with limited exceptions not relevant here, place them in full removal proceedings under 8 U.S.C. § 1229a rather than expedited removal, id. § 1232(a)(5)(D).

88. The ORR's policies also contain procedures governing the release of children in its care. The guide provides for the ORR to "begin[] the process of finding family members and others who may be qualified to care for an unaccompanied alien child as soon as the child enters ORR's care." For children with viable sponsors in the United States, the ORR has policies and procedures that "require the timely release of children and youth to qualified parents, guardians, relatives or other adults, referred to as 'sponsors.'"

89. Critically, the law's "least restrictive setting" and "best interests" mandates are not satisfied by mere transfer to ORR; they require prompt reunification or release to a suitable sponsor whenever safe and feasible. Congress charged ORR with making "continuous efforts" toward family placement, and ORR's governing policies prioritize release to a parent, legal guardian, or other qualified adult relative able to provide care and physical custody. *See* 6 U.S.C. § 279(b)(1)(C)–(D); 8 U.S.C. § 1232(c)(2).

90. In K.A.R.M.'s case, he already had a legal guardian—his aunt [redacted]—appointed by a Connecticut Probate Court. He was living safely in the community with her. Seizing K.A.R.M. at a check-in, detaining him, and transferring him over two thousand miles away to a detention facility in Texas runs counter to the "least restrictive setting" and "best interests"

mandate, and serves no lawful purpose. To comply with the TVPRA, the ORR must transfer K.A.R.M. to [redacted]'s custody in Connecticut.

C. *The INA Only Permits Re-detention in Specific Circumstances*

91. The INA specifies circumstances upon which a person may be released from custody, and it does not provide for re-detention except impliedly for a violation of those terms. The relevant regulatory framework (8 C.F.R. §§ 241.4(l) and 241.13(i)) authorizes revocation of an individual's release on an Order of Supervision only in certain contexts. Section 241.4(l) specifies revocation may occur upon violation of the conditions of release or when, in the district director's opinion, revocation is in the public interest because one of four conditions is met: "(1) the purposes of release have been served; (2) the alien violates any condition of release; (3) it is appropriate to enforce a removal order or to commence removal proceedings against an alien; or (4) the conduct of the alien, or any other circumstance, indicates that release would no longer be appropriate." 8 C.F.R. § 241.4(l)(2).

92. 8 U.S.C. § 1231 authorizes the detention of individuals following a final order of removal only under specifically delineated circumstances. The third subclause of 8 U.S.C. § 1231(a)(3) provides that an individual who is not removed within a 90-day statutory removal period "shall be subject to supervision" under specific terms, including requirements that he or she appear periodically before an immigration officer and obey any written restrictions. *See also* 8 C.F.R. § 241.5 (specific conditions for release—involving but not limited to reporting requirements and travel document acquisition requirements—should an order of supervision be issued).

93. None of the relevant provisions of the INA allow for the re-detention of K.A.R.M.

CLAIMS FOR RELIEF

CLAIM I

VIOLATION OF THE DUE PROCESS CLAUSE OF THE FIFTH AMENDMENT OF THE CONSTITUTION (SUBSTANTIVE DUE

PROCESS) AND 8 U.S.C. § 1231(a)(6); ADMINISTRATIVE PROCEDURE ACT 5 U.S.C. §§ 702, 706.

94. Petitioner repeats and incorporates by reference each and every allegation contained in the preceding paragraphs as if fully set forth herein.

95. The government may not deprive a person of life, liberty, or property without due process of law. U.S. Const. amend. V. "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that the Clause protects." *Zadvydas*, 533 U.S. at 690.

96. Petitioner has a fundamental interest in liberty and being free from official restraint. Because K.A.R.M.'s removal is not reasonably foreseeable and there is no other justification for his detention, his detention is neither authorized by 8 U.S.C. § 1231(a)(6) nor related to any legitimate government interests, in violation of the substantive due process protections of the Fifth Amendment.

CLAIM II

VIOLATION OF THE DUE PROCESS CLAUSE OF THE FIFTH AMENDMENT OF THE CONSTITUTION (PROCEDURAL DUE PROCESS); ADMINISTRATIVE PROCEDURE ACT 5 U.S.C. §§ 702, 706.

97. Petitioner repeats and incorporates by reference each allegation contained in the preceding paragraphs as if fully set forth herein.

98. The procedural due process guarantee of the Fifth Amendment requires that individuals be provided notice and an opportunity to be heard before being deprived of liberty or property interests. *Mathews v. Eldridge*, 424 U.S. 319, 332 (1976). "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." *Zadvydas,* 533 U.S. at 690.

99. The Due Process Clause entitles K.A.R.M. to meaningful process assessing whether his detention is justified. K.A.R.M.'s detention without an opportunity to contest his detention in front of a neutral adjudicator after he

had been living and going to school in the United States for nearly three years, with deep community and family ties, with the requisite SIJ findings, and with a state-appointed legal guardian in Connecticut, provides insufficient process and violates the Due Process Clause of the Fifth Amendment of the Constitution.

CLAIM III

VIOLATION OF THE FOURTH AMENDMENT OF THE CONSTITUTION; ADMINISTRATIVE PROCEDURE ACT 5 U.S.C. §§ 702, 706.

100. Petitioner, K.A.R.M., repeats and incorporates by reference each and every allegation contained in the preceding paragraphs as if fully set forth herein.

101. The Fourth Amendment protects "[t]he right of the people to be secure in their persons . . . against unreasonable searches and seizures." U.S. Const. amend. IV. The Supreme Court has consistently recognized that immigration arrests and detentions are "seizures" within the meaning of the Fourth Amendment. *See INS v. Lopez-Mendoza*, 468 U.S. 1032, 1044 (1984) (acknowledging that deportation proceedings are civil, but the Fourth Amendment still applies to the "seizure" of the person).

102. K.A.R.M. was living at liberty in the community in Connecticut, attending school, and was living with his legal guardian later appointed by state court. He had no criminal history and had complied with all government requirements. The government exercised its discretion to leave him at liberty while his immigration case was pending.

103. The government lacked reliable information of changed or exigent circumstances that would justify his seizure and arrest after having previously determined he could remain at liberty.

CLAIM IV

VIOLATION OF THE ADMINISTRATIVE PROCEDURE ACT

5 U.S.C. §§ 702, 706

104. Petitioner, K.A.R.M., realleges and incorporates by reference each and every allegation contained in the preceding paragraphs as if set forth fully herein.

105. Under the Administrative Procedure Act, a court must "hold unlawful and set aside agency action" that is "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law," that is "contrary to constitutional right [or] power," or that is "in excess of statutory jurisdiction, authority, or limitations, or short of statutory right." 5 U.S.C. § 706(2)(A)-(C).

106. Respondents' detention of K.A.R.M. is arbitrary and capricious, not in accordance with the law, and contrary to constitutional right because he is prima facie eligible for SIJ status, his removal is not reasonably foreseeable, and there is no other justification for his detention.

107. Respondents failed to articulate a reasoned explanation for their decision in light of all available evidence and failed to consider all the aspects of the problem as well as obvious, less-restrictive alternatives to custody.

108. Additionally, Respondents acted arbitrarily, capriciously, and contrary to law by disregarding the controlling child-welfare framework governing custody and release of immigrant children. Congress, through the Homeland Security Act and the TVPRA, requires that unaccompanied children be maintained in the least restrictive setting appropriate to their needs and that the government undertake prompt and continuous efforts toward placement with qualified family sponsors. *See* 6 U.S.C. § 279(b)(1)(C)–(D); 8 U.S.C. § 1232(c)(2). Respondents' detention of K.A.R.M. and transfer of him over two thousand miles away from his legal guardian in Connecticut violate these statutory requirements.

CLAIM V

VIOLATION OF THE ACCARDI DOCTRINE

109. Petitioner, K.A.R.M. re-alleges and incorporates by reference every allegation contained in the preceding paragraphs as if set forth fully herein.

110. When the government has promulgated "[r]egulations with the force and effect of law," those regulations "supplement the bare bones" of federal statutes, such that the agencies are bound to follow their own "existing valid regulations." *United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260, 266, 268 (1954). The Accardi doctrine also obligates agencies to comply with procedures set out in their operative manuals and binding guidance. *See Morton v. Ruiz*, 415 U.S. 199, 235 (1974) (finding that an agency is obligated to comply with procedural rules outlined in its internal manual).

111. Respondents have violated the applicable regulations governing detention following a final order of removal—8 C.F.R. §§ 241.4(l), 241.5, and 241.13(i)—by failing to provide Petitioner with a particularized notice of the reason(s) of the detention or an opportunity to respond to the allegations contained therein, or any individualized bond hearing.

112. K.A.R.M. has no adequate remedy at law.

CLAIM VI

RELEASE PENDING ADJUDICATION

113. Petitioner, K.A.R.M., repeats and re-alleges the allegations contained in all preceding paragraphs of this Petition as if fully set forth herein.

114. Pursuant to *Mapp v. Reno*, this Court has the "inherent authority" to set bail pending the adjudication of a habeas petition when the petition has raised (1) substantial claims and (2) extraordinary circumstances that (3) "make the grant of bail necessary to make the habeas remedy effective." 241 F.3d 221, 226 (2d Cir. 2001).

115. K.A.R.M. presents numerous substantial constitutional and statutory claims challenging his detention.

116. K.A.R.M. has demonstrated extraordinary circumstances: he is a minor child with factual findings sufficient for SIJ status who cannot be lawfully removed,

he has deep family and community ties in Connecticut including a court-appointed legal guardian waiting for his release, he poses no flight risk, he has complied with all government requirements, his continued detention serves no lawful purpose and violates both statutory and constitutional protections, and he has been separated from his legal guardian and transferred over two thousand miles away from his home state without justification.

117. Given these extraordinary circumstances and the substantial claims presented, K.A.R.M. respectfully requests that this Court either release him pending adjudication of this habeas petition or order an immediate bond hearing to be held where the government must demonstrate that its detention of K.A.R.M. is justified.

CLAIM VII

VIOLATION OF THE FLORES SETTLEMENT AGREEMENT/THE FOUNDATIONAL RULE, 45 C.F.R. §§ 410.1000 *et seq.*

118. Petitioner, K.A.R.M., repeats and re-alleges the allegations contained in all preceding paragraphs of this Petition as if fully set forth herein.

119. The Foundational Rule incorporates the duty to promptly place K.A.R.M. in the least restrictive setting that is in his best interests under the Foundational Rule. 45 C.F.R. § 410.1003(f). ORR is also required to make and record prompt and continuous efforts towards a child's release. Id. § 410.1203(a).

120. Respondents' failure to qualify K.A.R.M.'s sponsor, [redacted] as capable and willing to care for K.A.R.M., despite [redacted] being a fit sponsor; Respondents' failure to transfer K.A.R.M. to the custody of [redacted] in Connecticut, and Respondent's continued incarceration of K.A.R.M. all constitute violations of the Foundational Rule.

CLAIM VII

VIOLATION OF SECTION 235 OF THE TRAFFICKING VICTIMS PROTECTION REAUTHORIZATION ACT, 8 U.S.C. § 1232

121. Petitioner, K.A.R.M., repeats and re-alleges the allegations contained in all preceding paragraphs of this Petition as if fully set forth herein.

122. Respondents have a non-discretionary duty to promptly place K.A.R.M. in the least restrictive setting that is in his best interest under the TVPRA. 8 U.S.C. § 1232(c)(2)(A).

123. Respondents have failed to act promptly.

124. Respondents have arbitrarily and unlawfully failed to place K.A.R.M. in the least restrictive setting that is in his best interest.

125. Respondents' failure to release K.A.R.M. and transfer him to the custody of his sponsor [redacted] in Connecticut constitutes a violation of Respondents' non-discretionary duties under the TVPRA.

PRAYER FOR RELIEF

WHEREFORE, Petitioner K.A.R.M. respectfully requests that this Court:

1. Grant the Petition for Writ of Habeas Corpus and order the immediate release of Petitioner K.A.R.M. from the custody and control of Respondents;
2. In the alternative, hold an immediate bond hearing at which Respondents must demonstrate by clear and convincing evidence that Petitioner's detention is justified and that Petitioner poses a flight risk or danger to the community;
3. Order that Respondents shall immediately cease holding K.A.R.M. in detention and either (a) release him to the custody of his legal guardian, [redacted] in Connecticut; or (b) place him in the least restrictive community setting available in or near Connecticut; or (c) transfer him to Connecticut pending resolution of this habeas petition;

4. Order that Respondents shall not transfer Petitioner outside of the Southern District of Texas for the duration of this proceeding pending adjudication of this petition;
5. Declare that Petitioner's detention is unlawful under the Fifth Amendment, Fourth Amendment, the Administrative Procedure Act, the Accardi doctrine, and the Immigration and Nationality Act;
6. Award such other and further relief as this Court deems just, proper, and equitable.

VERIFICATION

Pursuant to 28 U.S.C. § 2242, the undersigned hereby verifies under oath that Petitioner K.A.R.M., by and through his undersigned counsel, has carefully reviewed the facts and legal arguments set forth in the above Petition for Writ of Habeas Corpus and Complaint, and that the allegations contained herein are true and correct to the best of his knowledge, information, and belief.

Dated: December 16, 2025

Respectfully submitted,

Raed Gonzalez
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