

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF CONNECTICUT**

E.H.C.F., a minor, by and through his
Next Friend, MILEIDY YAMALY
CONTRERAS FLORES,

Petitioners/Plaintiffs,

v.

Robert F. KENNEDY, JR. in his official
capacity as Secretary of Health and
Human Services; Angie SALAZAR, in
her official capacity as Acting Director of
the Office for Refugee Resettlement;
Regina MOLLER, Director of Noank
Community Support Services; U.S.
Department of Health and Human
Services (HHS); U.S. Office of Refugee
Resettlement (ORR); Noank Community
Support Services (NCSS)

Respondents/Defendants.

Civil Case No.: 3:25-cv-02142

ORAL ARGUMENT REQUESTED

**PETITIONER'S MEMORANDUM OF LAW
IN SUPPORT OF EMERGENCY MOTION FOR A
TEMPORARY RESTRAINING ORDER AND PRELIMINARY INJUNCTION**

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PRELIMINARY STATEMENT

This case concerns E.H.C.F. (“Petitioner”), a 16-year-old citizen of Honduras who has been in the custody of the Office of Refugee Resettlement (“ORR”) for over 225 days. He was most recently detained by the Department of Homeland Security (“DHS”) on May 8, 2025 and transferred to ORR custody on May 11, 2025. He is presently detained at the Noank Community Support Services facility in Mystic, Connecticut.

Pursuant to the William H. Wilberforce Trafficking Victims Protection Act (“TVPRA”), 8 U.S.C. § 1232, et. seq., ORR has a statutory responsibility to “promptly” place E.H.C.F. “in the least restrictive setting that is in the best interest of the child.” 8 U.S.C. § 1232. As set forth more fully herein, Respondents are violating E.H.C.F.’s statutory and due process rights under the TVPRA by failing to promptly release and reunite him with his family.

Shortly after E.H.C.F. was transferred to ORR custody, his mother, Ms. Mileidy Yamaly Contreras Flores (“Ms. Contreras Flores”), began the sponsorship process to secure his release. On May 23, 2025, she mailed her finalized Sponsorship Application to ORR. She has since fastidiously complied with an ever-multiplying list of sponsorship requirements. Nonetheless, nearly seven months later, ORR has failed to adjudicate of her sponsorship application. ORR’s actions violate E.H.C.F.’s constitutional, statutory, and regulatory rights.

Therefore, E.H.C.F., by and through his Next Friend, Ms. Contreras Flores, respectfully moves this Court for a temporary restraining order and preliminary injunction pending the adjudication of the instant Petition. E.H.C.F. is likely to succeed on all of his claims and will suffer irreparable harm if Respondents continue to prolong his confinement and separation from his family. Petitioner respectfully requests that this Court order Respondents to immediately release E.H.C.F. to the custody of his mother, without restraints on his liberty.

NOTICE TO RESPONDENTS-DEFENDANTS

Undersigned counsel, Benjamin M. Haldeman and Leanne Gale, contacted the U.S. Attorney's Office for the District of Connecticut by email on December 22, 2025, provided a copy of the Petition that was filed on December 22, 2025, and conveyed the undersigned's intention to file the within motion for a Temporary Restraining Order (TRO) and Preliminary Injunction. Undersigned counsel affirms he intends to send, via email, the motion for a TRO and Preliminary Injunction, this memorandum of law, and a proposed order for granting the TRO to the U.S. Attorney's Office for the District of Connecticut upon the filing of this motion.

RELEVANT STATEMENT OF FACTS AND PROCEDURAL HISTORY

I. Detention and Separation of Petitioner from His Family.

Petitioner E.H.C.F. was born in Juticalpa, Olancho, Honduras in 2009. Ex. A, Affidavit of Mileidy Yamaly Contreras Flores, ¶ 3. He is 16 years old. *Id.* Prior to his detention by DHS, he lived in Chelsea, Massachusetts and was a student at [REDACTED] Ex. D [REDACTED] Enrollment Verification. He lived with his mother, Ms. Contreras Flores; his father, Mr. Contreras Romero; his older sister, Keren, and his younger brother, C.H.C.F. Ex. A, ¶ 2. At the time of his detention, the family had been living together in Chelsea for about six years.

Until he was forcibly transferred to ORR custody, E.H.C.F. had never before been separated from his mother. *Id.* ¶ 3. He grew up in her household, along with his father and siblings. *Id.* Throughout his childhood, first in Honduras and then in the United States, he was "raised in a loving, stable, and safe family environment," where he was "consistently cared for financially, emotionally, and physically." Ex. B, ORR-Appointed Child Advocate Best Interest Determination for Petitioner, 2.

Shortly after E.H.C.F. arrived in the United States with his mother on or around May 27, 2019, they were detained together by Customs and Border Protection (“CBP”). Ex. A, ¶ 3. On May 28, 2019, they were both issued Notices to Appear in immigration court and released. *Id.*, ¶ 3; Ex. F, Notice of Custody Determination and Order of Release on Recognizance for Petitioner (May 28, 2019); Ex. G, Petitioner’s First Notice to Appear (May 28, 2019). Following their release from CBP custody, E.H.C.F. and his mother went on to Chelsea, Massachusetts, where they settled down with E.H.C.F.’s father and siblings. Ex. A, ¶ 3-4. Ms. Contreras Flores enrolled E.H.C.F. in school, met with his teachers and guidance counselors, and encouraged him to learn. *Id.* ¶ 4. E.H.C.F. passed his days “playing in the neighborhood, completing his homework, and feeling happy at home.” Ex. B, 2. Ms. Contreras Flores filed an asylum application in 2021 and listed E.H.C.F. as a derivative on her application. *Id.* ¶ 6. That application is currently pending before U.S. Citizenship and Immigration Services (“USCIS”). *Id.*

On May 8, 2025, when E.H.C.F. was just 15 years old, he was arrested by the Chelsea Police Department following a dispute with his peers. *Id.* ¶ 7. This was his first and only arrest anywhere in the world, and the associated juvenile charges have since been dismissed. *Id.*; Ex. E, Affidavit of Attorney Ida Candreva, Juvenile Defense Attorney of Petitioner. On the day of the arrest, his father, Mr. Contreras Romero, appeared to pick him up from the police station. Ex. A, ¶ 8. However, rather than allowing E.H.C.F. to return home with his father, DHS officers arrived at the police station, forcibly separated them, and arrested them both simultaneously. E.H.C.F. was transferred to an ORR facility in Texas while his father was sent to the Plymouth County Correctional Facility in Massachusetts. *Id.* Ms. Contreras Flores quickly initiated the process of sponsoring E.H.C.F. for release from ORR custody and mailed her finalized sponsorship

application on May 23, 2025. *Id.*, ¶ 11. However, Ms. Flores Contreras' sponsorship application has now been pending for over 213 days. As a result, E.H.C.F. has been languishing in ORR custody for over 225 days, separated from his parents and siblings.

II. Ms. Contreras Flores' Efforts to Reunite with Petitioner

When E.H.C.F. was transferred to ORR custody on or around May 10, 2025, Ms. Contreras Flores promptly spoke with his ORR Case Manager, Alejandra Alegria, identifying herself as E.H.C.F.'s sponsor and identifying his adult sister, Keren Lizeth Contreras Flores, as his alternate caregiver. Ex. A, ¶ 11. She also quickly complied with a request by ORR to provide her identification documents, her own birth certificate, E.H.C.F.'s birth certificate, E.H.C.F.'s vaccination records, and a "selfie" photo. *Id.* ¶ 12. The identification documents she provided included her Employment Authorization Document, her Social Security Card, and her Honduran passport. *Id.* On May 23, 2025, she mailed her finalized sponsorship application to ORR, including an Authorization for Release of Information to perform background checks, a Sponsor Care Agreement, and a Letter of Designation. *Id.* ¶ 13. At around this time, Ms. Contreras Flores began sending pay-stubs to ORR every fifteen days or so as proof of income, along with her monthly utility bills. *Id.*

On May 27, 2025, Ms. Contreras Flores attended a mandatory biometrics appointment to submit her fingerprints to ORR. *Id.* ¶ 14. On May 29, 2025, Keren did the same. *Id.* Both Ms. Contreras Flores and Keren authorized ORR to conduct the background checks required for sponsors and alternate caregivers. *Id.* According to the ORR-appointed independent Child Advocate for E.H.C.F., "no safety concerns were identified with the reunification." Ex. B, 3.

On June 11, 2025, ORR completed a home study of Ms. Contreras Flores's residence. Ex. A, ¶ 16. The home study resulted in a "positive recommendation, confirming that [Ms. Contreras

Flores] resides in a safe neighborhood, with access to everything E.H.C.F. needs.” Ex. B, 3. The home study provider further noted that Ms. Contreras Flores “provides adequate housing and financial resources, and maintain[s] a well-established, positive relationship with [E.H.C.F.]” *Id.* At around this time, Ms. Contreras Flores also attended an appointment to provide a DNA sample. Ex. A, ¶ 17. E.H.C.F. was also required to provide a DNA sample. *Id.* On August 14, 2025, the DNA test proved that Ms. Contreras Flores was E.H.C.F.’s mother. Ex. B, 3.

On June 9, 2025, Ms. Contreras Flores provided a copy of her daughter Keren’s Honduran passport and high school ID to ORR. Ex. A, ¶ 15. On July 22, 2025, over a month later, ORR informed her that her daughter’s identification documents were insufficient and asked Ms. Contreras Flores to provide them with Keren’s library card instead. *Id.* On July 31, 2025, Ms. Contreras Flores sent ORR a copy of Keren’s library card. *Id.* In August 2025, ORR informed Ms. Contreras Flores that Keren’s library card was also insufficient and requested her college ID. *Id.* As Keren had only recently enrolled in college, she was still awaiting her college ID in the mail. Once her college ID card arrived, Ms. Contreras Flores provided a copy to ORR. *Id.* Several months later, on or around October 3, 2025, ORR asked Ms. Contreras Flores for a copy of her daughter’s Employment Authorization Document. She sent it to the agency that same day. *Id.* ¶ 19.

On July 7, 2025, Ms. Contreras Flores provided a copy of her marriage certificate to ORR at the request of the agency. *Id.* ¶ 18. On August 22, 2025, Ms. Contreras Flores attended a mandatory appointment at the ACF Sponsor ID Check Office in Worcester, Massachusetts to further validate her identity documents. *Id.* ¶ 22. Immediately after her appointment at the ACF office, she was instructed to go to the DHS office at the John F. Kennedy Federal Building (“Federal Building”) in Boston, Massachusetts. *Id.* Ms. Contreras Flores reported to the Federal

Building later that day. *Id.* At the Federal Building, she was interrogated for two hours by a DHS officer about her asylum case, served with a Notice to Appear in immigration court, and placed on an Order of Supervision *Id.*; Ex. I, Mileidy Yamaly Contreras Flores' Second Notice to Appear (August 22, 2025); Ex. J, DHS Notice of Custody Determination and Order of Supervision for Mileidy Yamaly Contreras Flores (August 22, 2025).

At some point in August 2025, ORR also informed Ms. Contreras Flores that her husband would need to provide fingerprints and submit to background checks as he had returned to their household following his release from ICE detention on June 13, 2025. Ex. A, ¶ 23. Although the family was immediately ready and willing to comply with these requirements, ORR delayed Mr. Contreras Flores' biometrics check until October 2025, when he was finally given a fingerprinting appointment. *Id.* Ms. Contreras Flores was also informed that a home-study addendum would be necessary because her husband had not been living in the household at the time of the first home study. *Id.*, ¶ 26. ORR conducted the home-study addendum on December 4, 2025, which resulted in yet another "a positive recommendation in support of reunification." *Id.*, Ex B., 3.

Ms. Contreras Flores' efforts have yielded several recommendations for release and reunification, including from ORR Department of Sponsor Administration ("DSA") Federal Field Specialist ("FFS") Ruth Yanez; the staff of the Noank Community Support Service Program, where E.H.C.F. is detained; and an ORR-appointed independent Child Advocate. Ex B., 1, 4. Notwithstanding these recommendations, the agency has failed to release E.H.C.F. to her custody.

III. Ongoing Harm to Petitioner in ORR Custody

As the months have dragged on, E.H.C.F. has suffered increasing symptoms of anxiety and insomnia in ORR custody, worrying that he might never be permitted to reunite with his family. Ex. A, ¶ 29-30. He now “has trouble falling asleep and staying asleep, with intermittent nightmares,” experiences “palpitations, sweating, and tremors,” and “feels afraid as if something awful might happen.” Ex. C, ¶ 16. He “misses his family a lot,” and “does not really understand why he is still not free to be with his family.” *Id.* ¶ 15. E.H.C.F. has turned to eating as a coping mechanism, and then intentionally attempted to lose weight, resulting in notable weight fluctuations during his time in ORR custody. Ex. A, ¶ 30; Ex. C, ¶ 16. In a forensic psychological evaluation conducted on December 16, 2025, E.H.C.F. was diagnosed with Generalized Anxiety Disorder and Major Depressive Disorder. Ex. C, ¶ 19. The evaluation noted that “it is highly likely that his depressive and anxious symptoms developed as a result of his abrupt and prolonged removal from his family at the age of 15.” *Id.* ¶ 23. E.H.C.F. was recently prescribed medication to calm his anxiety assist him with his sleep. *Id.* ¶ 25.

Although E.H.C.F. is able to communicate with his mother over the phone, which he does frequently, visits have been limited due to distance. Ex. A, ¶ 31. While detained in Texas, he was not able to see his mother for several months. *Id.* Since his transfer to Connecticut, he has been able to see her only three times. *Id.* Recently, Ms. Contreras Flores had planned to visit E.H.C.F. on his sixteenth birthday in November. *Id.*, ¶ 34. On the day of his birthday, however, she received a sudden stay-at-home order from ICE covering the period from 8:00 AM to 6:00 PM. *Id.* As a result, she was forced to abandon her visit, and E.H.C.F. was forced to observe his birthday isolated from his family. *Id.* The reason for the order was never explained to her. *Id.*

E.H.C.F. has also missed half a year of high school while in ORR custody. It is documented that children in ORR custody do not receive sufficient hours of educational time; are

not challenged by their schoolwork; and are not permitted go to school in the community, where they would be able to socialize with peers.¹ Educational instruction at the ORR Mystic-Noank Shelter, specifically, occurs in a single room for all of the young people detained, who may range in age from toddlers to teenagers, and who may have varying levels English fluency. Pet., ECF No. 1, ¶ 82. These learning conditions are especially problematic for a child like E.H.C.F., who is diagnosed with Attention-Deficit Hyperactivity Disorder (“ADHD”) and requires reasonable accommodations in a structured educational environment. Ex. C, ¶ 22.

E.H.C.F. has also experienced painful dental problems throughout his time in ORR custody. Highlighting E.H.C.F.’s deteriorating mental state and dental pain, a board-certified psychiatrist has recommended that he be released “as soon as possible so he can return to his family, which is crucial for his wellbeing.” *Id.*, ¶ 25.

ARGUMENT

The instant Petition alleges that ORR’s prolonged detention and separation of E.H.C.F. from his family violates his substantive and procedural due process rights, his statutory rights, and his regulatory rights under the Administrative Procedure Act (“APA”), 5 U.S.C. §§ 701, *et seq.* Petitioner satisfies every required element for this Court to grant a temporary restraining order and preliminarily enjoin Respondents from continuing to unlawfully detain and separate him from his family.

The standards for a temporary restraining order and preliminary injunctive relief are identical. *See, e.g., Foley v. State Election Comm’n*, 2010 WL 2836722 at *3 (D. Conn. July 16, 2010). Petitioner must demonstrate that (1) he is likely to succeed on the merits of his claims (2)

¹ Melissa Adamson & Mishan Wroe, et. al., Educational Advocacy for Unaccompanied Immigrant Youth in California, NAT’L CTR. FOR YOUTH L., 61-68 (May 2024), <https://youthlaw.org/resources/educational-advocacy-for-unaccompanied-immigrant-youth-in-california/>.

he is likely to suffer irreparable harm in the absence of preliminary relief, (3) the balance of equities tips in his favor, and (4) an injunction is in the public interest. *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008); *Citigroup Glob. Mkts., Inc. v. VCG Special Opportunities Master Fund Ltd.*, 598 F.3d 30, 35 (2d Cir. 2010); *Metro Taxicab Bd. of Trade v. City of New York*, 615 F.3d 152, 156 (2d Cir. 2010). When the government is a party, the balance of equities and public interest merge. *Nken v. Holder*, 556 U.S. 418, 435 (2009); *see also, e.g., New York v. DHS*, 969 F.3d 42 (2d Cir. 2020).

Petitioner should be granted temporary and preliminary injunctive relief because he is likely to succeed on the merits of his constitutional, statutory, and regulatory claims and will continue to suffer irreparable harm until he is released to his family. Moreover, there is no government or public interest in continued violation of the Constitution. Under the circumstances presented herein, no security bond is required under Federal Rule of Civil Procedure 65(c).

I. Plaintiff is Likely to Succeed on the Merits of Constitutional, Statutory, and Regulatory Claims.

A. Petitioner Is Likely to Prevail on His Due Process Claims.

1. Petitioner Is Likely to Succeed on the Merits of His Fifth Amendment Substantive Due Process Claim.

E.H.C.F. has a protected liberty interest in being reunited with his mother. *Santosky v. Kramer*, 455 U.S. 745, 753 (1982); *Troxel v. Granville*, 530 U.S. 57, 65-66 (2000) (plurality op.) Courts have repeatedly held that it is a violation of substantive due process under the fifth amendment of the Constitution to separate children from parents absent a clear showing that the parent is unfit or is otherwise endangering the child. *See, e.g., Quilloin v. Walcott*, 434 U.S. 246, 255 (1978) (“[T]he Due Process Clause would be offended if a State were to attempt to force the breakup of a natural family . . . without some showing of unfitness and for the sole reason that to

do so was thought to be in the children's best interest.”) (quotation marks omitted); *U.S. v. Loy*, 237 F.3d 251, 269-70 (3d Cir. 2001) (“[W]here there is insufficient evidence to support a finding that children are potentially in danger from their parents, the state's interest cannot be said to be ‘compelling,’ and thus interference in the family relationship is unconstitutional.”); *Ms. L. v. ICE*, 310 F.Supp.3d 1133 (S.D. Cal. 2018) (finding likely substantive due process violation stemming from “zero tolerance” policy of family separation); *J.S.R. by and through J.S.G. v. Sessions*, 330 F. Supp. 3d 731, 741 (D. Conn. 2018) (finding likely substantive due process violation when government separated immigrant children from parents).

In *J.S.R.*, the minor petitioners similarly sought a preliminary injunction on the grounds that they had been forcibly separated from their parents, claiming that such separation violated their substantive and procedural due process rights. *J.S.R.*, 330 F. Supp. 3d at 738. The children sought both release from detention and reunification with their parents. *Id.* at 733. The Court found that “the Government violated [the children's] constitutional rights by forcibly removing them from their parents without due process of law.” *Id.* at 741. The Court particularly noted that the Government failed to establish “a compelling reason for depriving the children of their family integrity—depriving them of their primary and only consistent source of support—or that its policy was narrowly tailored to achieve that compelling reason.” *Id.* at 741-42. As a result, the Court found that the children were likely to succeed on the merits of their claim that they suffered a constitutional violation. *Id.* at 742.

Respondents' forcible separation of E.H.C.F. from his mother violates substantive due process because the Respondents lack any compelling interest in depriving him of his family integrity. Respondents have never made a case-specific determination and cannot demonstrate that separating E.H.C.F. from his mother is in E.H.C.F.'s best interest. To the contrary, an

independent Child Advocate appointed by ORR itself has determined that it would be in E.H.C.F.'s best interest to be released and immediately reunified with his mother. Ex. B, 1, 4. This recommendation has been reiterated by ORR DSA FFS Ruth Yanez, the Noank Community Support Services Program, and a board-certified psychiatrist who conducted a forensic mental health evaluation of E.H.C.R. on December 16, 2025. Ex. C. As such, Respondents lack the constitutionally required justification for the ongoing separation of E.H.C.F. from his family, and Petitioner is likely to succeed on his substantive due process claim.

2. Petitioner Is Likely to Succeed on the Merits of His Fifth Amendment Procedural Due Process Claim.

Procedural due process requires that the government not deprive an individual of their constitutional rights without meaningful notice and an opportunity to be heard before a neutral arbiter to protect against the risk of erroneous deprivation. *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976); U.S. Const., amend. V. Due process also requires that government action be rational and non-arbitrary. *U.S. v. Trimble*, 487 F.3d 752, 757 (9th Cir. 2007).

A child's liberty interest in being free from confinement is no narrower than that of an adult. *In re Gault*, 387 U.S. 1, 13 (1967); *Reno v. Flores*, 507 U.S. 292, 316 (1993). Moreover, as explained above, children also have a well-recognized liberty interest in the "preservation of family integrity." *Duchesne v. Sugarman*, 566 F.2d 817, 825 (2d Cir. 1977); *see also Kia P. v. McIntyre*, 235 F.3d 749, 759 (2d Cir. 2000) (children have a "constitutionally protected liberty interest in not being dislocated from the emotional attachments that derive from the intimacy of daily family association."); *D.B. v. Cardall*, 826 F.3d 721, 740 (4th Cir. 2016) (children have a fundamental "familial right to be raised and nurtured by their parents"); *Troxel*, 530 U.S. at 65 (2000) ("[T]he interest of parents in the care, custody, and control of their children [] is perhaps the oldest of the fundamental liberty interests recognized by [the Supreme] Court.").

Respondents' policies and actions, as set forth above, have deprived E.H.C.F. of his fundamental rights to freedom from confinement and family integrity without constitutionally sufficient due process. As in similar cases of immigrant children separated from their parents, the sponsorship process afforded to effectuate the release of E.H.C.F. to his mother "display[s] several significant deficiencies, especially in view of the magnitude of the private interest at stake." *Maldonado*, 2018 WL 2089348 at *8.

First, ORR has improperly placed the burden of proof on Ms. Contreras Flores to demonstrate her suitability as a sponsor, rather than on ORR to justify its continued custody of E.H.C.F. Pursuant to the *Mathews* framework, ORR must assess sponsorship applications by parents in particular in light of the fundamental liberty interest in family integrity. That means putting the burden on the agency to justify continued detention *See Maldonado v. Lloyd*, 2018 WL 2089348 at *9 (S.D.N.Y. 2018) ("[W]hen a parent (rather than another relative or a friend) seeks reunification with her child, ORR procedures improperly place the burden of proof on the parent to demonstrate suitability rather than on ORR to justify its continued custody of the child."); *Santos v. Smith*, 260 F. Supp. 3d 598, 613 (W.D. Va. 2017) ("...at least when a parent is requesting reunification, the burden should be on ORR to show why its continued custody of a UAC is appropriate, rather than placing that burden on the parent."); *Beltran v. Cardall*, 222 F. Supp. 3d 476, 485 (E.D. Va. 2016) ("Once the government decides to withhold a child from a parent's care, 'the state has the burden to initiate' proceedings to justify its action.") (Citation omitted.)

Second, ORR has arbitrarily delayed the adjudication of E.H.C.F.'s release to the custody of his mother, by (among other things) requiring Ms. Contreras Flores to participate in two home studies when no home study was required under the TVPRA or Foundational Rule, 8 C.F.R. §

1204; delaying fingerprinting for E.H.C.F.'s father for months after he had returned to the family home; and demanding additional proof of Ms. Contreras Flores's identity even after obtaining a DNA test demonstrating her maternal relationship with E.H.C.F.² All the while, it failed to make adequate disclosures to Ms. Contreras Flores about the status of her application.

Finally, Respondents have violated E.H.C.F.'s right to procedural due process through inordinate delay in violations of the agency's own mandate to promptly reunite children with their parents wherever possible. 8 U.S.C. § 1232(c)(2)(A); 45 C.F.R. §§ 410.1003(f), 410.1205(b) (family member sponsor applications must be adjudicated within 10-14 days). In the present case, it has been nearly seven months since Ms. Contreras Flores filed her sponsorship application, and ORR has still not rendered a final decision or offered explanation for this delay.

As E.H.C.F. has been deprived of constitutionally meaningful process to facilitate his release to his family, he is likely to succeed on his procedural due process claim.

B. Petitioner Is Likely to Prevail on His Statutory Claims.

Congress enacted the TVPRA specifically to facilitate the safe, speedy release and minimally restrictive placement of unaccompanied children. *See, e.g.*, 154 Cong. Rec. S10886 (daily ed. Dec. 10, 2008). The TVPRA tasks ORR with ensuring that unaccompanied children are "promptly placed in the least restrictive setting that is in the best interest of the child." *Id.* § 1232(c)(2)(A). This is usually with a sponsor, with preference given to parents. 45 C.F.R. § 410.1108 (a). *See, e.g., Santos*, 260 F. Supp. 3d at 598 ("Pursuant to the *Flores* agreement and

² Home studies are required the TVPRA where (i) the child is a victim of a severe form of trafficking in persons; (ii) a child has a disability requiring particularized services; (iii) a child 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 (iv) a child's sponsor clearly presents a risk of a abuse, maltreatment, exploitation, or trafficking to the child based on all available objective evidence. 8 U.S.C. 1232(c)(3)(B), 8 C.F.R. § 410.1204 (b). The Foundational Rule also requires home studies "before releasing any child to a non-relative sponsor who is seeking to sponsor multiple children or who has previously sponsored or sought to sponsor a child and is seeking to sponsor additional children" and "before releasing any child who is 12 years old or younger to a non-relative sponsor." *Id.*

the TVPRA, ORR should release to a parent, if available...”). In determining the least restrictive setting that would be in the best interest of the child, the TVPRA authorizes ORR to “consider danger to self, danger to the community, and risk of flight.” *Id.* § 1232 (c)(2)(A).

Respondents have failed to act promptly. Ms. Contreras Flores submitted her finalized sponsorship application on May 23, 2025, and it has remained pending for 213 days. Moreover, there is no indication that Ms. Contreras Flores is anything other than capable, proper, and fit, and E.H.C.F. does not present any flight risk or danger to the community. These findings have been submitted to the agency both by ORR DSA FFS Ruth Yanez and the Noank Community Support Services Program, and independently confirmed by an ORR-appointed Child Advocate. Ex. B, 1, 4. As Respondents have utterly failed to “promptly” place E.H.C.F. in the least restrictive setting that is in his best interests, Petitioner is likely to succeed on his claim that Respondents’ have violated his statutory rights under the TVPRA. 8 U.S.C. § 1232, *et. seq.*

C. Petitioner Is Likely to Prevail on His APA Claims.

Under the Administrative Procedure Act (“APA”), 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). The APA provides a right to judicial review to “a person suffering legal wrong because of agency action, or adversely affected or aggrieved by agency action within the meaning of a relevant statute.” *Id.* § 702. The APA likewise provides a right of judicial review for “final agency action for which there is no other adequate remedy in a court.” § 704.

E.H.C.F. is “suffering legal wrong” because Respondents’ have unlawfully delayed the adjudication of Ms. Contreras Flores’ sponsorship application over the course of 213 days, and

he has been “adversely affected” by their refusal to release him to his mother. Ex. B, ¶ 24 (“It is the opinion of this examiner that [E.H.C.F.]’s experiences being detained and away from his family have caused him significant psychological suffering.”) In this case, Respondents’ failure to adjudicate is actionable by this Court, insofar as Respondents’ actions also have determined the “rights and obligations” of E.H.C.F. and created “legal consequences” of continued custody and separation from his family, in violation of E.H.C.F.’s fundamental right to family integrity. *Bennett v. Spear*, 520 U.S. 154, 177-78 (1977) (A “final agency action” subject to judicial review must “mark the ‘consummation’ of the agency’s decision-making process” and “be one by which ‘rights or obligations have been determined’ or from which ‘legal consequences will flow.’”) (Internal citations omitted.) *See also Duchesne v. Sugarman*, 566 F.2d at 825; *Kia P. v. McIntyre*, 235 F.3d at 759. Accordingly, E.H.C.F. is entitled to judicial review of ORR’s actions under 5 U.S.C. §§ 702 and 704. E.H.C.F. has no recourse to judicial review other than by this action.

E.H.C.F. is likely to succeed in his APA claim that Respondents’ actions in are “arbitrary, capricious, and abuse of discretion, or otherwise not in accordance with law.” 5 U.S.C. § 706 (2) (A). Specifically, Respondents have violated their statutory mandate to “promptly” place him “in the least restrictive setting” that is in his best interests, 8 U.S.C. § 1232 (c)(2)(A), as the agency has failed to adjudicate his mother’s sponsorship application for 213 days without providing any reasonable explanation for its delay.

Respondents have likewise acted arbitrarily and capriciously by not providing adequate justification for their new sponsor documentation requirements and using them to delay Ms. Contreras Flores’ sponsorship application. On March 7, 2025, ORR unilaterally revised section 2.2.4 of the Unaccompanied Alien Children Policy Guide (“UC Policy Guide”) limiting the list

of acceptable documents to prove sponsor identity.³ Although previous ORR guidance had permitted foreign passports as proof of identity, the new guidance prohibited them unless the foreign passport included proof of lawful permanent residency or a Form I-94 containing an endorsement to work. ORR Unaccompanied Alien Children Bureau Policy Guide (“UC Policy Guide”), § 2.2.4. Similarly, the new guidance permitted ID cards issued by local government agencies or entities only if they contained “a photograph or information such as name, date of birth, sex, height, eye color, and address.” *Id.*, § 2.2.4. Keren’s identification documents, namely her Honduran passport, library card, high school ID, and college ID, were all rejected under these new unilateral policies, thereby delaying the adjudication of Ms. Contreras Flores’ sponsorship application.

In *Angelica S. v. HHS*, 1:25-cv-01405-DLF, (D.D.C. June 9, 2025), the U.S. District Court for the District of Columbia recently concluded that it was substantially likely that ORR had acted arbitrarily and capriciously by not providing adequate justification for its new sponsor documentation requirements. In a June 9, 2025 order, it enjoined ORR from enforcing the enforcing the new proof of identification requirements against a certified class containing all unaccompanied children who were in or transferred to the custody of the Department of Health and Human Services (“HHS”) on or before April 22, 2025, and who (a) have or had a potential sponsor who has been identified; and (b) the sponsor’s family reunification application has been denied, closed, withdrawn, delayed, or cannot be completed because the sponsor is missing documents newly required on or after March 7, 2025. *Id.* Although E.H.C.F. was detained after

³Neha Desai and Melissa Adamson, et. al, The Unraveling of ORR: A Quick and Calculated Undoing of a System Intended to Protect Children, NAT’L CTR. FOR YOUTH L., at 11 (Sept. 2025), <https://youthlaw.org/resources/the-unraveling-of-orr-a-quick-and-calculated-undoing-of-a-system-intended-to-protect-children/>.

April 22, 2025, and is therefore not a member of the *Angelica S.* certified class, he is nonetheless likely to succeed in his individualized claim that ORR's unilateral new sponsorship identification requirements are arbitrary and capricious, and were unlawfully applied to his mother's sponsorship application.

In light of the foregoing, Petitioner is likely to succeed in his claim that Respondents' continued detention of E.H.C.F. and failure to release him to his fit sponsor is arbitrary, capricious, and not in accordance with the law. 5 U.S.C. § 706(2)(A)-(C).⁴

II. Petitioner Has Suffered and Will Continue to Suffer Irreparable Harm Absent Emergency Injunctive Relief

Respondents have already caused and, unless enjoined by this Court, will continue to cause irreparable harm to E.H.C.F. "Irreparable harm is injury that is neither remote nor speculative, but actual and imminent and that cannot be remedied by an award of monetary damages." *New York ex rel. Schneiderman v. Actavis PLC*, 787 F.3d 638, 660 (2d Cir. 2015) (internal quotation marks omitted). "When an alleged deprivation of a constitutional right is involved, most courts hold that no further showing of irreparable injury is necessary." *Mitchell v. Cuomo*, 748 F.2d 804, 806 (2d Cir. 1984) (quoting 11 C. Wright & A. Miller, *Federal Practice and Procedure*, § 2948, at 440 (1973)); accord *Melendres v. Arpaio*, 695 F.3d 990, 1002 (9th Cir. 2012) ("[T]he deprivation of constitutional rights 'unquestionably constitutes irreparable injury'" (quoting *Elrod v. Burns*, 427 U.S. 347, 373 (1976))). Having established that a

⁴As Respondents' have also failed to abide by its obligation under the Foundational Rule to promptly place E.H.C.F. in the least restrictive setting that is in his best interests, 45 C.F.R. § 410.1003 (f), Petitioner is also likely to prevail on his claim that Respondents' have failed to follow "their own existing valid regulations" pursuant to *United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260, 268 (1954). See also *Vitarelli v. Seaton*, 359 U.S. 535, 545 (1959) (When an agency fails to comply with binding regulations, such actions are "not in accordance with law.")

constitutional violation has occurred, *supra* Sec. I (A), Petitioner is entitled to a presumption of irreparable injury. *J.S.R.*, 330 F. Supp. 3d at 742.

Moreover, courts have repeatedly recognized that the prolonged detention of children and family separation constitutes irreparable harm. *See Stanley v. Illinois*, 405 U.S. 645, 647 (1972) (delay in parental custody causes intangible deprivation, uncertainty, and dislocation); *J.S.R.*, 330 F. Supp. 3d at 742-3 (separation of immigrant children from parents caused irreparable harm); *Souza v. Sessions*, 2018 WL 10436697 (N.D. Ill. 2018) (same); *Leiva-Perez v. Holder*, 640 F.3d 962, 969–70 (9th Cir. 2011) (“In addition, as we have previously held, ‘[o]ther important [irreparable harm] factors include separation from family members, medical needs, and potential economic hardship.’”) (quoting *Andreiu v. Ashcroft*, 253 F.3d 477, 484 (9th Cir. 2001) (en banc)).

In this case, too, Respondents’ continued detention and separation of E.H.C.F. from his family have caused irreparable psychological harm. After 225 days in ORR custody, E.H.C.F. “has trouble falling asleep and staying asleep, with intermittent nightmares,” experiences “palpitations, sweating, and tremors,” and “feels afraid as if something awful might happen.” Ex. C, ¶ 16. E.H.C.F. has also endured significant delays to critically needed dental treatment, causing excruciating dental pain and psychological distress. *Id.*, ¶ 25. In a forensic psychological evaluation conducted on December 16, 2025, E.H.C.F. was diagnosed with Generalized Anxiety Disorder and Major Depressive Order. *Id.* ¶ 19. The evaluation noted that “it is highly likely that his depressive and anxious symptoms developed as a result of his abrupt and prolonged removal from his family at the age of 15.” *Id.* ¶ 23. E.H.C.F. was recently prescribed medication to calm his anxiety assist him with his sleep. *Id.* ¶ 25.

Respondents' continued custody of E.H.C.F. has also resulted in significant educational deprivation, as he has now missed half a year of high school in ORR custody. It has been documented that children in ORR custody do not receive sufficient hours of educational time, are not challenged by their schoolwork, and are not permitted to leave their facilities to go to school in the community, where they would be able to socialize with peers.⁵ On information and belief, educational instruction at the ORR Mystic-Noank Shelter occurs in a single room for all of the young people detained, who may range in age from toddlers to teenagers, and who may have varying levels English fluency. Especially in light of E.H.C.F.'s diagnosis of Attention-Deficit Hyperactivity Disorder (ADHD), these conditions have stalled his educational progress at a critical time in his development.

The serious harm of prolonged detention on immigrant children is well documented. In 2018, under similar circumstances, ORR policy changes 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. *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"). Predictably, these extended lengths of stay in ORR custody did significant harm to children's mental health and wellbeing. *Id.*, 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.").

⁵ Melissa Adamson & Mishan Wroe, et. al., Educational Advocacy for Unaccompanied Immigrant Youth in California, NAT'L CTR. FOR YOUTH L., 61-68 (May 2024), <https://youthlaw.org/resources/educational-advocacy-for-unaccompanied-immigrant-youth-in-california/>.

Absent injunctive relief, E.H.C.F. has no confidence that Respondents will adjudicate his mother's sponsorship application and release him to his family as required by law. After over 225 days of delay, and despite several recommendations for release from ORR staff, it appears that Respondents will continue to unlawfully and indefinitely detain Petitioner, causing him to suffer the irreparable harms of detention and family separation.

III. The Balance of Hardships and Public Interest Weigh Heavily In Petitioner's Favor.

The final two factors for injunctive relief—the balance of hardships and public interest—“merge when the Government is the opposing party.” *Nken v. Holder*, 556 U.S. 418, 435 (2009); *see also, e.g., New York v. DHS*, 969 F.3d 42, 58-59 (2d Cir. 2020). Here, Petitioner faces weighty hardships, namely the deprivation of his constitutional, statutory, and regulatory rights to family unity, the deprivation of his liberty, deteriorating mental health, and educational deprivation. Respondents, by contrast, will face no hardship if this Court grants the relief requested. All that is required of the Respondents is to stop violating the law by immediately releasing E.H.C.F. to the custody of his mother without further restraints on his liberty.

Moreover, for the past 225 days, Respondents have already expended significant resources to retain custody over E.H.C.F. and impose ever-multiplying sponsorship requirements on his mother, Ms. Contreras Flores. An independent Child Advocate has already determined that it would be in the best interest of E.H.C.F. to be released without further delay to his mother's custody. This determination has also been made by ORR DSA FFS Ruth Yanez and the Noank Community Support Services Program. After Ms. Contreras Flores has complied with every step of the sponsorship process, “additional process at this point would be of marginal benefit.” *Beltran*, 222 F. Supp. 3d at 489.

Finally, Respondents “cannot suffer harm from an injunction that merely ends an unlawful practice” *Rodriguez v. Robbins*, 715 F.3d 1127, 1145 (9th Cir. 2013). The public interest is served by the faithful execution of the immigration laws, and that interest includes respect for protections Congress has enacted and to which the United States has committed itself by treaty. *Tesfamichael v. Gonzales*, 411 F.3d 169, 178 (5th Cir. 2005) (recognizing “the public interest in having the immigration laws applied correctly and evenhandedly”); *Lujan v. Defs. of Wildlife*, 504 U.S. 555, 576 (1992) (discussing “the public interest in Government observance of the Constitution and laws”).

CONCLUSION

For the foregoing reasons, the Plaintiff-Petitioner respectfully requests that the Court grant his Motion for a Temporary Restraining Order and Preliminary Injunction.

Dated: December 23, 2025

Respectfully submitted,

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