

UNITED STATES DISTRICT COURT

DISTRICT OF CONNECTICUT

M.S., a minor by his Next Friend, C.S., : CIVIL NO. 3:25-CV-2170-(VDO)
Petitioner,

v. :

ANGIE SALAZAR, ET AL. : JANUARY 14, 2026

PETITIONER'S SUPPLEMENTAL BRIEF RE:

(1) THE SCOPE OF DISCOVERY IN THIS MATTER, AND

(2) THE SCOPE OF THE FEBRUARY 5, 2026, HEARING

Petitioner respectfully submits this supplemental brief in response to this Court's Order (ECF No. 32) to address how Respondents' argument, i.e. (a) that this is an APA appeal and that supposedly "they are not required to participate in discovery" and (b) "that witness testimony is inappropriate" impacts (1) the scope of discovery in this matter, and (2) the scope of the February 5, 2026, hearing. First, as set forth in Petitioner's Motion for Expedited Discovery, and Memorandum in Support (ECF Nos. 33, 33-1), this is a habeas corpus petition under 28 U.S.C. § 2241 raising serious constitutional issues. The Motion for a TRO and Preliminary Injunction is set for February 5, 2026, to hold a hearing for a 13-year-old child detained by the Office of Refugee Resettlement ("ORR") for more than 15 months. The Petitioner respectfully urges the Court to allow the constitutional issues to be fully aired, and the Court should not view this case as Respondents do, as a "paperwork dispute." Instead, the Court should see that this case is a *constitutional emergency*, and a human tragedy. The Court should immediately step in to enjoin ongoing constitutional violations suffered by Petitioner who is at imminent risk and is suffering irreparable injury.

A. SCOPE OF THE HEARING: Because this supplemental brief is short, Petitioner focuses on four points addressing first, the scope of the hearing and then, second, that Respondents' duty is to respond to discovery. Petitioner's Declarations and witnesses at the hearing will establish:

1. The Logical Inconsistency of Respondents (The "Safety" Argument)

Petitioner seeks to introduce powerful evidence that ORR has already vetted C.S. and found her to be a safe sponsor for Petitioner's sisters. If Petitioner's potential sponsor is safe enough for two young girls, she is also safe for a 13-year-old boy. The "fraudulent document" excuse is a red herring because the *person* and the *household* have already been approved under Respondents' own standards and continuing to detain Petitioner is a violation of his constitutional rights.

2. Irreparable Harm (The "Clinical" Argument)

Under the *Flores* Settlement and the TVPRA, ORR must release children without "unnecessary delay." Petitioner's now 488-day length of stay in ORR detention is more than four times the present national average for ORR custody.¹ In one year from 2024 to 2025 length-of-stay jumped from an average of 30 days to nearly four times that of 117 days. Respondents' argument that this case is merely an APA appeal completely misses the critical irreparable injury impact of this delay and ignores established research that prolonged detention of a young teenager causes permanent psychological scarring. There must be a full evidentiary hearing on this so Petitioner can establish irreparable harm.

3. Pretext and the "Verbal Moratorium" (The "Bad Faith" Argument)

¹ <https://acf.gov/orr/about/ucs/facts-and-data> See "Average Length of Care"

Average number of days an unaccompanied alien child remained in ORR care.

FY2025	FY2024	FY2023	FY2022	FY2021	FY2020	FY2019	FY2018	FY2017	FY2016	FY2015
117	30	27	29	33	69	61	64	51	40	38

Petitioner intends to prove that the rules were changed mid-stream to prevent release, not to ensure safety. The November 14 denial was not a coincidence; it was part of a systemic freeze of almost all ORR releases. It was also the day after Attorney Reagan sent an email to ORR supervisors raising significant concerns about the delay in processing Petitioner's sponsor's applications in violation of ORR guidance. ORR has given shifting reasons for the delay and denial. First it was the Petitioner's biological mother's death certificate, then a photo ID for a Petitioner's sister who ORR just released, (and ORR already had not only a photo but her DNA), then an allegedly "fraudulent document" they won't produce. Additionally, ORR's so-called "enhanced vetting techniques" were enjoined in a nationwide class action of which Petitioner is a class member. A preliminary injunction was granted which "prevents the agency from creating a new blanket policy that departs from its previous one without explaining how it weighed the disrupted reliance interests against other valid considerations." See *Angelica S. v U.S. DHHS*, Civ. No 1-25-cv-1405 (DLF) (D.D.C.) (ECF No. 35, filed 6/9/2025). Nevertheless, this injunction was ignored in this case, and additional vetting requirements were imposed. This not only added to the delay but also demonstrates bad faith on the part of Respondents.

4. ORR's Disclosures and Narrative Lack Accuracy (The "Transparency" Argument)

Petitioner reasonably anticipates Respondents may try to paint the family as "difficult" or "liars" and point to "fraud" as a reason for their continued detention of Petitioner. They may try to blame the Petitioner's family members for the delay, arguing that ORR at all times acted diligently and that any delay was due to Petitioner's potential sponsors withdrawing their applications or failing to submit requested information. Petitioner's family was honest and diligent from day one. In September 2024 D.S. told ORR that C.S. was not Petitioner's biological mother but his stepmother. At that time D.S. believed he was the biological father, and he had been married to C.S. since 2003. The "fraud" allegation is logically impossible if the government had the correct information for over a year.

Respondents claim that this Court is limited to the “Certified Administrative Record” (“CAR”) but there has been no transparency whatsoever. Petitioner has no knowledge what ORR will include in any such record. Moreover, because ORR’s procedures are fundamentally flawed, and were rapidly changing throughout 2025, it is not at all clear what procedures were being followed. Not only is this part of Petitioner’s procedural due process claim, it is also why there is a critical need for discovery in this case.

B. SCOPE OF DISCOVERY: Petitioner’s discovery is limited. Rather than ask the allowed twenty-five interrogatories, Petitioner poses merely four interrogatories, narrowly focused on obtaining a sworn interrogatory response to the widely reported November verbal moratorium on releases and seeking admissible facts rather than hearsay. There is no limit on Requests for Production, and Petitioner has limited his proposed discovery to obtaining admissible evidence that will prove that Petitioner’s Next Friend C.S. was not only approved to sponsor Petitioner’s two sisters, but that the entire household was thoroughly investigated, and it was determined that C.S. is capable of providing for the physical and emotional wellbeing of N.F.S. and D.F.S. There is no evidence in the record that there would be any risk to Petitioner or the community by placing him immediately in the home with his two sisters, with whom he has lived his entire life. Petitioner has only posed five categories of Requests for Production, and is willing to meet and confer, to avoid having to produce records that ORR has already released, at least, in part, to Attorney Reagan, Petitioner’s immigration attorney. Lastly, Petitioner’s Requests for Admissions can be easily answered in one to two hours, upon review of the ORR records. These Requests for Admission are an efficient method of establishing facts for the record and expediting the proceedings for the February 5 hearing.

CONCLUSION

Following *Loper Bright Enters. v. Raimondo*, 603 U.S. 369 (2024), this Court is no longer required to defer to ORR’s interpretation of its own terms, such as “unnecessary delay” or other

applicable regulations. See 45 C.F.R. § 410.1201. Instead, the Court must exercise independent judgment, especially when interpreting the meaning of statutes, regulations and constitutional rights. To do so, the Court requires a complete factual record of Respondents' decision-making process and should conduct a de novo hearing and not merely review the curated record Respondents choose to provide. For all the foregoing reasons, the Court should allow a broad de novo hearing on the constitutional issues raised in this petition and order Respondents to fully answer the discovery requests.

Respectfully submitted,

PETITIONER

M.S., a minor by his Next friend, C.S.

By: Steven R. Strom

Steven R. Strom

Fed Bar No. ct01211

151 Livingston St.

New Haven, CT 06511

Tel: 203-804-3683

Email: strom@snet.net

Attorney for Petitioner

CERTIFICATE OF SERVICE

I, Steven R. Strom, counsel of record for the Petitioner, do hereby certify that on this 14th day of January, 2026, a copy of the foregoing Petitioner's Supplemental Brief Re: (1) The Scope Of Discovery In This Matter, And (2) The Scope Of The February 5, 2026, Hearing was filed electronically and served by mail on anyone unable to accept electronic filing. Notice of this filing will be sent by e-mail to all parties by operation of the Court's electronic filing system as indicated on the Notice of Electronic Filing. Parties may access this filing through the Court's CM/ECF System.

Steven R. Strom

Steven R. Strom

Attorney for Petitioner