UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF TEXAS CORPUS CHRISTI DIVISION

W.M.R.P., a minor, by and through his next friend, [redacted],

Petitioners,

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; **JESSICA FUENTES VELA**, Federal Field Specialist, Office of Refugee Resettlement; **JESUS YERENA**, Senior Program Director, Upbring Bokencamp Shelter, 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. 2:26-CV-00024

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

Date: January 16, 2026

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

TO THE HONORABLE UNITED STATES DISTRICT COURT JUDGE:

W.M.R.P petitions this Court for a Writ of Habeas Corpus, pursuant to 28 U.S.C. §2241 and the Administrative Procedure Act, 5 U.S.C. §701, *et seq.*, to remedy his continued unlawful detention by Respondents. Petitioner hereby requests that a immediate hearing be set on this matter. Petitioner also requests that he be released during the pendency of this Petition. In support thereof, Petitioner alleges as follows:

INTRODUCTION

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

2. W.M.R.P. is a sixteen-year-old child who fled to the United States after surviving trauma and persecution in his home country of Guatemala.

3. W.M.R.P. is currently detained in the custody of the Office of Refugee Resettlement ("ORR") at the Upbring Bokenkamp Shelter in Corpus Christi, Texas. W.M.R.P. has been in the custody of ORR since November 24, 2024, for 418 days. This prolonged detention is despite the fact that ORR has identified W.M.R.P.'s brother as a potential sponsor over a year ago. The Bokenkamp shelter submitted his brother's case for a reunification decision on November 25, 2025, and that was submitted to ORR for approval on November 26, 2025. Despite the fact that ORR policy explicitly states that ORR "adjudicates completed sponsor applications within 10 calendar days of receipt," this application still has not been adjudicated by ORR.

4. W.M.R.P.'s unlawful prolonged detention is in direct contradiction to ORR's statutory and regulatory responsibility to "promptly" place W.M.R.P. "in the least restrictive setting that is in the best interest of the child." 8 U.S.C. § 1232(c)(2)(A); 45 C.F.R. §§ 410.1003(f), 410.1205(b) (family member sponsors must be adjudicated within 10-14 days). To fulfill its mandate, ORR

releases most unaccompanied children in ORR custody to their parents or other relatives in the United States. In this case, W.M.R.P.'s brother, Mr. [redacted] has been trying to reunify with him for over a year.

5. Despite ORR's legal obligation, ORR has repeatedly delayed the reunification process, allowing background checks to expire without reason or explanation, and has continually delayed and asked for additional information – all of which Mr. [redacted] has provided without delay. ORR's failure to act "promptly" violates W.M.R.P.'s constitutional rights to due process and family integrity.

6. Arrest and ongoing detention violate W.M.R.P.'s constitutional and statutory rights. Respondents' decision to summarily detain W.M.R.P. without notice or explanation violated his procedural due process rights and ICE's own regulations. His ongoing detention 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. W.M.R.P. brings this habeas petition challenging his unlawful arrest and detention. This petition seeks to liberate W.M.R.P. from detention on the basis that his arrest was unlawful, his detention serves no lawful purpose, and his removal is not reasonably foreseeable.

8. W.M.R.P. 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 Georgia or to the least restrictive community placement available.

REQUIREMENTS OF 28 U.S.C. § 2243

8. 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.*

9. 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

10. Petitioner-Plaintiff (hereinafter "Petitioner") W.M.R.P. is a citizen of Guatemala. He is currently in the custody of the Office of Refugee Resettlement and is detained in Corpus Christi, Texas. He is trying to reunify with his brother, Mr. [redacted] who lives in Georgia.

11. Mr. [redacted] is the next friend of Petitioner W.M.R.P.. He is W.M.R.P.'s brother.

12. W.M.R.P. fled Guatemala to escape persecution and violence and entered the United States in November 2024 with the intention of reunifying with his brother in Georgia and helping to support his widowed mother in Guatemala. He has been in ORR custody since November 24, 2024, and is presently in the custody and direct control of Respondents and their agents, detained within the Southern District of Texas.

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 Jessica Fuentes Vela 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 Jesus Yerena is named in his official capacity as the Senior Program Director at Upbring Bokenkamp Shelter. In this capacity, he is responsible for the care and custody of W.M.R.P. and other children residing at his 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. W.M.R.P. is in the physical custody of the Respondents. W.M.R.P. is detained at Upbring Bokenkamp Shelter in Corpus Christi, 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 W.M.R.P. 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, W.M.R.P. is held in a detention facility in this District, and Respondents routinely transact business in this District including the operation of immigration detention facilities.

LEGAL FRAMEWORK

The Care, Custody, and Release of Unaccompanied Immigrant Children

A. Statutory and Regulatory Framework

28. The care and custody of unaccompanied immigrant children is governed by a legal framework consisting primarily of two statutes, a settlement agreement that is binding on the pertinent federal agencies, and federal regulations: the

Homeland Security Act of 2002, the Trafficking Victims Protection Reauthorization Act, the 1997 *Flores* Settlement Agreement, and the Foundational Rule.

29. Prior to 2002, the Office of Juvenile Affairs in the former INS was responsible for the custody of unaccompanied immigrant children in the United States. The *Flores* Settlement Agreement, originally signed by the INS in 1997, established national minimum standards for the treatment and placement of minors in immigration custody. Stipulated Settlement Agreement, *Flores v. Reno,* No. CV 84-4544-RJK(Px) (C.D. Cal. Jan. 17, 1997) ("*Flores* Settlement"). It remains under the supervision of U.S. District Judge Dolly M. Gee in the Central District of California. *Flores v. Bondi*, No. CV 85-4544-DMG (AGRx).[1]

30. In 2002, Congress passed the Homeland Security Act ("HSA"), transferring functions of the former INS to other government entities. Pub. L. No. 107-296, 116 Stat. 2153 (2002). Specifically, the HSA transferred authority over the care and custody of unaccompanied immigrant children from the INS to ORR, housed within HHS. 6 U.S.C. § 279.

31. Congress' decision to transfer responsibility for the care and custody of unaccompanied children from the INS to ORR reflected Congress' determination that caring for children who arrive to the United States without their parent or legal guardian and immigration enforcement were incompatible roles for a single agency.[2] Within HHS, ORR is responsible for children's safety and welfare and is explicitly not a law enforcement agency. *See* Foundational Rule, 89 Fed. Reg. at 34399, 34423 ("it is not a law enforcement agency, unlike the former INS…"), 34591.

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[1] Following the promulgation of the Foundational Rule, the *Flores* Settlement Agreement was partially terminated as to HHS. *Flores v. Garland*, 2024 WL 3467715 (C.D. Cal., June 28, 2024).

[2] *See, e.g.*, 148 Cong. Rec. S11295 (Nov. 18, 2002) (statement of Sen. Feinstein); 148 Cong. Rec. S8189 (Sept. 4, 2002) (reprinting letter from Sens. Kennedy and Brownback). *See also* 148 Cong. Rec. S5960 (Oct. 1, 2002) ("As we transfer and reshape the INS in this legislation, it is imperative to relieve the agency of its responsibility of the care and custody of unaccompanied children. Doing so would accomplish two ends: one, it would permit the INS to focus its energies, efforts, and attention on its core missions; and two, it would transfer the care and custody of these children to the Office of Refugee Resettlement, ORR, an office that is better suited and much more experienced in handling the complexities of the children's situations.")

32. With strong bipartisan support, Congress then expanded protections for unaccompanied children in the Trafficking Victims Protection Reauthorization Act of 2008 ("TVPRA"), reaffirming Congress' intent to treat unaccompanied children differently than the manner in which adults are treated by the Department of Homeland Security ("DHS"), both in detention and in immigration proceedings. 8 U.S.C. § 1232 *et seq.*

33. The TVPRA requires federal officials who discover an unaccompanied child to transfer the child to the care and custody of HHS within 72 hours (absent exceptional circumstances). *Id.* § 1232(b)(3). The TVPRA also 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. *See, e.g.*, *Saravia v. Sessions*, 905 F.3d 1137, 1142–43 (9th Cir. 2018). 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) (statement of Sen. Feinstein, sponsoring senator).

34. In 2024, ORR promulgated regulations ("The Foundational Rule") codifying the "policies, standards, and protections for [unaccompanied children], consistent with the HSA and TVPRA, and to implement the substantive requirements of the [*Flores* Settlement Agreement] as they pertain to ORR." 89 Fed. Reg. at 34385 (promulgating 45 C.F.R. §§ 410.1000 *et seq.*).

35. The Foundational Rule includes "policies and procedures regarding release, without unnecessary delay, of an unaccompanied child from ORR custody to a vetted and approved sponsor." 89 Fed. Reg. at 34439. The Foundational Rule is consistent with the agency's "strong belief that, generally, placement with a vetted and approved family member or other vetted and approved sponsor, as opposed to placement in an ORR care provider facility … is in the best interests of unaccompanied children." *Id.* In response to comments on their proposed regulations, ORR explained that "[t]he HSA and the TVPRA do not make any mention of a sponsor's potential immigration status as a prerequisite to receive an unaccompanied child into their custody and do not imbue ORR with the authority to inquire into immigration status as a condition for sponsorship." *Id.* at 34442.

36. The Foundational Rule establishes that "ORR shall release a child from its custody without unnecessary delay" to sponsors in a specific order of preference with parents and legal guardians taking first priority and other

family members following. 45 C.F.R. § 410.1201(a). As required by the regulation, sponsor suitability assessments must include various investigations and background checks, and "may include" background checks "based on fingerprints for some potential sponsors and adult residents of the potential sponsor's household." *Id.* § 410.1201(c). Furthermore, "ORR shall adjudicate the completed sponsor application of a parent or legal guardian; brother, sister, or grandparent; or other close relative who has been the child's primary caregiver within 10 calendar days . . . absent an unexpected delay". *Id.* § 410.1205(b). Other completed sponsor applications by close relatives who were not the child's primary caregiver must be adjudicated within 14 days, absent unexpected delay. *Id.* § 410.1205(c).

37. As part of its sponsor suitability process, ORR may require "verification of the employment, income, or other information provided by the potential sponsor as evidence of the ability to support the child." 45 C.F.R. § 410.1202(c). In the Preamble to the Foundational Rule, ORR stated that although employment is "a permissible consideration as part of the suitability assessment[,] . . . ORR will not deny an otherwise qualified sponsor solely on the basis of low income or employment status." 89 Fed. Reg. at 34446.

38. ORR's subregulatory framework is laid out in the UC Policy Guide. The UC Policy Guide was first published publicly in 2015 and is available on ORR's website. Office of Refugee Resettlement, *Unaccompanied Alien Children Bureau Policy Guide* (2025) ("Policy Guide"), https://acf.gov/orr/policy-guidance/unaccompanied-children-bureau-policy-guide. The Policy Guide governs the placement, care, and release of unaccompanied children in ORR custody, consistent with ORR's legal authorities. Policy Guide, Introduction.

39. Section 2 of the guide sets out ORR's policies with respect to securing "[s]afe and timely release" of unaccompanied children "to parents, guardians, relatives, or individuals designated by the child's parents, referred to as 'sponsors.'" Policy Guide, § 2.1. Under the Policy Guide, "[s]afe and timely release must promote public safety and ensure that sponsors are able to provide for the physical and mental well-being of the children." *Id.* The Policy Guide describes the sponsor identification and application process in detail, including specific ORR requirements prior to application adjudication and approval. *Id.* at §§ 2.2-2.7.

B. Legal and Factual Background of Prolonged Detention of Unaccompanied Immigrant Children

1. Constitutional Protections for Unaccompanied Children

40. The substantive component of due process forbids the Government from infringing in any way upon fundamental liberty interests unless the infringement is narrowly tailored to serve a compelling state interest. *United States v. Salerno*, 481 U.S. 739, 749 (1987). In the immigration context, whether the infringement is narrowly tailored to serve a compelling governmental interest is determined by evaluating whether the infringement on liberty: 1) is impermissible punishment or permissible regulation; and 2) is excessive in relation to the regulatory goal Congress sought to achieve. *See id.* at 747; *see also Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

41. "[T]he interest in being free from physical detention" by the state is "the most elemental of liberty interests[.]" *Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004). A child's interest in being free from confinement is no narrower than that of an adult. *In re Gault*, 387 U.S. 1, 13 (1967) ("neither the Fourteenth Amendment nor the Bill of Rights is for adults alone"); *see also Reno v. Flores*, 507 U.S. 292, 316 (1993) (O'Connor, J. and Souter, J., concurring), quoting *Gault*, 387 U.S. at 13 ("[The Supreme Court] ha[s] consistently [...] rejected the assertion that 'a child, unlike an adult, has a right 'not to liberty but to custody.'"). Further, "incarceration is rarely if ever a necessary condition for raising the living standards of those capable of surviving safely in freedom, on their own or with the help of family or friends." *O'Connor v. Donaldson*, 422 U.S. 563, 575 (1975). Therefore minors, like adults, have a substantial liberty interest "in avoiding unjustified physical restraint." *Lucas R. v. Becerra*, 2022 WL 2177454, at *14 (C.D. Cal. Mar. 11, 2022). *See also, e.g., Parham v. J.R.*, 442 U.S. 584, 600 (1979).

42. When a child is held in a secure or restrictive placement, like a juvenile detention center or a residential treatment center, that placement "indisputably implicates their interest in freedom from institutional restraint." *Lucas R.*, 2022 WL 2177454 at *17.

43. The serious harm of prolonged detention of unaccompanied children [caused by unnecessary/arbitrary additional vetting requirements] is well documented. *See Lucas R.*, 2022 WL 2177454 at *17 ("Numerous child welfare experts have expounded on the harm that detention causes children, particularly young children" and "[i]t is undisputed that being separated from family

members is inimical to a child's well-being."). In 2018 in 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") ("[C]hildren's average length of stay in ORR custody increased markedly after ORR implemented the new fingerprinting policy in June 2018", from 61 days in June 2018 to 93 days in November 2018 and then decreased after ORR ended fingerprinting requirements for adult household members and then for parents, reaching 48 days in April 2019).

44. The then-Assistant Secretary for the Administration for Children and Families later conceded that the policy did not "add[] anything to the protection and safety of the children."[3] Extended lengths of stay in ORR custody harmed children's mental health and wellbeing. *See, e.g.*, HHS OIG Report, 13 (After implementing new restrictive reunification policies, "[ORR f]acilities reported that it became more difficult to identify sponsors willing to accept children after the new fingerprinting requirements were implemented, which delayed placing children with sponsors, adding further stress and uncertainty."); *see also id.* at 12–13 ("According to facility staff, longer stays resulted in higher levels of defiance, hopelessness, and frustration among children, along with more instances of self-harm and suicidal ideation.").

45. The constitutional right to family integrity or to familial association is [also] well established." *Rosenbaum v. Washoe Cty.*, 663 F.3d 1071, 1079 (9th Cir. 2011); *see also Santosky v. Kramer*, 455 U.S. 745, 753 (1982) (holding that parents and children have a well-elaborated constitutional right to live together without government interference); *Ching v. Mayorkas*, 725 F.3d 1149, 1157 (9th Cir. 2013) ("The right to live with and not be separated from one's immediate family is 'a right that ranks high among the interests of the individual' and that cannot be taken away without procedural due process."); *D.B. v. Cardall*, 826 F.3d 721, 740 (4th Cir. 2016) (children "enjoy a familial right to be raised and nurtured by their parents") (internal quotation marks

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[3] *See* John Burnett, *Several Thousand Migrant Children In U.S. Custody Could Be Released Before Christmas*, NPR (Dec. 18, 2018), available at https://perma.cc/6WHS-BNR6; *J.E.C.M. v. Lloyd,*, 352 F. Supp. 3d 559, 583 (E.D. Va. 2018) (citing amicus brief filed by Human Trafficking Legal Center).

omitted); *Beltran v. Cardall*, 222 F. Supp. 3d 476, 482 (E.D. Va. 2016) ("It is beyond dispute that [a mother's] right to the care and custody of her son – and [a son's] reciprocal right to his mother's care . . . is deserving of the greatest solicitude.") (internal quotation marks and citation omitted); *Jordan v. Jackson*, 15 F.3d 333, 343 (4th Cir. 1994); *see also Smith v. Org. of Foster Families for Equality & Reform*, 431 U.S. 816, 845 (1977) ("the liberty interest in family privacy has its source, and its contours are ordinarily to be sought...in intrinsic human rights."); *Hodge v. Jones*, 31 F.3d 157, 163 (4th Cir. 1994) (the "sanctity of the family unit is a fundamental precept firmly ensconced in the Constitution"); *Angelica S. v. U.S. Dep't. of Health and Hum. Svcs.*, 786 F.Supp.3d 158, 175 ("Courts have found that family separation and prolonged detention qualify as irreparable injury.") (citing *Jacinto-Castanon de Nolasco*, 319 F. Supp. 3d 491, 502 (D.D.C. 2018); *Andrieu v. Ashcroft*, 253 F.3d 477, 484 (9th Cir. 2001) (en banc)). *See also*, *Ms. L. v. U.S. ICE*, 310 F.Supp.3d 1133 (S.D. Cal. June 26, 2018) (finding likely substantive due process violation stemming from "zero tolerance" policy of family separation).

46. Numerous courts have also held that a child's right to familial association is not limited to parents. *See Moore v. City of East Cleveland*, 431 U.S. 494, 504 (1977) ("The tradition of uncles, aunts, cousins, and especially grandparents sharing a household along with parents and children has roots equally venerable and equally deserving of constitutional recognition."); *J.E.C.M. v. Lloyd*, 352 F. Supp. 3d 559, 585 (E.D. Va. 2018) (rejecting argument that child's interest in family unity is unique to parents, and finding "siblings, aunts or uncles, grandparents, or first cousins" are family "captured in ORR's second-level category of would-be sponsors" and also "constitutionally significant"); *Aristotle P. v. Johnson*, 721 F. Supp. 1002, 1006 (N.D. Ill. 1989) (children have "constitutionally protected right to associate with their siblings"); *See Smith*, 431 U.S. at 843 ("biological relationships are not [the] exclusive determina[nt] of the existence of a family")..

47. Longstanding Supreme Court precedent establishes that when a government action deprives an individual of a fundamental constitutional interest, that individual is entitled to procedural due process consisting of notice and an opportunity to be heard. *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976); *Mullane v. Central Hanover Bank & Trust*, 339 U.S. 306 (1950). Furthermore, "'significant' and 'unexplained delay[s] in responding to a [a proposed sponsor's] unification request' violate due process irrespective of other procedural defects." *Lucas R. v. Becerra*, 2022 WL 2177454, at *27 (C.D. Cal.

Mar. 11, 2022) (citing *Santos v. Smith*, 260 F. Supp. 3d 598, 613-14 (W.D. Va. 2017).

48. In accordance with these procedural safeguards, ORR has a statutory and regulatory responsibility to determine the safety and suitability of the sponsor without unnecessary delay. Based on the facts provided below, W.M.R.P.'s sponsor is safe and qualified, and ORR has a duty to grant Mr. [redacted] reunification request and place W.M.R.P. in the least restrictive setting that is in his best interests, with his sponsor.

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

49. 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.

50. 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).

51. 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.

52. 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).

53. 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.'"

54. 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).

FACTUAL ALLEGATIONS

W.M.R.P.'s Childhood and Entry to the United States

55. W.M.R.P. was born on [redacted] in Guatemala.

56. W.M.R.P. fled Guatemala to escape persecution and violence and to help support his widowed mother. He crossed the border in November of 2024 and was apprehended and put into ORR custody on November 24, 2024.

57. W.M.R.P. has been in ORR custody since his detention despite having an approved sponsor, his brother Mr. [redacted].

Respondents refuse to promptly release W.M.R.P. to his vetted sponsor, Mr. [redacted] in W.M.R.P.'s best interest.

58. W.M.R.P. shares a very close and loving relationship with Mr. [redacted] and he has been a key source of support throughout W.M.R.P.'s stay in ORR custody.

59. Mr. [redacted] has complied with all the requirements of the sponsor application process.

60. The Young Center child advocate's Best Interest Determination states that "To protect [W.M.R.P.]'s safety and well-being and advance his rights to liberty and family unity, we have determined that it is in [W.M.R.P.]'s best interests to be reunified with Mr. [redacted] as soon as possible. *See* Exhibit 1 – Young Center Child Advocate Best Interest Determination in Support of Expedited Reunification at pg. 1.

61. ORR identified Mr. [redacted] as a potential sponsor more than a year ago. While waiting through policy changes, the application for a reunification decision was ultimately approved by the case coordinator at TPR on November 26, 2025. *See* Exhibit 1 at pg. 2.

62. Despite ORR's clear policy to adjudicate completed sponsor applications within 10 calendar days of receipt, to this day there is no clear answer or response to W.M.R.P.'s application. *See* Exhibit 1 at pg. 2.

63. On December 10, 2025, long after the ten-day regulatory deadline had passed to issue a final decision on the Sponsorship Application, W.M.R.P.'s counsel issued a demand letter to Defendants Alondra Galvan and Angie Salazar, requesting ORR's compliance with their obligations.

64. On December 23, 2025, Ryan Thier, a TVPRA-Appointed Child Advocate for W.M.R.P. submitted a Best Interest Determination ("BID") to ORR, stating that "[t]o protect W.M.R.P.'s safety and well-being and advance his rights to liberty and family unity, we have determined that it is in W.M.R.P.'s best interests to be reunified with Mr. [redacted] as soon as possible." *See* Exhibit 1.

65. Nevertheless, W.M.R.P. remains in ICE/ORR custody in the Southern District of Texas without having received a decision on his brother's sponsorship application.

66. While in ORR's custody, W.M.R.P. has been deprived of his liberty. He is restricted in his movement and activities. Progress towards his goals – such as furthering his education – have been put to the side. He has also had precious moments taken from him, such as his birthdays and holidays with his family. All of this has had a profound impact on his mental well-being.

67. As there has been no decision issued and W.M.R.P. remains in detention, he brings this habeas action requesting the federal court order his release. W.M.R.P.'s removal is not reasonably foreseeable, as his removal proceedings were already terminated, and he has a pending application for relief that has not yet been adjudicated. There is a nationwide hold on USCIS asylum adjudications that has no end in sight. 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.

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.

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

69. 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.

70. Petitioner has a fundamental interest in liberty and being free from official restraint. Because W.M.R.P.'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.

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

72. 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.

73. The Due Process Clause entitles W.M.R.P. to meaningful process assessing whether his detention is justified. W.M.R.P.'s prolonged and continued detention without an opportunity to contest his detention in front of a neutral adjudicator 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.

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

75. 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).

CLAIM IV

VIOLATION OF THE ADMINISTRATIVE PROCEDURE ACT 5 U.S.C. §§ 702, 706

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

77. 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).

78. Respondents' detention of W.M.R.P. 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.

79. 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.

80. 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 W.M.R.P. 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

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

82. 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).

83. 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.

84. W.M.R.P. has no adequate remedy at law.

CLAIM VI

RELEASE PENDING ADJUDICATION

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

86. 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).

87. W.M.R.P. presents numerous substantial constitutional and statutory claims challenging his detention.

88. W.M.R.P. has demonstrated extraordinary circumstances: he is a minor child, he has an approved and vetted family sponsor waiting for his release, he poses

no flight risk, he has complied with all government requirements, and his continued detention serves no lawful purpose and violates both statutory and constitutional protections.

89. Given these extraordinary circumstances and the substantial claims presented, W.M.R.P. 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 W.M.R.P. is justified.

CLAIM VII

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

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

91. The Foundational Rule incorporates the duty to promptly place W.M.R.P. 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).

92. Respondents' failure to qualify W.M.R.P.'s sponsor, Mr. Ramirez Perez, as capable and willing to care for W.M.R.P., despite Mr. Ramirez Perez being a fit sponsor; Respondents' failure to transfer W.M.R.P. to the custody of Mr. [redacted] and Respondent's continued incarceration of W.M.R.P. 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

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

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

95. Respondents have failed to act promptly.

96. Respondents have arbitrarily and unlawfully failed to place W.M.R.P. in the least restrictive setting that is in his best interest.

97. Respondents' failure to release W.M.R.P. and transfer him to the custody of his sponsor Mr. [redacted] in Georgia constitutes a violation of Respondents' non-discretionary duties under the TVPRA.

PRAYER FOR RELIEF

WHEREFORE, Petitioner W.M.R.P. respectfully requests that this Court:

1. Grant the Petition for Writ of Habeas Corpus and order the immediate release of Petitioner W.M.R.P. 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 W.M.R.P. in detention and either (a) release him to the custody of his sponsor, Mr. [redacted] or (b) place him in the least restrictive community setting available in or near Georgia; or (c) transfer him to Georgia 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 W.M.R.P., 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 her knowledge, information, and belief.

Dated: January 16, 2026

Respectfully submitted,

Raed Gonzalez
Gonzalez Olivieri LLC

/s/ Frances Bourliot

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UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF TEXAS CORPUS CHRISTI DIVISION

W.M.R.P., a minor, by and through his next friend, [redacted]

Petitioners,

v.

KRISTI NOEM, et al.,

Respondents

Case No. 2:26-CV-00024

INDEX OF EXHIBIT

Exhibit 1	Best Interest Determination in Support of Expedited Reunification