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

K.A.P.L. by and through next of kin, [redacted], Petitioner, v. **ANGIE SALAZAR**, in her official capacity as Acting Director of the Office of Refugee Resettlement (ORR), **AMERICA CERVANTES,** in her official capacity as Federal Field Specialist, Office of Refugee Resettlement (ORR), **ANTONIO GONZALEZ**, in his official capacity as the Federal Field Specialist (FFS) Supervisor within the Office of Refugee Resettlement, **GUADALUPE DELGADO,** in her official capacity as the Director for Maryville Academy San Juan Diego, Respondents.	Case No. 26-cv-02477 Hon. Judge Alexakis

PETITIONER'S REPLY BRIEF IN SUPPORT OF THE PETITION FOR HABEAS CORPUS AND MANDAMUS RELIEF

Respondents misstate the purpose of the OBBBA and further misstate Petitioner's argument. There is no statutory requirement for exhaustion of remedies under 28 U.S.C. § 2241. While Respondents attempt to justify Petitioner's now 122-day detention as necessary to ensure that Petitioner will not be trafficked upon release to Sponsor, there is no evidence – none - that anyone at ORR has raised even a whiff of a concern regarding reunification of Petitioner with the Sponsor. Respondents' continued detention of Petitioner achieves nothing other than the inexcusable separation of mother and child. This court should order Respondents to immediately release Petitioner to Sponsor due to violations of their substantive and procedural due process rights.

1. OBBBA

The OBBBA is an appropriations bill "to provide for reconciliation pursuant to title II of H. Con. Res. 14."119 P.L. 21; 2025 Enacted H.R. 1; 119 Enacted H.R. 1; 139 Stat. 72. OBBBA does not direct ORR's sponsorship vetting process. Rather it simply allocates federal funds and directs how those funds must be used. Contrary to Respondent's representation, the text does not require Petitioner's continued detention. The use of the word "shall" in the applicable section pertains solely to what a background check must include when it is performed. *Id* - Use of Funds 119 P.L. 21; 2025 Enacted H.R. 1; 119 Enacted H.R. 1; 139 Stat. 72.

2. Exhaustion of Administrative Remedies

There is no statutory requirement for exhaustion of remedies under 28 U.S.C. § 2241. Moreover, Sponsor has complied with every requirement imposed by ORR for the 122 days that Petitioner has been detained and yet ORR has still failed to make a decision regarding Petitioner's release to Sponsor. Respondents have had ample time to complete the vetting of Sponsor. Sponsor has no other administrative remedies to have Petitioner released. Sponsor cannot submit an appeal until ORR has rendered a decision on Sponsor's application. 45 C.F.R. § 412.102.

Furthermore, district courts have jurisdiction to grant writs of habeas corpus to petitioners who are held in the custody of the federal government in violation of the constitution, laws, or treaties of the United States. 28 U.S.C. § 2241. The "court shall summarily hear and determine the facts and dispose of the matter as law and justice require." 28 U.S.C. § 2243. "Federal courts have 'broad discretion in conditioning a judgment granting habeas relief'." *Beltran v. Cardall,* 222 F. Supp. 3d 476, (E.D. Virginia, 2016) (ordering RMB to be released from ORR to Petitioner's care and custody) citing *Hilton v. Braunskill,* 481 U.S. 770, 775 (1987). Challenging ORR's continued detention of UACs is "properly within the scope of [the] habeas corpus

proceeding." *D.B. v. Cardall,* 836 F.3d 721, 731 (4th Cir. 2016). Therefore, this Court has the authority to order Petitioner's immediate release from ORR custody.

3. Substantive Due Process

Respondents completely misstate the issues in this case. Petitioner does not challenge ORR's authority to vet potential sponsors. Rather, Petitioner challenges Respondent's unreasonable delay adjudicating Sponsor's application causing his continued detention at 122 days and counting. Pursuant to the *Flores* Settlement, ORR "shall release a minor from its custody without unnecessary delay". *Flores v. Reno*, No. CV 85-4544 ¶ 14. Additionally, ORR must "release a child from its custody without unnecessary delay" when "the detention of the unaccompanied child is not required either to secure the child's timely appearance before DHS or the immigration court, or to ensure the child's safety or that of others." 45 C.F.R. § 410.1201.

"The substantive component of due process 'bar[s] certain government actions regardless of the fairness of the procedures used to implement them'." *D.B.* 836 F.3d at 740 citing *Daniels v. Williams,* 474 U.S. 327, 331 (1986). "Just as parents possess a fundamental right with respect to their children, children also enjoy a 'familial right to be raised and nurtured by their parents'." *Id.*, citing *Berman v. Young,* 291 F.3d 976, 983 (7th Cir. 2002).

While Respondents claim to be acting in the best interest of Unaccompanied Minor Children, their actions and inactions demonstrate otherwise. Petitioner has a fundamental substantive due process right to be with his mother. While Respondents claim that the delay in release of Petitioner to Sponsor is due to a four-year-old report concerning human trafficking allegedly caused by ineffective background checks, Respondents provide no evidence or even contend that these human trafficking concerns apply to Petitioner and Sponsor. Indeed, on December 31, 2025, Sponsor completed ORR's required fingerprints/background check and on January 9, 2026, Sponsor's background check was cleared.

"The Supreme Court has recognized that certain intrusions into the parent-child relationship may be so flagrant as to be invalid even if a fair process is afforded." *D.B.* at 741 citing *Troxel v. Granville,* 530 U.S. 57, 67 (2000). Respondent's refusal to release Petitioner is a flagrant violation of his substantive due process rights because even after 122 days in immigration detention, Respondents cannot identify a single "red flag" about releasing Petitioner to Sponsor and yet Petitioner remains detained.

4. Procedural Due Process

"Procedural due process imposes constraints on governmental decisions which deprive individuals of 'liberty' or 'property' interests within the meaning of the Due Process Clause or the Fourteenth Amendment." See *Mathews v. Eldridge,* 424 U.S. 319, 332 (1976). When private interests will be affected by official government action, the court must consider the test set out in *Mathews*. Petitioner's due process rights require consideration of: "(1) the private interest that will be affected by the official action; (2) the risk of erroneous deprivation of that interest through procedures used, and (3) the government's interest, including the fiscal and administrative burdens that the additional or substitute procedures would entail." *Lopez v. Sessions,* 2018 U.S. Dist. LEXIS 98712 at 26-27 (S.D.N.Y. June 12, 2018) citing *Mathews* at 335.

As discussed, both Petitioner and Sponsor have a fundamental liberty interest for children to be raised by their parents. *Berman*, 291 F.3d at 983. Moreover, Petitioner's interest in freedom from being detained by Respondents "lies at the heart of the liberty that [the Due Process] Clause protects." *Zadvydas v. Davis,* 533 U.S. 678, 690 (2001). Second, Petitioner doesn't just risk erroneous deprivation; Petitioner has been erroneously deprived of both his freedom and the right to be cared for by his mother, for 122 days.

Third, while Respondents have a legitimate interest in protecting UACs from smugglers, traffickers, and others who may seek to victimize them, these interests can be met through *timely* vetting of a Sponsor. When this action was filed, Respondents had already detained Petitioner for 110 days. On January 15, 2026, Respondents informed Sponsor that she would have to complete a DNA test. Yet, 44 days later, on March 4, 2026, when Petitioner filed this action, Respondents still failed to schedule the DNA test. Miraculously, one day after the filing of this action, Respondents finally scheduled Sponsor for a DNA test, which Sponsor completed on March 10, 2026. *See* Dkt.13-1 ¶ 29. Six days after this action was filed, 116 days into Petitioner's detention, the home study worker finally submitted a recommendation that Petitioner be released to Sponsor. *See* Dkt.13-1 ¶ 30.

Despite Sponsor having completed the DNA test, cleared background checks, received a positive recommendation in the home study report and every other requirement issued by Respondents, all indicating that it is in Petitioner's best interest to be released to Sponsor, Respondents continue to detain Petitioner. This Court should order Petitioner's immediate release to Sponsor.

Dated: March 16, 2026

Respectfully submitted,

/s/ Laura J Smith
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