UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

E.G.V.A. By Next Friend And Father and father Luis Edgar Vimos Rivera, Petitioner, v. Lorraine M. Sánchez, Chief Executive Officer, Cayuga Centers, in her official capacity as facility custodian; Angie Salazar, Director, Office of Refugee Resettlement, U.S. Department of Health and Human Services, in her official capacity; Robert F. Kennedy, Jr., Secretary, U.S. Department of Health and Human Services, in his official capacity, Respondents.	Case No. 1:26-cv-02258-(MKV) **PETITIONER'S REPLY IN SUPPORT OF PETITION FOR WRIT OF HABEAS CORPUS** File No. A-[redacted]

PETITIONER'S REPLY IN SUPPORT OF PETITION

FOR WRIT OF HABEAS CORPUS

INTRODUCTION

Petitioner E.G.V.A., by next friend and father Luis Edgar Vimos Rivera, respectfully submits this Reply in further support of his Petition for a Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241.

This case presents a straightforward question: whether the Office of Refugee Resettlement ("ORR") may continue to treat Petitioner as an "unaccompanied alien child" under 6 U.S.C. § 279(g)(2) where his parent is present in the United States and available to provide care and custody.

Respondents' own submissions establish that Petitioner's father is present in the United States, has come forward, and has complied with all requirements imposed by the government, including submission of a sponsorship application, fingerprinting, a home study, and all background and safety checks. There is no allegation of risk, fraud, or unfitness.

Accordingly, under Respondents' own facts, Petitioner no longer satisfies the statutory definition of an unaccompanied alien child, and ORR lacks authority to continue detaining him.

As recognized by courts in this District, in *M.A.V v. Angie Salazar, et al.,* Case No. 1:26-cv-2306 (LJL) (March 25, 2026, Judge Liman), the determination of whether a child qualifies as an unaccompanied alien child is ultimately a question for judicial review in a habeas proceeding, not an unreviewable determination committed to ORR.

FACTUAL BACKGROUND

Petitioner is **a three-year-old** who has been detained since November 22, 2025, despite his father's full compliance with all requirements for release.

Petitioner's father has submitted proof of parentage, completed fingerprinting, and filed a sponsorship application. *See* Pet'r Ex. A.

Petitioner is experiencing significant emotional distress as a result of his continued detention. During visits, he cries, appears withdrawn, and becomes visibly distressed when separated from his father. *Id.*

ARGUMENT

I. RESPONDENTS LACK STATUTORY AUTHORITY TO DETAIN PETITIONER BECAUSE PETITIONER IS NOT AN "UNACCOMPANIED ALIEN CHILD" WITHIN THE MEANING OF 6 U.S.C. § 279(g)(2)

ORR's authority extends only to "unaccompanied alien children." 6 U.S.C. § 279(g)(2). A child is not "unaccompanied" where a parent in the United States is available to provide care and physical custody.

Here, Petitioner's father is present in the United States, has been identified and vetted, and has completed the reunification process. Accordingly, Petitioner no longer meets the statutory definition of a UAC, and ORR lacks authority to continue his detention. *See Maldonado v. Lloyd*, No. 18 Civ. 3089, 2018 WL 2089348 (S.D.N.Y. May 4, 2018).

II. ORR MAY NOT REQUIRE DNA TESTING WHERE SUFFICIENT EVIDENCE OF PARENTHOOD EXISTS, AND CONTINUED DETENTION ON THAT BASIS IS UNLAWFUL

Respondents suggest that additional proof—specifically DNA testing—is required before recognizing Petitioner's father as available to provide care and custody.

That position finds no support in the statute. The definition of an unaccompanied alien child under 6 U.S.C. § 279(g)(2) turns on whether a parent is present in the United States and available to provide care and physical custody. The statute does not require any particular form of proof, nor does it mandate DNA testing.

Here, Petitioner's father has submitted documentation establishing her identity and relationship, and has completed all procedures required by ORR. Respondents do not allege fraud, risk, or unfitness.

As Judge Liman stated in a case of Petitioner's cousin, this past Wednesday, March 25, 2026, in *M.A. V v. Angie Salazar, et al.,* Case No. 1:26-cv-2306 (LJL), the determination of whether a child qualifies as an unaccompanied alien child in a habeas proceeding, is ultimately decided by the trier of fact, and not a determination committed to ORR.

CONCLUSION

For the foregoing reasons, Petitioner respectfully requests that this Court grant the Petition for a Writ of Habeas Corpus and order his immediate release.

Respectfully submitted,

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Queens, New York

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