IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

I.T., a minor, by and through Next Friend, B.V.T.R., and Z.T., a minor, by and through Next Friend, B.V.T.R.,

Plaintiff-Petitioners,

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; ALEX ADAMS, in his official capacity as Assistant Secretary of the Administration for Children and Families; LORRAINE M. SANCHEZ, in her official capacity as Acting President and CEO of Cayuga Centers; U.S. Department of Health and Human Services; U.S. Office of Refugee Resettlement; Administration for Children and Families; Cayuga Centers,

Defendant-Respondents.

Civil Case No.: 1:26-cv-02563

EMERGENCY VERIFIED PETITION FOR WRIT OF HABEAS CORPUS PURSUANT TO 28 U.S.C. § 2241

ORAL ARGUMENT REQUESTED

EMERGENCY VERIFIED PETITION FOR WRIT OF HABEAS CORPUS PURSUANT TO 28 U.S.C. § 2241

INTRODUCTION

1. IT, a [redacted]-year-old child and citizen of Mexico, has been detained by the United States Government since approximately August 19, 2025, approximately 220

days.[1]

2. ZT, a [redacted] year-old child and citizen of Mexico, has been detained by the United States Government since approximately August 19, 2025, approximately 220 days.

3. This emergency petition is being filed now because, on information and belief, while the reunification process drags on, the Office of Refugee Resettlement ("ORR") staff have alerted counsel that sometime before the shelter closes on March 31, IT and ZT will be removed to a different shelter, likely out of this jurisdiction and away from their mother.

4. Since their arrival, IT and ZT have been confined in a restrictive setting, deprived of an adequate education, surrounded by strangers, and permitted only limited visits with their mother (approximately 10 over the course of seven months), effectively isolating them from their mother and depriving them of her support and guidance. Walsh Aff. ¶ 29. On information and belief, ORR has recently confirmed that IT's and ZT's mother and Next Friend, BVTR, has completed the final steps necessary to release IT and ZT from ORR custody. Walsh Aff. ¶ 26.

5. At the earliest possible moment, within days of IT's and ZT's arrival, BVTR immediately sought to begin the ORR sponsorship process to secure the release of IT and ZT to her custody. Walsh Aff. ¶ 12. Over the last approximately 200 days, BVTR has complied with each requirement: BVTR has provided her fingerprints, multiple rounds of pay stubs, state-issued identification, birth certificate, an Individual Taxpayer Identification Number ("ITIN") number, and participated in a

[1] Per Federal Rule of Civil Procedure 5.2, the names of minor Plaintiff-Petitioners have been anonymized using initials. The identities of Plaintiff-Petitioners and Next Friend are known to Defendant-Respondents.

home study, and DNA testing. Walsh Aff. ¶¶ 15, 25-26.

6. Desperate to reunify with her children, BVTR has promptly and fastidiously complied with every request made by Respondents to support her sponsorship application over the course of the last several months. Walsh Aff. ¶¶ 15, 25-27. Indeed, after complying with all but the requirement that she appear for an in-person ID verification, an appointment at which she understood she would likely be detained by federal immigration enforcement, Cayuga staff subsequently informed KIND that the requirement has been deemed complete by ORR. Walsh Aff. ¶ 26.

7. Despite BVTR's prompt compliance with every request, Respondents have delayed the process at every turn in violation of their statutory requirements, policies, and field guidance.

8. Now, on information and belief, the government has declined to renew ORR's contract with the shelter at which IT and ZT are currently detained, and the shelter will be closing on March 31, 2026. This means that within the next few days, IT and ZT are likely to be moved to a different shelter out of this jurisdiction and away from their mother, BVTR.

9. ORR has a statutory and regulatory responsibility to "promptly" place IT and ZT "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). To fulfill its mandate, ORR releases most unaccompanied children in ORR custody to their parents or other relatives in the United States, as the least restrictive setting is likely to be release from ORR custody. *See* 8 U.S.C. § 1232(c)(2)(A); 45 C.F.R. § 410.1209(e); *Saravia v.*

Sessions, 905 F.3d 1137, 1143 (9th Cir. 2018). Its regulations state, subject to an assessment of sponsor suitability, ORR "shall release a child from its custody *without unnecessary delay*" with first order of preference being the child's parent. 45 C.F.R. § 410.1201(a) (emphasis added). A sponsorship application from a child's parent must be adjudicated within 10 days. 45 C.F.R. § 410.1205(b). Respondents have far exceeded this required timeline by approximately 210 days, by continuing to detain IT and ZT without justification.

10. By failing to release IT and ZT into the custody of BVTR, ORR has failed to comply with the requirements of its own process, many of which are themselves unnecessary and unreasonable, all in violation of IT's and ZT's constitutional, statutory, and regulatory rights, including the right to be "promptly" placed in the least restrictive setting that is in their best interests and to be released "without unnecessary delay." 8 U.S.C. § 1232(c)(2)(A); 45 C.F.R. § 410.1003(f); 45 C.F.R. § 410.1201(a).

11. Despite its legal obligations, ORR has far exceeded the statutory deadline to adjudicate IT's and ZT's mother's sponsorship application. ORR's failure to act "promptly" and release them "without unnecessary delay," 8 U.S.C. § 1232(c)(2)(A), 45 C.F.R. § 410.1201(a), violates IT's and ZT's constitutional rights to liberty, due process, and family integrity, as well as their statutory rights under the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 ("TVPRA"). ORR's failure to release IT and ZT and reunify them with their mother also constitutes agency action that is arbitrary, capricious, and not in accordance with the law under the Administrative Procedure Act ("APA"), 5

U.S.C. §§ 701 *et seq*. Additionally, in failing to release IT and ZT to their mother's custody, ORR has failed to follow its own "existing valid regulations," in violation of *United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260, 268 (1954).

12. Without immediate judicial intervention, IT, a [redacted]-year-old child, and ZT, a [redacted]-year-old child, will remain in government detention, and worse, be transported far from their mother, BVTR. Every day that Respondents keep IT and ZT in detention not only deprives them of their fundamental rights to liberty and family integrity but also inflicts increasing trauma upon them with potential lifelong damage.

13. In light of the foregoing, Plaintiff-Petitioners respectfully petition 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, and request that this Court enjoin Respondents from moving IT and ZT outside of this jurisdiction, order that Respondents immediately release IT and ZT from detention into the care of their mother, and enjoin Respondents from re-detaining IT and ZT during the pendency of this Petition.

JURISDICTION AND VENUE

14. This Court has subject matter jurisdiction under Art. I, § 9, cl. 2 of the U.S. Constitution (Suspension Clause); 28 U.S.C. § 2241 (habeas corpus); 28 U.S.C. § 1651 (All Writs Act); 28 U.S.C. § 1331 (federal question jurisdiction); and 5 U.S.C. § 701 (the Administrative Procedure Act).

15. This Court has additional remedial authority under 28 U.S.C. §§ 2201 and 2202 (Declaratory Judgment Act) to grant injunctive and declaratory relief.

16. 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).

17. Venue is proper in the Southern District of New York under 28 U.S.C. § 1391(e) because IT and ZT are detained within this District, and a substantial part of the events giving rise to these claims occurred and continues to occur in this District.

PARTIES

18. Plaintiff-Petitioner IT is a [redacted] year-old child in the custody of ORR. He is presently detained at Cayuga Centers in New York, New York. IT brings this matter by and through his Next Friend, BVTR.

19. Plaintiff-Petitioner ZT is a [redacted] year-old child in the custody of ORR. She is presently detained at Cayuga Centers in New York, New York. ZT brings this matter by and through her Next Friend, BVTR.

20. BVTR is the mother of IT and ZT. She brings this matter on behalf of IT and ZT as their Next Friend. BVTR presently lives in Queens, New York.

21. Defendant-Respondent Robert F. Kennedy, Jr., is the Secretary of the U.S. Department of Health and Human Services ("HHS"). In this capacity, he oversees ORR, the sub-agency of HHS generally responsible for the care of unaccompanied immigrant children and is specifically responsible for the ongoing custody of IT and ZT. Respondent Kennedy is sued in his official capacity.

22. Defendant-Respondent Angie Salazar is the Acting Director of ORR. ORR is the sub-agency of HHS responsible for the care of unaccompanied immigrant children and is the government entity responsible for IT's and ZT's ongoing custody. Respondent Salazar is sued in her official capacity.

23. Defendant-Respondent Alex Adams is named in his official capacity as Assistant Secretary of the Administration for Children and Families ("ACF"). ACF is the operating division of HHS and is responsible for the welfare of children and families. It is comprised of 23 offices, including ORR, the component agency responsible for IT's and ZT's detention and custody.

24. Defendant-Respondent Lorraine Sanchez is the Acting President and CEO of Cayuga Centers, which operates the transitional foster care program where IT and ZT are presently in custody. She is therefore IT's and ZT's direct custodian for purposes of the instant habeas petition. Respondent Sánchez is sued in her official capacity.

25. Defendant-Respondent U.S. Department of Health and Human Services is a cabinet-level department of the executive branch of the U.S. government headquartered in Washington, DC. HHS is the parent agency of ORR.

26. Defendant-Respondent Office of Refugee Resettlement is a component agency of ACF and HHS and is responsible for the care, custody, and wellbeing of unaccompanied immigrant children.

27. Defendant-Respondent Administration for Children and Families is the operating division of HHS tasked with the welfare of children and families and includes ORR as a component agency.

28. Defendant-Respondent Cayuga Centers ("Cayuga") is an agency licensed by the State of New York and contracted by ORR to provide care for unaccompanied immigrant children in Cayuga's care in New York City.

EXHAUSTION OF ADMINISTRATIVE REMEDIES

29. IT and ZT have no administrative remedies to exhaust through Department of

Homeland Security ("DHS") or ORR because no process exists to challenge the unconstitutional conditions of their detention.

30. Even if meaningful administrative remedies were promptly available, IT and ZT, as noncitizen children challenging the lawfulness of their ongoing immigration detention, are not required to exhaust them under 28 U.S.C. § 2241. *See Louisaire v. Muller*, 758 F. Supp. 2d 229, 234 (S.D.N.Y. 2010); *Garcia v. Shanahan*, 615 F. Supp. 2d 175, 180 (S.D.N.Y. 2009).

31. Moreover, the immigration agencies do not have jurisdiction to adjudicate the due process claims that BVTR raises here. *See, e.g., Araujo-Cortes v. Shanahan*, 35 F. Supp. 3d 533, 538-39 (S.D.N.Y. 2014) (holding that an administrative appeal challenging classification under the mandatory detention statute would be futile because the BIA "does not have jurisdiction to adjudicate constitutional issues." (quoting *United States v. Gonzalez-Roque*, 301 F.3d 39, 48 (2d Cir. 2002)) (internal quotations omitted)).

LEGAL FRAMEWORK

A. Statutory and Regulatory Framework Regarding the Care, Custody, and Release of Unaccompanied Immigrant Children

32. The care and custody of unaccompanied immigrant children is governed by a legal framework consisting of the Homeland Security Act of 2002 (the "HSA"), the TVPRA, the 1997 *Flores* Settlement Agreement, and the Foundational Rule, 45 C.F.R §§ 410, *et seq.*

33. Prior to 2002, the Office of Juvenile Affairs in the former Immigration and Naturalization Service ("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"), *available at* https://www.aila.org/files/o-files/view-file/04CEA0D1-427B-4D25-B6D0-47CF10B46997. However, following the promulgation of the Foundational Rule, the Flores Settlement Agreement was partially terminated as to HHS. *Flores v. Garland*, 2024 WL 3467715, at *7-9 (C.D. Cal., June 28, 2024).

34. In 2002, Congress passed the 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.

35. Congress's decision to transfer responsibility for the care and custody of unaccompanied children from the INS to ORR reflected Congress's determination that caring for such children and prosecuting immigration enforcement were incompatible roles and should not be housed within a single agency.[2] Within HHS, ORR is responsible for children's safety and welfare and is explicitly not a law

[2] *See, e.g.*, 148 Cong. Rec. S11295 (Nov. 18, 2002) (statement of Sen. Feinstein); *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.").

enforcement agency. *See* Foundational Rule, 89 Fed. Reg. 34284, 34423 (Apr. 30, 2024) ("[I]t is not a law enforcement agency, unlike the former INS . . . .").

36. Congress then expanded protections for unaccompanied children in the TVPRA, reaffirming Congress' intent to treat unaccompanied immigrant children differently than adults in the context of both detention and immigration proceedings. 8 U.S.C. §§ 1232 *et seq*.

37. The TVPRA requires federal officials who discover an unaccompanied child to transfer the child to the care and custody of ORR within 72 hours (absent exceptional circumstances). 8 U.S.C. § 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, with preference given to parents and legal guardians. 45 C.F.R. § 410.1108 (a). *See also, e.g.*, *Santos v. Smith*, 260 F. Supp. 3d 598, 605 (W.D. Va. 2017) ("Pursuant to the *Flores* agreement and the TVPRA, ORR should release to a parent, if available . . . ."). In other words, Congress enacted the TVPRA specifically to facilitate the safe, speedy release and minimally restrictive placement of unaccompanied children. *See, e.g.*, 154 Cong. Rec. S10887 (Dec. 10, 2008).

38. 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.*).

39. The Foundational Rule sets forth "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 (emphasis added). 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.*

40. Under the Foundational Rule, sponsors must complete a sponsorship application, undergo a sponsorship suitability assessment, and submit to various backgrounds checks. 45 C.F.R. §§ 410.1202(b)-(c), 410.1203(c). Absent specific circumstances, home studies are not a required part of the sponsor suitability assessment, but ORR "may, in its discretion, initiate home studies if it determines that a home study is likely to provide additional information which could assist in determining that the potential sponsor is able to care for the health, safety, and well-being of the unaccompanied child." 45 C.F.R. § 410.1204(c).[3]

41. The Foundational Rule establishes that "ORR shall release a child from its custody

[3] Home studies are required under 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). 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." 8 C.F.R. § 410.1204 (b). None of these specific circumstances is present in the instant case.

without unnecessary delay" to suitable sponsors in a specific order of preference, with parents and legal guardians taking first priority. 45 C.F.R. § 410.1201(a). Specifically, it provides that "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 of receipt of the completed sponsor application, absent an unexpected delay." 45 C.F.R. § 410.1205(b). A sponsor's immigration status, alone, is not a basis to disqualify the sponsor's suitability.[4]

42. The Foundational Rule does not provide any procedural mechanism for a potential sponsor to contest the agency's adjudicative delay during the pendency of a sponsorship application. An appeals process is only available following a final denial of a sponsor application from a parent, legal guardian, or other close relative, and can take up to 30 days to complete. 45 C.F.R. § 410.1206(a), (f).

43. ORR's sub-regulatory framework is laid out in the UC Policy Guide, which was first published publicly in 2015 and is available on ORR's website. Office of Refugee Resettlement, *Unaccompanied Alien Children Bureau Policy Guide* (2025), https://acf.gov/orr/policy-guidance/unaccompanied-children-bureau-policy-guide ("UC Policy Guide"). Consistent with the HSA, TVPRA, and Foundational Rule, the UC Policy Guide governs the placement, care, and release of unaccompanied children in ORR custody. UC Policy Guide, Introduction.

[4] Office of Refugee Resettlement, *ORR Unaccompanied Alien Children Bureau Policy Guide: Section 2.6: Sponsor Immigration Status and Release of Unaccompanied Minor Children* (current as of Mar. 13, 2026), https://acf.gov/orr/policy-guidance/unaccompanied-children-program-policy-guide-section-2.

44. Section 2 of the UC Policy Guide sets out ORR's policies with respect to securing "[s]afe and timely release" of unaccompanied children to sponsors, emphasizing that ORR policies are intended to ensure the release of unaccompanied children "in a safe, efficient, manner without unnecessary delay." UC Policy Guide § 2.1. It provides detailed guidance for the release process, including "the identification of sponsors; sponsor application; interviews; the assessment (evaluation) of sponsor suitability, including verification of the sponsor's identity and relationship to the child (if any), background checks, and in some cases home studies; and post-release planning." *Id.*

45. Since January 2025, the UC Policy Guide has been modified multiple times, without notice and comment, to heighten sponsorship vetting requirements.[5] These changes include narrowing the list of acceptable proof of identification documents (March 7, 2025); requiring specific proof of income documentation (April 15, 2025); requiring specific proof of address documentation (March 7, 2025); requiring ORR to "exhaust all available avenues to verify the authenticity of birth certificates" submitted as proof of child's identity and sponsor-child relationship (March 7, 2025); requiring DNA testing to establish a biological relationship to the child, where biological relationship is purported (March 14, 2025; revised May 15, 2025); requiring sponsor home studies in new circumstances beyond those

[5] Neha Desai, Melissa Adamson, & Ryan Matlow, *The Unraveling of ORR: A Quick and Calculated Undoing of a System Intended to Protect Children*, at 3, Nat'l Ctr. For Youth Law (Sept. 2025), *available at* https://youthlaw.org/resources/the-unraveling-of-orr-a-quick-and-calculated-undoing-of-a-system-intended-toprotect-children/.

mandated under the Foundational Rule and the TVPRA (July 14, 2025); requiring proof of a Social Security Number or Individual Taxpayer Identification Number for all adults identified in a sponsorship application (March 6, 2026); and requiring background checks for all household members and alternate caregivers (March 6, 2026).[6]

46. Beginning in August 2025, ORR created a new internal division, the Division of Sponsor Administration ("DSA"), which removed sponsorship document collection and vetting responsibilities that were previously assigned to local case managers and unification specialists employed by sub-contractors and placed that responsibility exclusively with Federal Field Specialists ("FFS") from ORR's DSA. Under the new system, the FFS is responsible for communicating with the child's sponsor, obtaining a sponsorship application, gathering all documents, and submitting requests for additional vetting procedures (e.g., scheduling fingerprinting, a home study, and/or DNA testing, etc.). The FFS makes an initial recommendation as to release, which is reviewed by the local facility (in this case, Cayuga) and a case coordinator (an ORR contractor) for their recommendations and finally sent to another FFS with ORR's Division of Case Administration ("DCA") who makes the final decision on release. That FFS may approve the release, deny the release, or remand the case back for further assessment. The final decision is reviewable by superiors within ORR.

[6] *Id.* at 5-8.

B. Constitutional Framework Regarding the Prolonged Detention of Unaccompanied Immigrant Children

47. Children have a fundamental liberty interest in freedom from confinement. The Supreme Court has recognized that "the 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 less fundamental than that of an adult. *See In re Gault*, 387 U.S. 1, 13 (1967) ("[N]either the Fourteenth Amendment nor the Bill of Rights is for adults alone . . . ."); *Reno v. Flores*, 507 U.S. 292, 316 (1993) (O'Connor, J. and Souter, J., concurring) ("Children, too, have a core liberty interest in remaining free from institutional confinement. In this respect, a child's constitutional freedom from bodily restraint is no narrower than an adult's.") (Internal quotation marks omitted.). Minors, like adults, also 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).

48. The constitutional right to family integrity and familial association is also well established. *See Santosky v. Kramer*, 455 U.S. 745, 753 (1982) (holding that parents and children have a well-elaborated constitutional right to live together without governmental interference); *Smith v. Org. of Foster Fams. for Equal. & Reform*, 431 U.S. 816, 845 (1977) ("[T]he liberty interest in family privacy has its source, and its contours are ordinarily to be sought . . . in intrinsic human rights."). The Second Circuit, specifically, has held that the "right to the preservation of family integrity encompasses the reciprocal rights of both parent and children," and that "the most essential and basic aspect of familial privacy [is] the right of the family

to remain together without the coercive interference of the awesome power of the state." *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) (explaining children have a "constitutionally protected liberty interest in not being dislocated from the emotional attachments that derive from the intimacy of daily family association") (internal quotation marks and brackets omitted); *Southerland v. City of New York,* 680 F.3d 127, 142 (2d Cir. 2012) (explaining parents "have a constitutionally protected liberty interest in the care, custody and management of their children") (quoting *Tenenbaum v. Williams*, 193 F.3d 581, 593 (2d Cir. 1999)).

49. In matters involving the prolonged detention of unaccompanied immigrant children in ORR custody, courts have repeatedly recognized the due process rights of children to family integrity. *See, e.g., Maldonado v. Lloyd*, 2018 WL 2089348, at *7 (S.D.N.Y May 4, 2018) (concluding that prolonged ORR sponsorship suitability process was violation of child's "right to family integrity"); *D.B. v. Cardall*, 826 F.3d 721, 740 (4th Cir. 2016) (outlining children "enjoy a familial right to be raised and nurtured by their parents" (internal quotation marks 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)); *Santos v. Smith*, 260 F. Supp. 3d 598, 612 (W.D. Va. 2017) ("[T]he interest in family reunification remains fundamental . . . and is deserving of significant due process protections."). *See also*, *Ms. L. v. U.S. ICE*, 310 F. Supp. 3d 1133, 1142-46 (S.D. Cal. 2018) (finding likely substantive due

process violation stemming from "zero tolerance" policy of family separation).

50. Longstanding Supreme Court precedent establishes that when a governmental 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. *See Mathews v. Eldridge*, 424 U.S. 319, 335 (1976). Under the balancing test set out in *Mathews*, in assessing an alleged violation of procedural due process, courts must consider: (1) "[T]he private interest that will be affected by the official action," (2) "[T]he risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional or substitute procedural safeguards"; and (3) "[T]he government's interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail." *Id.*

51. Pursuant to *Mathews*, some courts have required ORR to assess sponsorship applications by parents in light of the fundamental liberty interest in family integrity. Several courts have held, specifically, that "when 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." *Maldonado,* 2018 WL 2089348, at *9; *see also Santos,* 260 F. Supp. 3d at 613 ("[A]t least when a parent is requesting reunification, the burden should be on ORR to show why its continued custody of [an unaccompanied child] is appropriate, rather than placing that burden on the parent."); *Beltran,* 222 F. Supp. 3d at 485 ("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." (internal citation omitted).

52. Furthermore, "'significant' and 'unexplained delay[s] in responding to [a proposed sponsor's] unification request' violate due process, irrespective of other procedural defects." *Lucas R. v. Becerra*, 2022 WL 2177454, at *27 (quoting *Santos*, 260 F. Supp. at 613-14).

53. In accordance with these foundational principles of due process, ORR bears the burden to justify its continued unlawful custody of IT and ZT. ORR also has a constitutional responsibility to finalize its suitability assessment of BVTR without unnecessary delay. Based on the facts alleged herein, IT's and ZT's sponsor is safe and qualified, and ORR has a duty to grant BVTR's reunification request without delay. ORR should immediately place IT and ZT in the least restrictive setting that is in their best interests, which is with their mother.

FACTUAL BACKGROUND

A. IT and ZT are children in ORR custody with a vetted sponsor capable of providing for their physical and mental well-being

54. IT was born in in Mexico. He is [redacted] years old.

55. ZT was born in in Mexico. She is [redacted] years old.

56. BVTR, IT's and ZT's mother and ORR sponsor resides in Queens, New York. BVTR does not have a criminal history or a child protection history. Walsh Aff. ¶ 26.

57. On August 19, 2025, IT and ZT entered the United States in or around El Paso, Texas. IT and ZT were apprehended by Customs and Border Protection ("CBP") and

designated as "unaccompanied children."[7] *Id.* ¶ 9. The next day, DHS issued a Notice to Appear in immigration court to IT and ZT. *Id.* DHS filed the Notice to Appear with the New York Varick Street Immigration Court. *Id.*

58. On August 22, 2025, IT and ZT were transferred to the custody of ORR and transported to Cayuga Centers in New York, New York, an ORR-funded foster care facility. *Id.* ¶ 109. Cayuga is a transitional foster care program designed for short-term care. *Id.* ¶ 134. Children held at the program reside with a foster family during the evenings and weekends and spend the weekdays at the program's facility or attending public school.

59. BVTR quickly communicated to ORR that she was IT's and ZT's mother and wished to serve as their sponsor. On August 25, 2025 (less than one week after the children were designated as unaccompanied minors, and now over 200 days ago), Cayuga identified BVTR as a potential sponsor and designated her as Category 1, the most preferential category for sponsor release.[8] Walsh Aff. ¶ 12.

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[7] An unaccompanied child is defined as "a child who has no lawful immigration status in the United States; has not attained 18 years of age; and, with respect to whom, there is no parent or legal guardian in the United States, or no parent or legal guardian in the United States available to provide care and physical custody." 6 U.S.C. § 279 (g) (2) (cleaned up).

[8] ORR releases children to a sponsor in the following order of preference: parent; legal guardian; an adult relative; an adult individual or entity designated by the parent or legal guardian; a licensed program willing to accept legal custody; or an adult individual or entity when it appears that there is no other likely alternative to long term ORR care and custody. ORR has grouped unaccompanied children's cases into the following categories: Category 1: Parent or legal guardian I; Category 2: A sibling, grandparent, or other immediate relative (e.g., aunt, uncle, first cousin) who previously served as the child's primary caregiver; Category 3: An immediate relative who has not previously served

60. On September 3, 2025, Kids in Need of Defense ("KIND"), the legal service provider assigned to IT and ZT, met with the children for the first time and conducted a legal screening. During legal visit follow-up, Cayuga notified KIND that DNA testing would be required to reunify IT and ZT with their sponsor, BVTR, and that a DNA testing appointment was scheduled for September 8, 2025 and September 10, 2025 for the children and BVTR, respectively. *Id.* ¶¶ 14-15. IT, ZT, and BVTR complied with the DNA testing requirements. *Id.*

61. On September 3, 2025, KIND staff sought additional sponsorship information regarding BVTR, including the approximate timeline and any anticipated administrative concerns regarding her reunification with her children. *Id.* Cayuga referred the questions to a Federal Field Specialist (FFS) from ORR's DSA, who never responded. *Id.*

62. On September 24, 2025, IT and ZT attended their first Master Calendar Hearing and continued to comply with the requirements of their pending removal proceedings through several subsequent Master Calendar Hearings. *Id.* ¶ 16. As part of their efforts to comply with the court's requests for updates regarding IT's and ZT's pending reunification with their sponsor, KIND staff repeatedly requested status updates from Cayuga and the assigned DSA FFSs. *Id.* ¶¶ 14-26. Over a span of more than five months, between October 2, 2025 and March 3, 2026, KIND staff made repeated attempts to gather such information and offer necessary sponsorship documentation. *Id.* Each time, Cayuga staff—including a new case manager—

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as the child's primary caregiver; Category 4: Other sponsor, such as distant relatives and unrelated adult individuals; and Category 5: No sponsor identified. *See* UC Policy Guide § 2.2.1.

either did not respond or merely responded that there were no updates regarding IT's and ZT's reunification and that they were continuing to gather documentation from BVTR, with no further details. *Id.* On December 2, 2025, Cayuga staff referred another status update from KIND to two additional DSA FFSs, but neither ever responded, even after KIND followed up approximately one week later. *Id.* ¶ 20. From March 1-3, 2026, KIND staff repeatedly contacted Cayuga and the DSA FFSs in advance of a March 4, 2026 Master Calendar Hearing for IT and ZT and raised the importance of complying with the judge's requests for an update. *Id.* ¶ 25. A DSA FFS responded on the day of the hearing with the pending items for BVTR's sponsorship. *Id.* BVTR promptly completed all of these items. *Id.*

63. In February 2025, ORR also conducted a home study—a discretionary measure—of BVTR, as part of her sponsorship application. The home study received a positive recommendation, indicating that there were no issues in the home. *Id.*

64. As directed by the DSA FFS, BVTR applied for an Individual Taxpayer Identification Number ("ITIN"), a new vetting requirement since July 2025, dutifully provided updated proof of her income and address, and submitted to multiple background checks.

65. To date, neither ORR nor Cayuga has communicated any concern to BVTR or to IT's and ZT's legal advocates that BVTR is not a suitable sponsor for IT and ZT. *Id.* ¶ 27. BVTR's sponsorship application has now been pending for more than 200 days. As a result, IT and ZT, [redacted] year old and [redacted] year-old children, respectively, have been separated from their mother and held in governmental custody for 218 days in violation of their statutory and constitutional rights.

B. Defendant-Respondents are violating their legal obligation to promptly release IT and ZT to their sponsor and mother, BVTR

66. When IT and ZT were transferred to ORR custody on or around August 22, 2025, BVTR immediately identified herself as IT's and ZT's mother and stated that she wished to serve as their sponsor. Walsh Aff. ¶ 12. The DSA FFS initiated BVTR's sponsorship application on or around September 3, 2025, and completed DNA tests on ZT, IT, and BVTR on around September 10, 2025, confirming their relationship as mother and children. *Id* ¶ 15. After completing these DNA tests, however, several months passed without any meaningful communication, request, or status update. *Id.* ¶¶ 15-25. During that time, BVTR collected the requisite documents and immediately complied with the necessary steps for her sponsorship application, while IT and ZT continued to appear in their removal proceeding hearings. *Id.*

67. IT's and ZT's prolonged detention and separation from their parents is part of a nationwide trend impacting youth in ORR custody. In fiscal years 2021 through 2024, the average length of time a child remained in ORR custody ranged from 27 days to 33 days.[9] However, that average has increased dramatically since January 2025, jumping to 112 days in March 2025, 154 days in June 2025, 182 days in August 2025, and 185 days in November 2025.[10] Releases to sponsors have also dropped sharply, from 1,858 releases in February 2025, to 343 releases in March 2025, to 45 releases in April 2025.[11] In November 2025, ORR only released 16

[9] Desai, Adamson, & Matlow *supra* n.4, at 11.

[10] *Id.*

[11] *Id.*

children to sponsors nationwide.[12] In February 2026, the number of children released to sponsors nationwide increased to 119, still constituting only 6.4% of the number of children released 12 months earlier in February 2025.[13]

68. Under these circumstances, IT and ZT are unlikely to be released without judicial intervention.

C. It is in IT's and ZT's best interest to be released to their mother and sponsor, BVTR

69. IT and ZT have been detained, separated from their mother, and socially isolated, without access to proper schooling for several months. They have been forced to navigate removal proceedings in immigration court while detained and separated from their mother. For these and other reasons, it is in IT's and ZT's best interests to be released to their mother immediately. Walsh Aff. ¶29-32.

70. The serious harms caused by the prolonged detention of immigrant children are 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 facilities designed to hold them for

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[12] *Data: Released to Sponsors*, ORR, https://acf.gov/orr/about/ucs/facts-and-data (last accessed March 28, 2026) (hereinafter "ORR Data: Released to Sponsors"). This nationwide trend has been widely documented. *See, e.g.*, Mica Rosenberg, et. al., *ICE Sent 600 Immigrant Kids to Detention in Federal Shelters This Year. It's a New Record*, ProPublica (Nov. 24, 2025), https://www.propublica.org/article/ice-detentions-immigrant-kids-family-separations; Julia Lurie, *"The Children Are Being Used as Bait": Thousands of Kids Are Stuck in Immigration Facilities With No End in Sight*, Mother Jones (May 12, 2025), https://www.motherjones.com/politics/2025/05/unaccompaniedimmigrant-children-trump-ice-orr-shelters/.

[13] ORR Data: Released to Sponsors.

only a few weeks.[14] 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."[15] To the contrary, the extended length of stay in ORR custody significantly harmed children's mental health and well-being.[16]

71. For the reasons enumerated above, prolonged detention of IT and ZT is not in their best interests.

FIRST CLAIM FOR RELIEF

VIOLATION OF THE DUE PROCESS CLAUSE OF THE FIFTH AMENDMENT OF THE CONSTITUTION (SUBSTANTIVE DUE PROCESS)

72. Plaintiff-Petitioners restate and reallege all paragraphs above as if fully set forth therein.

73. The government may not deprive a person of life, liberty, or property without due process of law. U.S. Const. amend. V. Due process protects "all 'persons' within the United States, including [non-citizens], whether their presence here is lawful, unlawful, temporary, or permanent." *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001).

74. The Supreme Court has long recognized family integrity as a fundamental liberty interest protected by the Constitution. *See Santosky,* 455 U.S. at 753; *Troxel v.*

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[14] *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*, at 13 (Sept. 2019), https://perma.cc/YLT7-R3HP (hereinafter "HHS OIG Report").

[15] John Burnett, *Several Thousand Migrant Children In U.S. Custody Could Be Released Before Christmas*, NPR (Dec. 18, 2018), https://perma.cc/6WHS-BNR6.

[16] *See, e.g.*, HHS OIG Report, 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.").

Granville, 530 U.S. 57, 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 this Court.") (collecting cases).

75. Courts have repeatedly held that the separation of children from their parents may not occur 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.") (internal citations and quotation marks omitted); *United States 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.*, 310 F. Supp. 3d at 1133, 1142-46 (holding government practice of separating asylum-seekers from their minor children at the border and failing to reunify them, without any showing that parents were unfit or presented danger to their children, was likely violation of substantive due process).

76. Substantive due process rights bar "certain government actions regardless of the fairness of the procedures used to implement them." *See Daniels v. Williams,* 474 U.S. 327, 331 (1986). The prolonged removal of a child from their parents' custody absent any showing that the child's parents are unfit, regardless of the procedures used to implement such a removal, is one such government action.

77. In the instant case, ORR has not made any showing that BVTR is unfit to parent IT

and ZT. She has participated in all background checks, a home study, regular visits, and provided significant documentation—including income verification and her ITIN to ORR demonstrating her ability to provide for IT's and ZT's physical and mental wellbeing. Walsh Aff. ¶¶ 25-27. The agency has nonetheless, irrationally and in a manner that shocks the conscience, delayed the adjudication of her application with no explanation and failed to release IT and ZT to her custody for over seven months.

78. As ORR has failed to make any showing that BVTR is unfit or otherwise presents a danger to IT and ZT, Defendant-Respondents have deprived IT and ZT of their due process right to family unity by failing to release them to their mother's custody for the last seven months.

SECOND CLAIM FOR RELIEF

VIOLATION OF THE DUE PROCESS CLAUSE OF THE FIFTH AMENDMENT OF THE CONSTITUTION (PROCEDURAL DUE PROCESS)

79. Plaintiff-Petitioners restate and reallege all paragraphs above as if fully set forth herein.

80. The government may not deprive a person of life, liberty, or property without due process of law. U.S. Const. amend. V. Due process protects "all 'persons' within the United States, including [non-citizens], whether their presence here is lawful, unlawful, temporary, or permanent." *Zadvydas,* 533 U.S. at 693.

81. Due process requires that the government may not deprive individuals 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, 424 U.S. at 335. Due process also requires that government action be rational and non-arbitrary. *See United States v. Trimble*, 487 F.3d 752, 757 (9th Cir. 2007).

82. Defendant-Respondents' policies and actions, as set forth above, have deprived IT and ZT (and BVTR) of their fundamental rights to freedom from confinement and family integrity without constitutionally sufficient due process. *See In re Gault*, 387 U.S. at 13 ("[N]either the Fourteenth Amendment nor the Bill of Rights is for adults alone . . ."); *Kia P.,* 235 F.3d at 759 (explaining 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.*, 826 F.3d at 740 (reasoning children have a fundamental "familial right to be raised and nurtured by their parents"); *Troxel*, 530 U.S. at 65 ("[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.").

83. As in similar cases of immigrant children separated from their parents, ORR's process for prompt placement with a parental sponsor "displays several significant deficiencies, especially in view of the magnitude of the private interest at stake." *Maldonado,* 2018 WL 2089348, at *8 (citing *Santos,* 260 F. Supp. 3d at 611-15; *Beltran*, 222 F. Supp. 3d at 482-89). These deficiencies include improperly placing the burden of proof on BVTR to demonstrate suitability rather than on ORR to justify its continued custody of IT and ZT; the failure to make adequate disclosures to BVTR about the status of her application; and inordinate delay. Although ORR is required to adjudicate family member sponsor applications within 10 days, 45

C.F.R. § 410.1205(b), it has been seven months since BVTR submitted her sponsorship application, and ORR still has not rendered a final decision.

THIRD CLAIM FOR RELIEF

VIOLATION OF THE TRAFFICKING VICTIMS PROTECTION REAUTHORIZATION ACT (TVPRA), 8 U.S.C. § 1232

84. Plaintiff-Petitioners restate and reallege all paragraphs above as if fully set forth herein.

85. Congress enacted the TVPRA specifically to facilitate the safe, speedy release and minimally restrictive placement of unaccompanied children. Defendant-Respondents have a non-discretionary duty under the TVPRA to "promptly" place IT and ZT "in the least restrictive setting" that is in their best interests. 8 U.S.C. § 1232(c)(2)(A). The least restrictive setting is likely to be release from ORR custody. *See* 8 U.S.C. § 1232(c)(2)(A); 45 C.F.R. § 410.1209(e); *Saravia*, 905 F.3d at 1143.

86. Defendant-Respondents have failed to act promptly to place IT and ZT in the least restrictive setting. BVTR has promptly complied with all sponsorship application requests. Her children have nonetheless been detained for seven months. Walsh Aff. ¶¶ 12, 25-27.

87. IT's and ZT's sponsor is their parent, BVTR, who is capable, proper, and fit. IT and ZT themselves do not present any flight risk or danger to the community. ORR's home study has found that BVTR is a suitable caregiver and that her home is a healthy environment for IT and ZT. *Id.* ¶ 25

88. Therefore, Defendant-Respondents have failed to place IT and ZT in the least restrictive setting that is in their best interests, the care of their mother/sponsor.

Defendant-Respondents' actions have resulted in IT's and ZT's unnecessary prolonged detention and separation from their suitable sponsor, in violation of Section 235 of the TVPRA, 8 U.S.C. § 1232.

FOURTH CLAIM FOR RELIEF

VIOLATION OF THE ADMINISTRATIVE PROCEDURE ACT, U.S.C. §§ 701 *et seq.*

89. Plaintiff-Petitioners restate and reallege all paragraphs above as if fully set forth herein.

90. Under the 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).

91. 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." 5 U.S.C. § 702.

92. The APA likewise provides a right of judicial review for "final agency action for which there is no other adequate remedy in a court." 5 U.S.C. § 704. 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.'" *Bennett v. Spear*, 520 U.S. 154, 177-78 (1997) (internal citations omitted.)

93. IT and ZT are "suffering legal wrong" because of Defendant-Respondents' actions delaying the adjudication of BVTR's sponsorship application over the course of

seven months and have been "adversely affected" by Defendant-Respondents' refusal to release them to their mother. Defendant-Respondents' actions also determine the "rights and obligations" of IT and ZT and create "legal consequences" of continued detention and separation from their family members, in violation of IT's and ZT's fundamental right to family integrity. *See Bennett* 520 U.S. at 177-78; *Duchesne*, 566 F.2d at 825; *Kia P.*, 235 F.3d at 759. Accordingly, IT and ZT are entitled to judicial review of ORR's actions under 5 U.S.C. §§ 702 and 704.

94. Pursuant to the TVPRA, ORR has a statutory obligation to "promptly" place IT and ZT "in the least restrictive setting" that is in their best interests and release them "without unnecessary delay." 8 U.S.C. § 1232(c)(2)(A); 45 C.F.R. § 410.1201(a). Instead, here, rather than requesting all required documents and steps for the sponsor vetting process at the time of BVTR's sponsorship application (on or around August 25, 2025), Defendant-Respondents made piecemeal requests over the course of months and failed to respond to repeated requests for status updates, which were made in a good-faith attempt to comply in a timely manner and address any anticipated concerns with BVTR's sponsorship.

95. Defendant-Respondents' failure to act "promptly" and to release IT and ZT "without unnecessary delay" to a fit, parental sponsor is therefore arbitrary, capricious, and not in accordance with the law. 5 U.S.C. § 706(2)(A)-(C).

96. Defendant-Respondents have violated IT's and ZT's regulatory rights under the APA by failing to abide by their statutory mandate to promptly release them to the least restrictive setting, by arbitrarily and capriciously imposing heightened

requirements on BVTR's sponsorship application without justification under the regulations, and by failing to follow their own regulatory and sub-regulatory timelines for adjudication and information collection. These actions collectively render IT's and ZT's continued detention and separation from their family unlawful. They have no recourse to judicial review other than by this action.

FIFTH CLAIM FOR RELIEF

VIOLATION OF THE *ACCARDI* DOCTRINE

97. Plaintiff-Petitioners restate and reallege all paragraphs above as if fully set forth herein.

98. Federal agencies and their officials are required to follow their own "existing valid regulations." *See Accardi*, 347 U.S. at 268. When an agency fails to comply with binding regulations, such actions are "not in accordance with law." *See Vitarelli v. Seaton*, 359 U.S. 535, 545 (1959).

99. Under the Foundational Rule, Defendant-Respondents have a non-discretionary duty to promptly place IT and ZT in the least restrictive setting that is in their best interests. 45 C.F.R. § 410.1003(f). ORR is also required to make and record *prompt and continuous* efforts towards a child's release. 45 C.F.R. § 410.1203(a) (emphasis added). The UC Policy Guide similarly requires that children are "released in a safe, efficient manner *without unnecessary delay*." UC Policy Guide § 2.1 (emphasis added).

100. The Foundational Rule requires home studies for potential sponsors only under the specific circumstances laid out in the TVPRA, as well as in certain cases involving non-relative sponsors. 8 U.S.C. § 1232(c)(3)(B); 45 C.F.R. § 410.1204(b). Absent these circumstances, the Foundational Rule provides that ORR "may, in its

discretion, initiate home studies if it determines that a home study is likely to provide additional information which could assist in determining that the potential sponsor is able to care for the health, safety, and well-being of the unaccompanied child." 45 C.F.R. § 410.1204(c). After imposing an unwarranted, discretionary home study, Defendant-Respondents continued to delay reunification even when the home study yielded a positive recommendation and failed to timely adjudicate BVTR's sponsorship application within the required 10 days. Despite the completion of the home study with a positive recommendation, ORR continues its failure to adjudicate her application.

101. Defendant-Respondents have failed to promptly place IT and ZT in the least restrictive setting that is in their best interests, in violation of Defendant-Respondents' own regulations and guidance. Defendant-Respondents have delayed adjudication of BVTR's application by slowly requesting information from her, over the course of multiple months, and failing to adequately provide updates, despite repeated requests and BVTR's prompt compliance with ORR's requests, including providing her identification, proof of income and address, ITIN number, and participating in a home study and invasive DNA testing. Walsh Aff. ¶¶ 15, 25-26. Now, despite having ample information to conclude that BVTR's is the biological parent of and a suitable custodian for IT and ZT, Defendant-Respondents' continue to detain IT and ZT without regard to their best interests and right to be placed in the least restrictive setting with their mother, BVTR.

102. As a result of Defendant-Respondents' violations of their own binding regulations, they have impermissibly delayed IT's and ZT's release and reunification with their

mother for over seven months and are holding IT and ZT unlawfully.

SIXTH CLAIM FOR RELIEF

WRIT OF HABEAS CORPUS PURSUANT TO 28 U.S.C. § 2241

103. Plaintiff-Petitioners restate and reallege all paragraphs above as if fully set forth herein.

104. As set forth above, Defendant-Respondents are holding IT and ZT in federal custody in violation of federal statutes, the Foundational Rule, their own agency policies guidance, and the U.S. Constitution.

105. Accordingly, Plaintiff-Petitioners seek writs of habeas corpus pursuant to 28 U.S.C. § 2241 compelling Defendant-Respondents to release IT and ZT to the custody and care of BVTR.

PRAYER FOR RELIEF

Plaintiff-Petitioners pray that the Court assume jurisdiction over this Petition and grant the following relief:

a. Assume jurisdiction over this matter;

b. Issue a Preliminary Injunction or, in the alternative, a Temporary Restraining Order, enjoining the Defendant-Respondents from transferring IT and ZT outside of the Southern District of New York, directing Defendant-Respondents to release IT and ZT to the custody and care of their mother BVTR, and enjoining their removal pending these proceedings;

c. Issue a Writ of Habeas Corpus directing Defendant-Respondents to release IT and ZT to the custody and care of their mother BVTR, without restraints on their liberty or under such conditions as the Court deems just and proper;

d. Award costs and reasonable attorneys' fees under the Equal Access to Justice Act, 5 U.S.C. § 504 and 28 U.S.C. § 2412, and any other applicable statute or regulation; and

e. Any other relief the Court deems just and proper.

Dated: March 28, 2026

Respectfully submitted,

By: /s/ Jay Holtmeier

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VERIFICATION PURSUANT TO 28 U.S.C. § 2242

Pursuant to 28 U.S.C. § 2242, the undersigned hereby verifies under oath that I have carefully reviewed the facts and legal arguments set forth in the above Emergency Verified Petition for Writ of Habeas Corpus, and that the allegations contained herein are true and correct to the best of my knowledge, information, and belief.

/s/ Jay Holtmeier
Jay Holtmeier