IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF PENNSYLVANIA
PITTSBURGH DIVISION

[redacted]C., a minor, by and through his Next Friend, [redacted]
Petitioner,

v.
ROBERT F. KENNEDY, JR., in his official capacity as Secretary of Health and Human Services; ANGIE SALAZAR, in her official capacity as Director of the Office of Refugee Resettlement; MARJORIE VICTOR, in her official capacity as Federal Field Specialist, Office of Refugee Resettlement; and Michael Sexauer in his official capacity as CEO of Holy Family Institute (HFI); U.S. Department of Health and Human Services (HHS); U.S. Office of Refugee Resettlement (ORR); Holy Family Institute (HFI)
Respondents.

Case No. _____

PETITION FOR WRIT OF HABEAS CORPUS

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There is no more fundamental constitutional interest than a parent's interest in the custody of his or her child. *Troxel v. Granville*, 530 U.S. 57, 65 (2002). The state may interfere with that interest only upon a showing made by "clear and convincing evidence" that the parent is unfit. *Santosky v. Kramer*, 455 U.S. 745, 769 (1982). Here, a child has been separated from his parents and younger siblings and held in a series of federal detention centers for over 500 days. The Office of Refugee Resettlement ("ORR") denied the *natural father's* application to have his son released to his care and to reunite his family. An Administrative Law Judge ("ALJ") affirmed this denial as a result of a series of substantive and procedural errors. The ALJ credited glaringly insubstantial evidence; applied a standard that was inappropriately deferential to the Government; and shifted the burden to the parents to prove their worthiness to have custody of

their own child instead of requiring ORR to justify the continued separation of the family in violation of the child's fundamental constitutional rights to be free from unlawful custody and to family unity.

Accordingly, [redacted]C., a minor, petitions by and through his "next friend," his natural father Mr. [redacted] ("Mr. Q.C."),[1] for a Writ of Habeas Corpus, pursuant to 28 U.S.C. § 2241 and the Administrative Procedures Act, 5 U.S.C. § 701, *et seq.* to end his continued unlawful detention and to reunite the family. Petitioner hereby requests that an immediate hearing be set on this matter. Petitioner also requests that he be released into his father's custody during the pendency of this Petition. In support of this Petition, Petitioner alleges as follows:

JURISDICTION

1. Petitioner is in the physical custody of the Respondents. He is detained at Holy Family Institute in Pittsburgh, Pennsylvania located within this district. This action arises under the Constitution of the United States and the Immigration and Nationality Act (INA), 8 U.S.C. § 1101 *et seq.*, and its implementing regulations.

2. This Court has subject matter jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, § 9, cl. 2 of the United States Constitution (Suspension Clause) and 5 U.S.C. § 701 (the Administrative Procedure Act). This Court has additional remedial authority under 28 U.S.C. §§ 2201 and 2202 (Declaratory Judgment Act) to grant injunctive and declaratory relief.

3. This Court may grant relief under the habeas corpus statute, 28 U.S.C. § 2241 *et*

[1] In accordance with LCvR 5.2(D) of the United States District Court for the Western District of Pennsylvania, [redacted]C., a minor, is referred to throughout by his initials. Mr. [redacted] is hereafter referred to by his initials merely for the sake of brevity.

seq., the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28 U.S.C. § 1651.

VENUE

4. Venue is proper because the Petitioner A.E.Q.C. is in the custody of ORR at the Holy Family Institute in Pittsburgh, PA, which is within this District.

5. Venue is also proper in this Court pursuant to 28 U.S.C. § 1391(e) and §1391(b)(2) because Respondents are employees, officers, and agencies of the United States, and because a substantial part of the events or omissions giving rise to the claims occurred in the Western District of Pennsylvania.

PARTIES

6. Petitioner A.E.Q.C. is a 15-year-old child currently in the custody of ORR. Petitioner is detained at Holy Family Institute in Pittsburgh, PA. He is in the custody, and under the direct control, of Respondents and their agents.

7. Next Friend-Petitioner Mr. Q.C. is the father of A.E.Q.C. He currently lives in Philadelphia, PA with A.E.Q.C.'s natural mother, Mrs. [redacted] and A.E.Q.C.'s younger siblings. Mr. Q.C. has a close relationship with A.E.Q.C., is committed to his welfare, and has standing to serve as next friend because A.E.Q.C. is unable, by reason of his age and immigration status, to litigate on his own behalf. *See Whitmore v. Arkansas*, 495 U.S. 149, 163-64 (1990).

8. 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 ultimately responsible for the ongoing custody of Petitioner. Respondent Kennedy is sued in his official

capacity.

9. 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 Petitioner's ongoing custody. Respondent Salazar is sued in her official capacity.

10. Respondent Michael Sexauer is the Chief Executive Officer of Holy Family Institute, which operates the shelter where A.E.Q.C. is presently in custody. Mr. Sexauer is therefore his direct custodian for purposes of the instant habeas petition. Respondent Mr. Sexauer is sued in his official capacity.

11. 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.

12. Respondent Office of Refugee Resettlement ("ORR") is a component agency of HHS and is responsible for the care, custody, and wellbeing of unaccompanied immigrant children.

13. Respondent Holy Family Institute ("HFI") is an agency licensed by the State of Pennsylvania and contracted by ORR to provide care for unaccompanied immigrant children.

REQUIREMENTS OF 28 U.S.C. § 2243

14. The Court should grant the petition for writ of habeas corpus or issue an order to show cause (OSC) to the Respondents "forthwith," unless the petitioner is not entitled to relief. 28 U.S.C. § 2243. If an order to show cause is issued, the Court should require Respondents to file a return "within *three days* unless for good cause additional time, not exceeding twenty days, is allowed." *Id.* (emphasis added).

15. The expedition with which petitions for writs of habeas corpus are addressed reflects the fact that courts have long recognized the significance of the habeas statute in protecting individuals from unlawful detention. The Great Writ has been referred to as "perhaps the most important writ known to the constitutional law of England, affording as it does a *swift* and imperative remedy in all cases of illegal restraint or confinement." *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis added).

STATEMENT OF FACTS

I. A.E.Q.C.'s arrival and Mr. Q.C.'s Family Reunification Application

16. Petitioner, A.E.Q.C. is a 15-year-old citizen of Guatemala who resided with his family in Guatemala before coming to the United States. He speaks [redacted] He lived with his father and mother for the first nine years of his life, until his father left for the United States in 2019. Two years later, in 2021, A.E.Q.C. was entrusted to the care of his grandparents when his mother joined his father in the United States in the hopes of improving the family's safety, economic and educational prospects. In 2024, A.E.Q.C. wanted to reunite with his mother, father, and younger siblings. He traveled to the U.S. border in the care of his uncle.

17. On December 29, 2024, A.E.Q.C. arrived in the United States near Santa Teresa, New Mexico, where he was designated as an unaccompanied minor. A copy of the DHS Notice to Appear accompanies this Petition as Ex. 1. On January 1, 2025, he was transferred to the custody of ORR. A copy of the ORR Placement Authorization Form accompanies this Petition as Ex. 2.

18. Immediately after A.E.Q.C. arrived in the United States, his biological parents began the process to be reunited with their son. Within weeks, A.E.Q.C.'s parents provided all

the necessary documents to confirm their parentage of A.E.Q.C., verify their identities, and demonstrate their desire to have their son at home. The proof included the parents' passports, City of Philadelphia identification cards, birth certificates, and a marriage certificate.

19. On January 2, 2025, Petitioner's father participated in a video call with ORR staff to verify his identity against his passport and City of Philadelphia identification card.

20. On January 8, 2025, he provided his fingerprints for the FBI criminal background check, which was returned to ORR with no criminal background found the following day.

21. Although he had already provided multiple forms of proof of his biological relationship which should have established his presumptive right to custody, Mr. Q.C. nevertheless formally submitted a Family Reunification packet to ORR on January 15, 2025 with himself listed as the proposed "sponsor," and Mrs. [redacted] the biological mother of A.E.Q.C., listed as the "alternate caregiver." ORR's sponsorship application does not allow for both natural parents to apply for their child's release, instead mandating that at least one parent apply as an alternate caregiver to seek custody of their child.

22. Although there was no reason to doubt his paternity, ORR required A.E.Q.C.'s father to undergo a DNA test on February 2, 2025, in accordance with a new ORR policy to confirm the biological relationship. A copy of the UAC Portal Sponsor Assessment accompanies this Petition as Ex. 3. ORR also sent the birth and marriage certificates to be authenticated by an independent organization. ORR received proof of authentication the following day, on February 3, 2025.

23. On February 3, 2025, Petitioner's father also provided information allowing ORR to request Child Abuse and Neglect Background checks. Those background checks were returned to ORR in March 2025 with no indication of prior child abuse or neglect.

24. A.E.Q.C.'s parents were familiar with the ORR sponsorship process. Between 2021 and 2024, A.E.Q.C.'s mother sponsored two of her younger brothers and Mr. Q.C. sponsored a niece and three children of family friends from Guatemala. All those children resided safely in their home for years and none were removed from their care.

25. On February 4, 2025, the parents underwent a comprehensive Home Study Assessment mandated by ORR. An inspector visited the family's home in Philadelphia and conducted a thorough assessment of the parents' ability to care for their son and to ensure his safety. A copy of the Home Study accompanies this Petition as Ex. 4.

26. Two days later, the home study was submitted to ORR with a positive assessment recommending that A.E.Q.C. be released to his father's care and stating that "no concerns were raised during the home study." Ex. 4 at 18. In fact, the assessor noted that the three children who lived in the household were all "healthy and well-cared for." Furthermore, the home study noted that the family lived in a safe and stable home with access to community resources and that the parents provided a "strong support system" with his father credibly expressing "a clear willingness and commitment to provide A.E.Q.C. with a nurturing environment and healthy relationship." Ex. 4 at 16, 18.

27. On February 17, 2025, the results from a DNA test required of Mr. Q.C. were returned providing incontrovertible proof that Mr. Q.C. was the biological father of A.E.Q.C.

28. For the next few months, the parents anxiously awaited their son's release without any decision from ORR.

29. In May 2025, A.E.Q.C's parents provided additional documents at the request of ORR to verify their identity yet a third time, and to demonstrate proof of income as part of new

heightened vetting requirements implemented by ORR. A copy of the UAC Portal Event Intentional Fraud accompanies this Petition as Ex. 5.

30. The parents quickly provided proof of income documents to ORR. Copies of the proofs of income documents accompany this Petition as Exs. 6 (Seven Seas) and 7 (Labor Team USA Inc.). Upon receipt, ORR alleged discrepancies in the documents which they insisted amounted to fraud. Two documents submitted by the father reported different weekly payment amounts, and the mother submitted proof of employment with the name of another person. Ex. 5 at 4.

31. When questioned about the discrepancies in the documents, A.E.Q.C.'s mother, upon seeing the error, promptly obtained an accurate proof of income letter which she submitted the very next day. Ex. 5 at 4; Ex. 7. Mr. Q.C. also clarified that the difference in income amounts reflected in the two documents from his employer was due to a change in hours for his work schedule. Ex. 6.

32. A.E.Q.C.'s parents should never have been subjected to these additional requirements. Indeed, shortly thereafter, ORR was enjoined from enforcing their heightened sponsor document requirements.[2]

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[2] On June 9, 2025, the U.S. District Court for the District of Columbia concluded that it was "substantially likely that ORR acted arbitrarily and capriciously by not providing adequate justification for its new sponsor documentation requirements," and enjoined ORR from enforcing the new proof of identification requirements against a class containing: all unaccompanied children who were in or transferred to the custody of HHS on or before April 22, 2025, and who (a) have or had a potential sponsor who has been identified; and (b) the sponsor's family reunification application has been denied, closed, withdrawn, delayed, or cannot be completed because the sponsor is missing documents newly required on or after March 7, 2025. *See* ECF No. 35 at 24, *Angelica S.* v. *HHS*, No. 1:25-cv-01405-DLF (D.D.C. 2025) (Memorandum Opinion and Order Granting Class Certification, Granting in Part and Denying in Part Preliminary Injunction).

33. Over the next 7 months, his parents waited with no decision on their application and no updates from ORR as to any next steps.

34. While they waited months for a decision from ORR, the father's niece, whom he had sponsored from ORR custody in 2023, and his two younger children remained safe, happy and healthy in Mr. Q.C.'s home.

II. AEQC's Deterioration in ORR custody

35. While his parents' application for sponsorship was delayed, A.E.Q.C. languished in custody and his mental health began to deteriorate.[3]

36. Since he was taken into custody by ORR over 500 days ago, A.E.Q.C. has been moved to six different shelters, in four different states. He was transferred from Texas to New Jersey to New York and then back to Texas for three weeks before being placed most recently in Pittsburgh, PA at the Holy Family Institute. With each transfer, A.E.Q.C.'s health, education and well-being were placed at risk.

37. When he arrived at the first facility, Compass Connections Cameron in Los Fresnos, Texas, A.E.Q.C. was described as cooperative, alert, and calm. A copy of the January 1, 2025 Initial Intake Assessment accompanies this Petition as Ex. 8. In the early weeks of his custody, A.E.Q.C. attended school and filled his days with a variety of activities, such as playing board games, watching TV and listening to music, and participating in soccer, volleyball, and

[3] Unfortunately, A.E.Q.C.'s prolonged detention and separation from his 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. In 2025 this average jumped to 117 days. ("Data – Average Length of Care," OFFICE OF REFUGEE RESETTLEMENT, https://acf.gov/orr/about/ucs/facts-and-data (last accessed April 30, 2026)). The latest published data shows that as of March 2026, the average stay in custody was a staggering 209 days. ("Data – Average Monthly Data," OFFICE OF REFUGEE RESETTLEMENT, https://acf.gov/orr/about/ucs/facts-and-data (last accessed April 30, 2026)).

other outdoor recreation. A copy of the Compass Connections Daily Activity Log from January 2025 accompanies this Petition as Ex. 9.

38. However, only able to speak by phone with his parents in Philadelphia and increasingly isolated from his family, A.E.Q.C. started withdrawing from daily activities. His parents were alarmed by his deterioration.

39. The detention center staff also noticed a shift in his behavior and well-being, describing him as belligerent, oppositional, and aggressive. A copy of the Daily Activity Log from July 21, 2025 accompanies this Petition as Ex. 10. After six months in custody, he began having incidents with other youth and staff.

40. In July 2025, A.E.Q.C. was transferred to the Center for Family Services in Burlington, NJ, with the government ironically recognizing that he would "benefit from a lateral transfer to a shelter *near his family* in Pennsylvania." A copy of the Transfer Request Form accompanies this Petition as Ex. 11 (emphasis added).

41. In New Jersey, A.E.Q.C. was finally able to see his parents and siblings in person in October 2025, almost ten months after arriving in the United States. A.E.Q.C.'s clinician took note of the positive effect seeing his family had on A.E.Q.C.'s behavior. The clinician's notes described a loving and supportive relationship between A.E.Q.C. and his family. A copy of the October 9, 2025 Center for Family Services Shelter Family Session Progress Note accompanies this Petition as Ex. 12.

42. The clinician also reported to ORR that they had no concerns about the parents' ability to care and provide for their son. They did have concerns about the child's well-being if he remained in ORR custody, however. Ex. 12 at 2.

43. Ten months after his parents requested that he be released to their care, A.E.Q.C.'s mental health further deteriorated in ORR custody, and he began to harm himself. On October 30, 2025, [redacted] A copy of the November 2, 2025 Center for Family Services Shelter Individual Progress Note accompanies this Petition as Ex. 13. A.E.Q.C. later explained that [redacted] sad about being unable to reunite with his dad. *Id.*

44. As a result of his deteriorating mental health, A.E.Q.C. was subsequently transferred twice to shelters with increasing levels of restriction and security.

45. On November 1, 2025, A.E.Q.C. was transferred to the Center for Family Services Northfield shelter in Northfield, NJ. A copy of the Placement Authorization Form accompanies this Petition as Ex. 14.

46. Approximately two weeks later, on November 17, 2025, A.E.Q.C. was transferred to a fourth facility in less than a year: Children's Village in Dobbs Ferry, New York, a facility with the highest level of security for youth in ORR custody. A copy of the Placement Authorization Form accompanies this Petition as Ex. 15.

47. Within days of arriving in New York, A.E.Q.C. was diagnosed with Attention Deficit Hyperactivity Disorder (ADHD) by the program psychiatrist. A copy of the Notice of Placement in a Restrictive Setting, recording the diagnosis, accompanies this Petition as Ex. 16. As part of the shelter's plan to address his behavior, A.E.Q.C. was "allowed phone calls to his father to help de-escalate." *Id.*

48. On November 12, 2025, an independent advocate was appointed for A.E.Q.C. from the Young Center for Immigrant Children's Rights ("Child Advocate"), an independent non-profit specifically charged with providing independent advocacy to unaccompanied minors

caught up in the immigration apparatus. The Young Center conducted a thorough review of his case. A copy of the Young Center Best Interest Determination dated March 2, 2026 accompanies this Petition as Ex. 17.

49. As an independent third-party, the Child Advocate reviewed all the available information in the case record including ORR case files, the Home Study Assessment, and clinician's notes from the multiple shelters to determine what was in A.E.Q.C.'s best interest. In its best interest determination ("BID"), the Child Advocate concluded: "[t]o honor [A.E.Q.C.'s] right to family unity, uphold Mr. [Q.C.'s] parental rights, and prevent the harms of prolonged separation on [A.E.Q.C.'s] mental health and wellbeing, we have determined that it is in [A.E.Q.C.'s] best interests for him to be promptly reunited with his father." Ex. 17 at 1.

III. Denial of Release and Mr. Q.C.'s Appeal

50. For months, despite their son's alarming deterioration in care, his parents received little information or opportunity to respond to any concerns raised as to their ability to care for their son. Instead, they waited for ORR to render a decision on their application. Finally, almost a full year after their son arrived in the United States, ORR denied the parents' application and notified the father by letter on December 16, 2025. A copy of the Denial Letter accompanies this Petition as Ex. 18.

51. The denial letter cited two reasons for the denial: (1) the family provided fraudulent information; and (2) risk of release.

52. The notice was opaque in its explanation of the bases of denial: (1) that the father and mother provided false information related to their employment as part of the sponsorship application; and (2) and that they had violated a past sponsorship agreement by allegedly failing to enroll adolescents they had sponsored in school quickly enough, and a report by one child,

then a seventeen year old, that he was made to pay for rent, utilities, and clothes while he resided in A.E.Q.C.'s home.

53. The notice of denial letter also provided a limited set of supporting documents, some of which were redacted, as well as instructions for requesting an appeal of the decision. Ex. 18 at 4.

54. Shocked and now desperate to reunite with their son whose mental health they knew was rapidly and significantly deteriorating, A.E.Q.C.'s parents sought counsel and requested an appeal of ORR's decision on January 30, 2026.

55. That same day, A.E.Q.C. was transferred to his fifth placement, 1,700 miles away, to a heightened supervision facility back at Compass Connections in San Antonio, Texas after the abrupt closure of Children's Village in New York. A copy of the Placement Authorization Form accompanies this Petition as Ex. 19.

56. On February 9, 2026, ORR filed a brief in opposition to the father's appeal and only at that point attached additional relevant documents which were not included as attachments to the notice of denial. Additionally, after the request to appeal was filed, ORR provided *for the first time* the full evidentiary record totaling over 10,000 pages and including detailed case reports, medical and psychological evaluations of A.E.Q.C., consents for medication, and correspondence between ORR field specialists and external agencies charged with providing care for A.E.Q.C. and making recommendations in his case.

57. On March 4, 2026, a virtual hearing was held before Administrative Law Judge Kourtney LeBlanc. ORR was represented by a non-attorney representative. ORR called no witnesses and presented no evidence. The father was represented by counsel and testified during the hearing. A.E.Q.C.'s Child Advocate from the Young Center, Catalina Lopez, also testified in

support of the father's appeal and in support of releasing A.E.Q.C. to his parents' care, over the objection of ORR. A copy of the March 16, 2026 decision of the ALJ accompanies this Petition as Ex. 20.

58. At the beginning of the hearing, ORR sought to exclude the testimony of the Young Center Child Advocate even though her testimony as an government appointed, independent advocate would speak directly to the child's best interests and was based on her ongoing relationship with A.E.Q.C., regular participation in meetings with shelter staff regarding the child's needs, conversations with the biological parents and review of the entire ORR record. The ALJ denied this request.

59. ORR limited its cross examination of the Child Advocate to establishing only that ORR was not bound by law to follow the Child Advocate's determination of the child's best interest. Ex. 20 at 7. Notably, ORR did not address the merits of the Child Advocate's determination, did not address why the determination should not have been taken into account in the denial decision, and did not seek to undermine any of the Child Advocate's findings that A.E.Q.C.'s release to his family was in the child's best interest and continued custody in ORR was not.

60. On March 16, 2026, the ALJ rendered a decision upholding ORR's determination to deny release of A.E.Q.C. to his father. Ex. 20.

61. The decision makes clear that the ALJ fundamentally misunderstood her role and the applicable standards that should have governed her analysis of a request of a *parent* for their child to be released to their care. Specifically, the ALJ erred in the following ways:

a. The ALJ did not conduct a *de novo* review of the merits of the parents' application as is required in ORR's own policy guide but instead described her

role as to decide simply "[w]hether ORR had a legitimate basis for denying Petitioner's application to become A.E.Q.C.'s sponsor." Ex. 20 at 2.

c. Regarding the overall standard of proof, the ALJ noted that "[t]he regulation is silent with regard to the standard of proof in these matters. 45 C.F.R. § 410.1206." Ex. 20 at 3. Nevertheless, the ALJ concluded that "courts have consistently held that in the absence of statutory or regulatory guidance, preponderance of the evidence is the traditional burden of proof in civil administrative proceedings . . . . This standard requires the proponent to demonstrate that their claim is more likely true than not." Ex. 20 at 3-4. In fact, the ALJ placed the burden of proof on Mr. Q.C. and failed to apply the constitutionally mandated "clear and convincing evidence" standard.

d. The ALJ established no rules or standards for the use of evidence. Indeed, ORR bore no burden to present evidence or to call witnesses to corroborate any of the evidence they relied upon in making their determination.

e. Instead, the ALJ seemingly incorporated the rules from the Departmental Appeals Board (DAB) which typically handles appeals from the Centers for Medicare & Medicaid Services (CMS), Department of Health and Human Services (HHS), Office of Medicare Hearings and Appeals (OMHA) and Social Security Administration (SSA). The rules of evidence for the DAB state that "[t]he ALJ is not bound by the Federal Rules of Evidence; however, the ALJ may apply the Federal Rules of Evidence where appropriate, for example, to exclude unreliable evidence." A copy of the Civil Remedies Division Procedures accompanies this Petition as Ex. 21 at 19.

f. The ALJ failed to acknowledge at any point that the application for sponsorship by a *parent* implicates constitutional liberty interests that demand that the case be reviewed under different standards than that which might be appropriate in reviewing a sponsorship application by non-parents or other civil administrative proceedings.

62. On the merits, the ALJ decision dismissed ORR's first stated basis for the denial of the father's sponsorship application concluding that "ORR did not meet its burden to prove that neither the Petitioner nor the ACG committed fraud with regard to their salary information." Ex. 20 at 7.

63. When it came to the allegations that Mr. Q.C. had failed to comply with past sponsorship agreements, the ALJ found "[t]he record does support that there may have [been] difficulties with the school processes for the two UAC sponsored by the [Mr. Q.C.] and, therefore, that is not likely grounds enough to deny the sponsorship application." Ex. 20 at 6.

64. That left only the allegation that Mr. Q.C. had required one, and only one of the minors in Mr. Q.C.'s care, a seventeen-year-old at the time, to pay for room and board. Mr. Q.C. flatly denied this allegation.

65. ORR presented no witness to testify regarding the allegation at the hearing and instead provided a record of a case note entry referencing the allegation as part of pre-hearing briefing. *See* Ex. 3 at 5.

66. The allegation was based on an August 24, 2024 referral in which a case manager reported that a 17-year old in Mr. Q.C's care alleged that he was being asked to pay for room and board. That allegation was referred because the prospect that a minor was being asked to pay for room and board raised the possibility of trafficking.

67. Despite the August 24, 2024, referral, ORR took no action, and the child remained in Mr. Q.C's care until he turned 18 and left the home.

68. Six months later, in January 2025, after A.E.Q.C. arrived in the United States, an ORR representative spoke directly to the youth in question. Now an adult, he apparently at first denied the allegation, then when pressed repeated that he paid for some of his room and board. However, ORR also spoke with the other sponsored children in Mr. Q.C's care, all of whom denied being required to pay for room and board and described their care in Mr. Q.C.'s home as supportive. *See* Ex. 3 at 5.

69. Whatever level of seriousness ORR attached to this allegation, at no time did ORR move to remove the three sponsored children from Mr. Q.C.'s home. There was no indication that ORR ever informed state authorities about this allegation.

70. The ALJ failed to demand that ORR provide *any* evidence beyond this account of a phone call conversation – itself double hearsay, with no proof of proper language interpretation or any requirement that ORR proffer corroborating evidence admissible pursuant to the Federal Rules of Evidence or any other standard of evidentiary validity.

71. In so doing, she clearly placed the burden on Mr. Q.C. to go beyond his own clear and honest testimony denying the allegations and to bear the onus of offering evidence to prove the negative.

72. As proof of her misallocation of the burden of proof, the ALJ noted that the allegation could have been rebutted by the father stating "[i]f the UAC wishes to retract or revise his statement, Petitioner should have the UAC provide that in writing or otherwise communicate it to ORR." Ex. 20 at 5. A parent should never face the burden of proving his or her own fitness and should not have had to bear the onus of disproving ORR's unsubstantiated contentions.

73. In fact, Mr. Q.C. has made efforts to contact the youth, now an adult, who made the allegation, including reaching out to his family members since he is currently being held in an immigration detention facility. Those efforts have not been successful.

74. Although the ALJ described the case as "incredibly difficult," Ex. 20 at 7, she nonetheless upheld ORR's decision to deny release, finding that they had a legitimate basis for their decision; "Therefore, I find that ORR acted within its authority when it denied Petitioner's sponsorship application." Ex. 20 at 6. The ALJ could never have reached this conclusion had she applied the correct, constitutionally mandated standard of whether ORR had shown by clear and convincing evidence that Mr. Q.C. and his wife were unfit to parent A.E.Q.C.

75. The ALJ's failure to use the constitutionally required standard and other procedural errors had devastating effects. It allowed her to ignore the overwhelming evidence of what was in A.E.Q.C.'s best interest. For example, the ALJ never addressed the results of ORR's home study recommending release of A.E.Q.C., nor the reports from A.E.Q.C.'s caseworkers regarding his deterioration in custody and significant attachment and bond with his parents, nor the Child Advocate's best interests determination, all of which supported immediate release to his family.

IV. Continued Risk of Harm to A.E.Q.C. in ORR's Custody

76. On May 6, 2026, the Young Center Child Advocate submitted an Addendum to the Child Advocate Best Interests Determination in Support of Family Reunification for Unaccompanied Child A.E.Q.C. to ORR Federal Field Specialist, Sonnya M. Acuqui, urging

ORR to reconsider reunification following the administrative denial. A copy of the Young Center Addendum BID Report accompanies this Petition as Ex. 22.

77. The addendum recommended A.E.Q.C.'s release because:

> However, we urge ORR to reconsider [A.E.Q.C.]'s father's application, as the administrative law judge's decision was based on trafficking concerns that could not be verified and were, in fact, refuted by the alleged victim. Given [A.E.Q.C.]'s mental health and his connection to his culture and family, we believe that family reunification remains in [A.E.Q.C.]'s best interests as the available objective evidence indicates that his parents can provide for his safety and wellbeing. Ex. 22 at 1.

78. The Child Advocate highlighted that releasing A.E.Q.C. to his parents poses no risk of safety, and on the contrary, would "immediately alleviate" at least some of his mental health struggles that he has been facing because of his prolonged detention. Ex. 22 at 2, 4.

79. The Child Advocate found that A.E.Q.C.'s mental health needs would be more effectively supported and met in a home setting supported by his parents.

80. In his prolonged stay in detention, A.E.Q.C. has been diagnosed with Adjustment Disorder as well as ADHD. The Child Advocate strongly believes that the A.E.Q.C.'s Adjustment Disorder would be "immediately alleviate[d]" in being released to the care of his parents and the second diagnosis is regularly managed on an outpatient basis. A.E.Q.C.'s psychiatrist has also referred him for further neuropsychological testing to assess whether he has other disabilities or disorders, but his current custodians and ORR have failed to initiate this evaluation. Ex. 22 at 3.

81. Meanwhile, A.E.Q.C. continues to suffer from the adverse impact of prolonged detention and separation from his parents. The instability, trauma, and frustration "has drained [A.E.Q.C.'s] emotional resources." Ex. 22 at 2.

LEGAL FRAMEWORK

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

82. The care and custody of unaccompanied immigrant children is governed by a legal framework consisting of the Homeland Security Act of 2002, the Trafficking Victims Protection Reauthorization Act, the 1997 *Flores* Settlement Agreement, and the Foundational Rule, 45 C.F.R § 410, *et seq*.

83. 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"). The agreement remains under the supervision of U.S. District Judge Dolly M. Gee in the Central District of California. *Flores v. Bondi*, No. 2:85-cv-4544-DMG (AGRx) (C.D. Cal.). However, following the promulgation of the Foundational Rule, the Flores Settlement Agreement was partially terminated as to HHS. *Flores v. Garland*, No. 2:85-cv-4544-DMG (AGRx), 2024 WL 3467715 (C.D. Cal. June 28, 2024).

84. 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.

85. Congress determined that caring for such children and prosecuting immigration enforcement were incompatible roles and should not be housed within a single agency. [4] 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…").

86. Congress then expanded protections for unaccompanied children in the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 ("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.*

87. The TVPRA 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).

88. The TVPRA makes no distinction between a proposed custodian with no biological relationship to a child and a parent.

89. Significantly, immigration status is not a statutory concern in a sponsorship application. This is a built-in protection against denying sponsors based on immigration status precisely so that a child's welfare may be always at the forefront of concern. *See J.E.C.M.*, 352

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4 *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.")

F. Supp. 3d 559, 583 (E.D. Va. 2018) ("A policy that systematically elevates immigration enforcement over child welfare, one whose effects are to destabilize would-be sponsors' home environments and to discourage potential sponsors from applying for reunification, is flatly inconsistent with ORR's statutory responsibility to care for unaccompanied minors in its custody and release them promptly to safe and stable environments.").

90. In 2024, recognizing that children belong with their families and in the least restrictive setting, 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.*).

91. The Foundational Rule establishes the "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.*

92. Releasing children as soon as is reasonably possible is critical given the risk of harms from continued separation from parents and family and the impact of government custody on children's physical, mental and emotional well-being. The Foundational Rule establishes that "ORR shall release a child from its custody without unnecessary delay" to suitable sponsors in a

specific order of preference, with parents and legal guardians taking priority. 45 C.F.R. § 410.1201(a).

93. Specifically, the Foundational Rule 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 . . . absent an unexpected delay". *Id.* § 410.1205(b).

94. The Foundational Rule does not provide for any procedure to contest the agency's 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. *Id.* § 410.1206(a), (f).

95. Critically here, the Foundational Rule fails to provide clear procedural and substantive guidelines respecting the constitutional protections for natural parents to the custody of their children. The Foundational Rule lacks any guidance on the standard for review, burden of proof, or rules of evidence thereby incorporating by default the rules established by the Departmental Appeals Board with no requirement to follow the Federal Rules of Evidence.

96. Indeed, the Foundational rule notes that ""[u]naccompanied children generally remain in ORR custody until they are released to a vetted and approved parent or other sponsor in the United States, are repatriated to their home country, obtain legal status, or otherwise no longer meet the statutory definition of an unaccompanied child (*e.g.,* turn 18)." (III A.). The notion of "vetted and approved parent" simply does not fit with well-settled constitutional principles on the importance of family integrity.

97. ORR's sub-regulatory framework is laid out in the ORR Unaccompanied Alien Children Bureau Policy Guide ("UC Policy Guide"). The UC Policy Guide is available on

ORR's website. Office of Refugee Resettlement, *Unaccompanied Alien Children Bureau Policy Guide* (2026), https://acf.gov/orr/policy-guidance/unaccompanied-children-bureau-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.

98. 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." *Id.* 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.*

99. Since January 2025, the UC Policy Guide has been modified several times, without notice and comment, to heighten sponsorship vetting requirements. 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 sponsor home studies in new circumstances beyond those mandated under the Foundational Rule and the TVPRA (July 14, 2025); requiring all sponsors, alternative care givers, and adult household members to undergo public records background checks of criminal history (February 27, 2026); requiring all sponsors, alternative

care givers, and adult household members to undergo FBI fingerprint background checks (March 6, 2026) Office of Refugee Resettlement, *ORR Unaccompanied Alien Children Bureau Policy Guide: Record of Posting and Revision Dates* (2026), https://acf.gov/orr/policy-guidance/unaccompanied-children-program-policy-guide-record-posting-and-revision-dates.

100. Like the Foundational Rule, the Policy Guide does not draw a clear distinction between a parent and other persons seeking to be sponsors.

II. Constitutional Framework Regarding Detained Children.

101. 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.).

102. 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 government interference); *Smith v. Org. of Foster Families for Equality & 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."). "Parents have a "constitutionally protected liberty interest ... in the

custody, care and management of their children." *Croft v. Westmoreland Cnty. Children & Youth Servs.*, 103 F.3d 1123, 1125 (3d Cir. 1997).

103. Eight Circuit Courts of Appeals (although not yet the Third Circuit) and several U.S. District Courts in other circuits have held that children have a right to family integrity, and no federal court of appeals has ruled to the contrary. *Suboh v. Dist. Att'y's Off. of Suffolk Dist.*, 298 F.3d 81, 91 (1st Cir. 2002); *Duchesne v. Sugarman*, 566 F.2d 817, 825 (2d Cir. 1977); *Rivera v. Marcus,* 696 F.2d 1016, 1026 (2d Cir. 1982); *Southerland v. City of New York*, 680 F.3d 127, 142 (2d Cir. 2012); *Jordan ex rel. Jordan v. Jackson*, 15 F.3d 333, 346 (4th Cir. 1994); *Wooley v. City of Baton Rouge*, 211 F.3d 913, 921 (5th Cir. 2000); *Berman v. Young*, 291 F.3d 976, 983 (7th Cir. 2002); *Brokaw v. Mercer County*, 235 F.3d 1000, 1018–19 (7th Cir. 2000); *Smith v. City of Fontana*, 818 F.2d 1411, 1418 (9th Cir. 1987), *overruled on other grounds*, *Hodgers-Durgin v. de la Vina*, 199 F.3d 1037 (9th Cir. 1999) (en banc); *United States v. Wolf Child*, 699 F.3d 1082, 1091 (9th Cir. 2012); *Wallis ex rel. Wallis v. Spencer,* 202 F.3d 1126, 1136 (9th Cir. 1998); *J.B. ex rel. L.B. v. Washington County*, 127 F.3d 919, 927 (10th Cir. 1997); *Starkey ex rel. A.B. v. Boulder Cnty. Soc. Servs.*, 569 F.3d 1244, 1253 (10th Cir. 2009); *de Robles v. Immigr. & Naturalization Serv.*, 485 F.2d 100, 102 (10th Cir. 1973); *Franz v. United States*, 707 F.2d 582, 595 (D.C. Cir. 1983); *Butera v. District of Columbia*, 235 F.3d 637, 655 (D.C. Cir. 2001); *Kenny A. ex rel. Winn v. Perdue*, 356 F. Supp. 2d 1353, 1359 (N.D. Ga. 2005); *see also* Shanta Trivedi, *My Family Belongs to Me: A Child's Constitutional Right to Family Integrity*, 56 Harv. C.R.-Civ. Lib. L. Rev. 267, 282 (2021) (collecting cases); *see also* National Center for Youth Law, Child's Right to Family Integrity: Federal Circuit Cases, https://www.americanbar.org/content/dam/aba/publications/litigation_committees/childrights/family-integrity-circuit-handout-final.pdf. For example, the Fourth Circuit has stated, "[j]ust 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." *D.B. ex rel. R.M.B. v. Cardall*, 826 F.3d 721, 740 (4th Cir. 2016).

104. Courts have specifically recognized the fundamental significance of the right to family integrity for children in ORR custody. *See, e.g.*, *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 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)); *Maldonado v. Lloyd*, 2018 WL 2089348 at *7 (S.D.N.Y 2018) (concluding that prolonged ORR sponsorship suitability process was violation of child's "right to family integrity,"); *Santos v. Smith*, 260 F. Supp. 3d 598, 612 (W.D.V.A. 2017) ("[T]he interest in family reunification remains fundamental...and is deserving of significant due process protections.,"); *E.H.C.F. by Contreras Flores v. Kennedy*, 2026 WL 145229 at *22 (D. Conn. 2026) (finding that the minor child in ORR custody had a protected liberty interest in being reunited with his parent); *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).

105. Moreover, courts have repeatedly held that it is a violation of substantive due process to separate children from their parents absent a "clear and convincing" showing that the parent is unfit or is otherwise endangering the child. *Santosky* 455 U.S. at 747-48 ("Before a State may sever completely and irrevocably the rights of parents in their natural child, due process requires that the State support its allegations by at least clear and convincing evidence.").

See, e.g., Croft, 103 F.3d at 1126 n4 (3d Cir. 1997) (noting "we can discern no rational distinction which would entitle governments to order parents from their homes and arbitrarily separate parents from their children; or to deprive children of their liberty interests in continued companionship with their parents"); *J.S.R. by and through J.S.G. v. Sessions*, 330 F. Supp. 3d 731, 741 (D. Conn. 2018) (finding likely substantive due process violation when government separated immigrant children from parents); *E.H.C.F. by Contreras Flores v. Kennedy*, No. 3:25-cv-2142, 2026 WL 145229, at 10 (D. Conn. Jan. 16, 2026) (finding likely substantive due process violation where the government failed to establish a compelling reason for depriving the minor from his right to family integrity).

106. In addition, the Supreme Court demands 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. *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 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." 424 U.S. at 335. *See, e.g., B.S. v. Somerset County*, 704 F.3d 250, 271 (3d Cir. 2013) (applying the *Mathews* test to the removal of a child from her mother).

107. Pursuant to *Mathews*, courts have required ORR to assess sponsorship applications by parents in light of the fundamental liberty interest in family integrity including correctly allocating the burden of proof. Several courts have held, specifically, that "when a

parent (rather than another relative or 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 a UAC 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.") (citation omitted.)

108. In addition, courts have found that denial of a parent's sponsorship application implicates procedural due process requirements for fair notice and meaningful opportunity to be heard. *See Santos,* 260 F. Supp. 3d at 611; *Beltran*, 222 F. Supp. 3d at 485. Fundamentally, due process requires notice and opportunity to be heard in a meaningful time and manner, pursuant to the correct burden of proof and evidentiary standard. *Armstrong v. Manzo*, 380 U.S. 545, 546, (1965) (citation omitted). In *Armstrong*, the Supreme Court held that the failure to provide petitioner notice of the pending adoption proceedings deprived him of his rights without due process of law and the hearing subsequently granted to him was insufficient to remedy the constitutional infirmity because he was forced to assume burdens of proof that would have rested upon the moving parties in the initial proceedings. *Id.* at 546.

109. The government cannot, consistent with its constitutional obligations, take and retain custody of a child based on a unilateral and untested evaluation of parental fitness and then merely "sit back and wait" for the parent to sue it. *Weller v. Department of Social Services for City of Baltimore*, 901 F.2d 387, 395 (4th Cir. 1990) (quoting *Duchesne v. Sugarman*, 566 F.2d 817, 827-28 (2d Cir. 1977)). The onus must be on the government, once it has decided to

withhold a child from a parent's care, to justify its actions. *See id.* at 396; *Beltran*, 222 F. Supp. 3d at 485-86; *Santos*, 260 F. Supp. 3d at 613. In *Santos*, the court concluded that "respondents' process improperly placed the burden of initiation and persuasion on the petitioner" and that "both a restraint of liberty and a continued separation of a child from a parent require that the government bear the burden of proof." *Id.*

110. 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*, 260 F. Supp. at 614.).

111. A child may not be separated from his or her parents absent a clear and convincing 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.") (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."); *Croft,* 103 F.3d at 1126 ("a state has no interest in protecting children from their parents unless it has some reasonable and articulable evidence giving rise to a reasonable suspicion that a child has been abused or is in imminent danger of abuse"). 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.

FIRST CLAIM FOR RELIEF

VIOLATION OF THE FIFTH AMENDEMENT (SUBSTANTIVE DUE PROCESS)

112. 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, 698 (2001).

113. The Supreme Court has long recognized family integrity as a fundamental liberty interest protected by the Constitution. *See Santosky v. Kramer*, 455 U.S. at 753; *Troxel v. Granville*, 530 U.S. 57, 65-66 (plurality op.) ("[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).

114. Respondents' conduct has infringed on A.E.Q.C.'s and his parents' substantial liberty interest in family integrity and association. *See Croft,* 103 F.3d at 1126 n4 (3d Cir. 1997) ("Nonetheless, we can discern no rational distinction which would entitle governments to order

parents from their homes and arbitrarily separate parents from their children; or to deprive children of their liberty interests in continued companionship with their parents.").

115. Absent reasonable grounds, governmental interference with the parent-child custodial relationship is an arbitrary abuse of power. *Croft* 103 F.3d at 1126. *See also Loy*, 237 F.3d 269-70.

116. Respondents' policies and actions have denied A.E.Q.C.'s right to family integrity because they fail to account for the fact that Mr. Q.C. is the parent of A.E.Q.C. in the following manner:

a. None of the standards applied by the Government in reviewing Mr. Q.C.'s efforts to have his son released to his care took account of the fact that Mr. Q.C. was the child's natural parent and therefore A.E.Q.C.'s fundamental liberty interest in family unity is implicated;

b. Instead, Mr. Q.C.'s application was subjected to standards and vetting applicable to distant family members or to persons unrelated to the child instead of standards and vetting that recognized his special categorization as the child's parent;

c. Furthermore, Mr. Q.C.'s application was subjected to a vague, shifting and constitutionally inadequate definition of unfitness by ORR; and

d. Indeed, ORR has not made any showing that A.E.Q.C.'s parents are unfit in any way, let alone one that would warrant the extreme government intervention into the custodial relationship between a parent and child of denying custody.

117. Further, Respondents' actions shock the conscience given their continued custody of A.E.Q.C. despite their own employees and stakeholders determining that it would be in the child's best interest to be released to his parents' care and, in fact, continued custody threatens further deterioration of A.E.Q.C.'s well-being as follows:

a. The parents have passed all background checks, home studies, and identity verification procedures including DNA tests to comply with ORR's requirements as part of the sponsorship application;

b. They proved their relationship to A.E.Q.C. as his natural parents and gave proof of their financial ability to provide and care for their son;

c. They underwent a comprehensive home study that assessed the safety of the home, attachment of the parents to their son, the parents' understanding of their son's physical, mental and emotional needs, and agreement to meet the educational needs of their son. The home study recommended release of A.E.Q.C.;

d. The Child Advocate, a neutral stakeholder representing the child's interest, concluded that it would be in A.E.Q.C.'s best interest to be released from ORR custody to his parents' care; and

e. Even with this information, ORR delayed making a decision on the father's application for almost a year with no rational basis. ORR then denied the application on the sole basis of allegedly fraudulent submission of documents and alleged violations of past sponsorship agreements without any articulation of an actual risk to the child's safety.

118. ORR has failed to make any showing that A.E.Q.C.'s parents are unfit or otherwise present a danger to A.E.Q.C. and therefore are violating the substantive due process rights of A.E.Q.C. to family integrity.

SECOND CLAIM FOR RELIEF

VIOLATION OF THE FIFTH AMENDEMENT (PROCEDURAL DUE PROCESS)

119. The allegations in the above paragraphs are realleged and incorporated herein.

120. 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, 698 (2001).

121. Due process means that the government may not deprive an individual 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 v. Eldridge,* 424 U.S. at 335. Due process also requires that government action be rational and non-arbitrary. *See U.S. v. Trimble*, 487 F.3d 752, 757 (9th Cir. 2007). In habeas cases involving detained minor children, courts look to the procedural due process afforded to the parent. *See Maldonado*, 2018 WL 2089348, at *7, *Santos* 260 F. Supp. 3d at 607, and *Beltran*, 222 F. Supp. 3d at 482-88.

122. Respondents' conduct has infringed on two substantial liberty interests. First, Respondents infringed upon A.E.Q.C.'s interest in freedom from governmental custody. *See In re Gault*, 378 U.S. 1, 13 (1967). Second, Respondents infringed upon A.E.Q.C.'s interest in family integrity and association. *See Troxel v. Granville*, 530 U.S. 57, 65 (2000).

123. The risk of erroneous deprivation of A.E.Q.C.'s right to be free from detention and his own fundamental right to family integrity is high and the consequences of that

deprivation are grave. That risk can be ameliorated by basic due process protections. More "fulsome process, with correction of some of the deficiencies alleged by petitioners, would considerably lessen the risk of an erroneous deprivation." *Santos*, 260 F. Supp. 3d at 612.

124. Respondents' conduct, as set forth above, has erroneously deprived A.E.Q.C. of his constitutional rights without constitutionally sufficient due process. The opportunity to appeal ORR's decision to deny release did not afford A.E.Q.C.'s father with meaningful notice or an opportunity to be heard, because of the following procedural deficiencies:

a. ORR failed to provide A.E.Q.C.'s father with reasonable, timely and adequate disclosures concerning the basis for the denial in the Notice of Denial and therefore denied A.E.Q.C.'s father a meaningful opportunity to be heard;

b. ORR improperly placed the burden of proof on A.E.Q.C.'s father to demonstrate suitability and fitness rather than the burden of proof being placed on ORR to justify its continued custody of A.E.Q.C and therefore denied A.E.Q.C.'s father a meaningful opportunity to be heard;

c. ORR failed to provide A.E.Q.C.'s father with a pre-determination hearing at which the father could testify, confront any allegations against him and cross-examine witnesses before ORR issued its Notice of Denial. *Beltran*, 222 F.Supp.3d at 487. ("Due process does not concern itself only with the degree to which one can trust the government to reach the right result . . . [but] "by the opportunity to protect [one's] own interests.").

d. On administrative appeal, the ALJ failed to apply or enforce any meaningful rules of evidence including the Federal Rules of Evidence and therefore denied A.E.Q.C.'s father a meaningful opportunity to be heard;

e. The ALJ employed a constitutionally insufficient standard of proof to adjudicate the appeal, adopting a "preponderance of the evidence" standard rather than the constitutionally mandated standard of "clear and convincing evidence" for determinations of parental unfitness therefore denying A.E.Q.C.'s father a meaningful opportunity to be heard;

125. The inadequate and deficient procedures directly contributed to the deprivation of A.E.Q.C.'s constitutional interests in freedom from custody and family integrity.

126. If these deficiencies had been addressed and A.E.Q.C.'s father was afforded a meaningful adversarial hearing in which ORR bore the burden of proving that A.E.Q.C.'s father was unfit to parent him by clear and convincing evidence, the outcome would have been different based on the record and recommendations of ORR's own stakeholders and employees.

127. Furthermore, ORR's delay in making a decision on the sponsorship application constitutes a violation of procedural due process. *See Santos* at 613-614 (finding that a delay of 17 months before a denial decision, without sufficient explanation "even without other procedural deficiencies violated due process"); *Lucas R.*, 2022 WL 2177454 at *27 ("Significant and unexplained delay in responding to a [proposed sponsor's] unification request violate[s] due process irrespective of other procedural defects.") (Internal quotation marks omitted; citation omitted.).

128. At the end of March 2025, ORR had sufficient information and evidence based on its own internal procedures and regulations to render a determination on Mr. Q.C.'s sponsorship.

129. ORR never provided Mr. Q.C. with notice of its specific concerns or a meaningful opportunity to address those concerns ***as they arose***, choosing instead to delay the decision for nine months at which point Mr. Q.C.'s only remedy was to seek an administrative appeal. ORR's

failure to allow Mr. Q.C. to rebut specific allegations against his suitability as a sponsor represents a violation of fundamental notice and hearing requirements. *Beltran*, 222 F.Supp.3d at 485 quoting *Weller v. Dept. of Social Services*, 901 F.2s 387, 395 (4th Cir. 1990) (signaling the due process concerns raised by a "unilateral and untested evaluations of [parental] fitness")).

130. ORR delayed a decision on the sponsorship application of A.E.Q.C.'s parents while his physical, mental and emotional well-being deteriorated in custody, and he was transferred across shelters and states.

131. The deficient procedures employed by ORR in adjudicating the sponsor application and the administrative review of their decision "created a significant risk that Petitioner and [AEQC] would be erroneously deprived of their right to family integrity." *Cardall,* at *488.

132. The nature and magnitude of the government's countervailing interest in providing a safe placement for the child does not weigh against finding a violation of procedural due process in that the government cannot achieve that interest without providing due process. *Cardall,* at *488 *(citing Stanley,* 405 U.S. at 652 ("But while it is true that the government has an interest in protecting the welfare of children, "the State registers no gain towards" that end "when it separates children from the custody of fit parents.")).

133. In accordance with these foundational principles of due process, the burden should have been on ORR to justify its continued custody of A.E.Q.C. by a showing of clear and convincing evidence that his parents were unfit. ORR did nothing of the kind, in fact it did the opposite; it placed the burden on the parents to refute a suspect and flimsily supported allegation. Worse, the ALJ applied an incorrect "preponderance of the evidence standard", placed the

burden on the parents, not the government, and credited a reported conversation with a third party that was double hearsay and would never have been admitted into evidence in an adjudicative forum applying the Federal Rules of Evidence or, frankly, any common sense standard of evidentiary validity. As a direct result of these violations, the continued detention of A.E.Q.C. violates the guarantee of Procedural Due Process under the Fifth Amendment to the United States Constitution. These violations have caused harm to A.E.Q.C.'s physical, emotional and mental health.

THIRD CLAIM FOR RELIEF

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

134. Petitioner restates and realleges all paragraphs above as if fully set forth herein.

135. Congress enacted the TVPRA to facilitate the safe, speedy release and minimally restrictive placement of unaccompanied children. Respondents have a non-discretionary duty under the TVPRA to "promptly" place A.E.Q.C. "in the least restrictive setting" that is in his best interests, usually with "a suitable family member." 8 U.S.C. § 1232(c)(2)(A).

136. For over 500 days, ORR has shuttled A.E.Q.C. between shelters with heightened degrees of restriction, across different states a far distance away from his family. This prolonged custody has significantly impacted his mental health and well-being causing him to deteriorate in custody.

137. A.E.Q.C.'s parents are desperate to reunify with their son, and it is in his best interests to be released to their care. This determination of what is in A.E.Q.C.'s best interests is not simply the parent's position but has been independently affirmed by the neutral ORR-

appointed Child Advocate, who continues to this day to request that ORR act in A.E.Q.C.'s best interest and immediately release him to his parents' care.

138. Respondents have failed to place A.E.Q.C. in the least restrictive setting that is in his best interests. Respondent's actions have resulted in his unnecessarily prolonged detention and separation from his suitable sponsor, his natural parents, in violation of Section 235 of the TVPRA, 8 U.S.C. § 1232.

FOURTH CLAIM FOR RELIEF

VIOLATION OF THE FOUNDATIONAL RULE, 45 C.F.R. §§ 410.1000 *et seq.* AND THE ACCARDI DOCTRINE

139. Petitioner restates and realleges all paragraphs above as if fully set forth herein.

140. Federal agencies and their officials are required to follow their own "existing valid regulations." *See United States ex* rel. *Accardi v. Shaughnessy*, 347 U.S. 260, 268 (1954). 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).

141. Under the Foundational Rule, Respondents have a non-discretionary duty to promptly place A.E.Q.C. in the least restrictive setting that is in his 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. *Id.* § 410.1203(a).

142. *Furthermore*, "ORR shall adjudicate the completed sponsor application of a parent or legal guardian . . . within 10 calendar days . . . absent an unexpected delay." *Id.* § 410.1205(b).

143. Respondents have failed to promptly place A.E.Q.C. in the least restrictive setting that is in his best interests, in violation of their own regulations and guidance. As a result of Respondents' violations of their own binding regulations, they impermissibly delayed,

A.E.Q.C.'s release and reunification with his family for over 500 days and are holding A.E.Q.C. unlawfully.

144. Respondents failed to adjudicate the sponsor application within 10 days. In fact, respondents did not adjudicate the application until A.E.Q.C. had been in custody for nearly one full year.

145. Respondents also failed to abide by the Foundational Rule's requirement to make release decisions fully considering the child's best interest, ignoring the recommendations of ORR representatives who conducted the home study and requested a waiver for any alleged fraud. Additionally, respondents failed to incorporate the best interests determination of the independently appointed Child Advocate who recommended release based on a review of the record and ongoing discussions with ORR staff, A.E.Q.C. and his parents.

146. Respondents failed to comply with their regulatory duty to act in A.E.Q.C.'s best interest and to release him to his parents promptly and without unnecessary delay. Their conduct has resulted in an unnecessarily prolonged custody which has negatively impacted his physical, emotional and mental well-being and violates the Foundational Rule and the *Accardi* Doctrine.

FIFTH CLAIM FOR RELIEF
VIOLATION OF THE ADMINISTRATIVE PROCEDURES ACT (APA), 5 U.S.C. §§ 701 *et seq.*

ARBITRARY AND CAPRICIOUS

147. Petitioner restates and realleges all paragraphs above as if fully set forth herein.

148. 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).

149. 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." *Id.* § 702.

150. The APA likewise provides a right of judicial review for "final agency action for which there is no other adequate remedy in a court." § 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 (1977) (internal citations omitted.)

151. ORR's unjustified and inexcusable delay in rendering a decision on Mr. Q.C.'s request to release his son violates the APA because it is "arbitrary and capricious," 5 U.S.C. § 706 (2)(A), "short of statutory right," 5 U.S.C. § 706(C), and "not in accordance with law." 5 U.S.C. § 706(A). ORR's decision to deny was in direct contradiction to overwhelming evidence in support of releasing A.E.Q.C. to his parents.

152. ORR's denial and the ALJ's affirmance are ultimately based on the one unproven allegation from January 2025 instead of the overwhelming evidence gathered in support of releasing A.E.Q.C. to his father.

153. In the months following, ORR continued to assess Mr. Q.C.'s sponsor application by authenticating documents, conducting a home study, ordering DNA tests to confirm

parentage, processing multiple forms of background checks for both parents and appointing a child advocate.

154. In each instance, the new information gathered over the course of the twelve months was evidence that Mr. Q.C. was capable of safely caring for his son and that it was in A.E.Q.C.'s best interest to be released from ORR custody and reunified with his family.

155. The denial of the sponsorship application on the grounds of fraud, alleged failure to abide by past sponsor agreements and risk to A.E.Q.C. based on a single uncorroborated allegation of a former sponsored adolescent who, despite the allegation, ORR allowed to remain in the sponsor's home, was irrational, arbitrary and capricious in light of the overwhelming credible evidence before ORR that it was in A.E.Q.C.'s best interest to be released to his parents and that his parents were more than capable of providing a safe and loving home for him.

PRAYER FOR RELIEF

Wherefore, Petitioner respectfully requests this Court to grant the following:

(1) Assume jurisdiction over this matter;

(2) Issue an Order to Show Cause ordering Respondents to show cause why this Petition should not be granted within three days;

(3) Declare that Petitioner's detention violates the Due Process Clause of the Fifth Amendment;

(4) Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner immediately to the care of his parents;

(5) Award Petitioner attorney's fees and costs under the Equal Access to Justice Act, and on any other basis justified under law; and

(6) Grant any further relief this Court deems just and proper.

Dated: May 18, 2026

Respectfully submitted,

/s/Mary Catherine Roper
Mary Catherine Roper
PA Bar No. 71107
John J. Grogan
PA Bar No. 72443
(*Pro Hac Vice* forthcoming)
LANGER, GROGAN & DIVER P.C.
1717 Arch St., Ste 4020
Philadelphia, PA 19103
Tel: (215) 320-5660
Fax: (215) 320-5703
mroper@langergrogan.com
jgrogan@langergrogan.com

Kara R. Finck (PA Bar No. 313401)
(*Pro Hac Vice* forthcoming)
Interdisciplinary Child Advocacy Clinic
University of Pennsylvania
Carey Law School
3501 Sansom Street
Philadelphia, PA 19104
Phone: (215) 746-2455
Fax: (215) 573-6783
Email: kfinck@law.upenn.edu

Counsel for Petitioner

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

I represent Petitioner, A.E.Q.C., a minor, by and through his Next Friend, Chavario Quim Chocoj, and submit this verification on his behalf. I hereby verify that the factual statements made in the foregoing Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated: May 18, 2016

/s/Mary Catherine Roper
Mary Catherine Roper