IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

A.E.Q.C., a minor, by and through his Next Friend, [redacted]

Petitioner,

v.

ROBERT F. KENNEDY, JR, *et al.*,

Respondents.

Civil Action No. 26-1008

W. SCOTT HARDY
United States District Judge

(Electronic Filing)

RESPONDENTS' RESPONSE IN OPPOSITION TO PETITION FOR WRIT OF HABEAS CORPUS (DOC. NO. 1)

Federal Respondents Robert F. Kennedy, Jr.; Angie Salazar; Marjorie Victor; the U.S. Department of Health and Human Services; and the U.S. Office of Refugee Resettlement, by their attorneys, Troy Rivetti, United States Attorney for the Western District of Pennsylvania, and David Lew and Michael Colville, Assistant United States Attorneys, hereby submit their Response in Opposition to Petitioner A.E.Q.C's Petition for Writ of Habeas Corpus (Doc. No. 1, the "Petition").

A.E.Q.C. is a 15-year-old Guatemalan citizen who unlawfully entered the United States on or about December 29, 2024, near Santa Teresa, New Mexico. He was encountered by a U.S. Border Patrol agent on that date and taken into custody. It was determined that A.E.Q.C. was an "unaccompanied alien child" ("UAC"), and as such, he was transferred into the custody of the Office of Refugee Resettlement ("ORR"), the agency responsible for the care and custody of UAC who are in federal custody due to their immigration status. ORR is required to balance the mandate that it protect UAC from harm with the requirement that it "promptly" place them "in

the least restrictive setting that is in the best interest of the child." 8 U.S.C. § 1232(c)(2)(A). A.E.Q.C. remains in ORR custody.

Shortly after A.E.Q.C. entered the government's custody, his father [redacted] ("Mr. Q.C."), filed an application with ORR to be approved as A.E.Q.C.'s sponsor and have A.E.Q.C. transferred into his custody. ORR reviewed Mr. Q.C.'s application under the relevant considerations, including statutory requirements, and denied it. The agency determined that releasing A.E.Q.C. to Mr. Q.C. would pose a risk to the child and that Mr. Q.C. and his wife, A.E.Q.C.'s mother, had provided fraudulent information. The risk finding was based in part on the fact that a UAC who was previously placed in Mr. Q.C.'s custody reported that Mr. Q.C. required him to pay hundreds of dollars per month in rent, utilities, and other expenses, in violation of the sponsorship agreement. ORR also found that Mr. Q.C. and his wife failed to ensure that UAC previously placed in their custody were enrolled in school.

Mr. Q.C. appealed ORR's decision to HHS' Departmental Appeals Board ("DAB"), and a hearing was held before a neutral Administrate Law Judge ("ALJ") in March 2026. In a written decision, the ALJ upheld ORR's sponsorship denial based primarily on the allegation that Mr. Q.C. had required a former UAC to pay for rent, food, utilities, and other expenses, which called into serious question Mr. Q.C.'s ability to provide and care for A.E.Q.C.

Two months after the ALJ's decision, Mr. Q.C. filed the instant habeas Petition as a "next friend" of A.E.Q.C., asking this Court to order A.E.Q.C's release into Mr. Q.C.'s care. As grounds for his request, Petitioner argues that his due process rights are violated by ORR's continued custody of A.E.Q.C. and its denial of Mr. Q.C.'s sponsorship application. Petitioner also raises Administrative Procedure Act, *Accardi* doctrine, and statutory claims. The Petition should be denied because, among other reasons, Petitioner and Mr. Q.C. have received all the

due process required, including a decision on Mr. Q.C.'s sponsorship application from ORR and an appeal and full hearing before a neutral Administrative Law Judge. While Mr. Q.C. may disagree with ORR's decision denying his sponsorship application and the ALJ's decision on appeal affirming the denial, that disagreement does not entitle him to habeas relief where, as here, ORR acted in accordance with its statutory responsibility to ensure that any placement for A.E.Q.C. would not place him at risk.

I. BACKGROUND

A.E.Q.C. is a native and citizen of Guatemala. Doc. No. 1-3, Notice to Appear. He entered the United States without inspection on or about December 29, 2024, near Santa Teresa, New Mexico. *Id.*; Ex. 1, Form I-213, at 2. He was encountered by a Border Patrol agent on that date within a group of 12 individuals. Ex. 1 at 2. After determining that A.E.Q.C. was an alien who illegally entered the United States, he was arrested and transported to an ICE facility for processing. *Id.* On May 23, 2025, a Notice to Appear was issued charging that he was removable under Section 212(a)(6)(A)(i) of the Immigration and Nationality Act, as amended, as an alien present in the United States without being admitted or paroled, or who arrived in the United States as any time other than as designated by the Attorney General. Doc. No. 1-3. His removal proceedings remain ongoing.

A.E.Q.C. was identified as an unaccompanied alien child and referred to ORR care on January 1, 2025. Ex. 2, Declaration of Toby Biswas ¶ 22. On December 30, 2024, Mr. Q.C. submitted his Sponsor Application from A.E.Q.C. but failed to sign the application. *Id.* ¶ 23. That same day, Mr. Q.C. also submitted a signed Authorization for Release of Information, his foreign passport for proof of identity, and a utility bill as proof of address. *Id.* ORR performed several internet background checks on Mr. Q.C. *Id.*

On or before August 15, 2024, D.E.C.M., a UAC previously released to Mr. Q.C., stated that Mr. Q.C. had charged him for rent, food, and utilities while he lived in Mr. Q.C.'s home. *Id.* ¶ 24; *see also* Doc. No. 1-5 at 6. ORR conducted additional follow-up with the Post Release Services manager, which revealed further concerns about Mr. Q.C.'s non-compliance with the Sponsor Care Agreement and general child welfare concerns. Ex. 2 ¶ 24; Ex. 2 at Ex. 9, Report.

From January 2025 through August 2025, ORR reviewed additional information submitted by Mr. Q.C. and his wife, completed a home study, and received DNA testing results. Ex. 2 ¶¶ 25–33. Mr. Q.C. submitted an updated sponsorship application packet on March 31, 2025, and ORR continued to vet his application. *Id.* ¶ 31. On May 8, 2025, Mr. Q.C.'s wife submitted a letter purporting to show proof of employment, but the documentation contained a name that did not belong to her. *Id.* ¶ 32. She admitted to ORR that she had used her friend's name to obtain employment. *Id.* On May 9, 2025, she submitted a revised employment letter that contained her name. *Id.* On August 3, 2025, Mr. Q.C. again updated his Sponsorship Application and updated his Authorization for Release of Information. *Id.* ¶ 33. ORR initiated additional background checks for him. *Id.*

On December 16, 2025, ORR issued a denial letter to Mr. Q.C. *Id.* ¶ 34; *see also* Doc. No. 1-20. The denial was based on Mr. Q.C. and his wife providing fraudulent documentation to ORR when providing proof of income verification and having a history of prior UAC sponsorships that violated ORR's Sponsor Care Agreement, including the failure to ensure UAC were enrolled in and attending school and reports that a UAC was required to work to pay rent and other expenses. *Id.*

Mr. Q.C. filed an appeal of ORR's sponsorship denial with the Departmental Appeals Board. Ex. 2 ¶ 35. A hearing was held on March 4, 2026, on the appeal before a neutral ALJ.

Doc. No. 1-22 at 3. The ALJ considered exhibits and pre-hearing briefs submitted by both parties. *Id.* Mr. Q.C. and a child advocate testified at the hearing. *Id.*

On March 16, 2026, the ALJ issued an appeal decision upholding ORR's denial of Mr. Q.C.'s sponsorship application. Doc. No. 1-22. The decision reviewed the statutory and regulatory framework governing ORR placement determinations for UAC. *Id.* at 3–5. The ALJ then set forth her findings of fact, conclusions of law, and analysis. *Id.* at 6–8. Regarding the allegation that UAC previously in the care of Mr. Q.C. and his wife were not enrolled in school properly, the ALJ found that there may have been difficulties with the school process and that the allegation was likely not grounds enough to deny the sponsorship application. *Id.* at 6. The ALJ found, however, that the serious allegation related to requiring a UAC to pay bills called into serious question Mr. Q.C.'s ability to provide and care for A.E.Q.C. and that ORR thus acted within its authority in denying Mr. Q.C.'s sponsorship application. *Id.*[1]

On May 18, 2026, the instant habeas Petition was filed in this Court by Mr. Q.C. as a Next Friend on behalf of A.E.Q.C. Doc. No. 1. On May 20, 2026, the Court entered a Case Management Order directing email service of the Petition with copies to be separately provided to Respondents Holy Family Institute and its CEO Michael Sexauer. Doc. No. 2. The Order directed Respondents to file any response to the Petition within 7 days of the filing of a Certificate of Compliance of Service. *Id.* Federal Respondents requested and were granted an extension until June 10, 2026, to file their Response. Doc. No. 12.

II. LEGAL FRAMEWORK

A. Statutory Framework

[1] The ALJ found that inconsistent salary information submitted by Mr. Q.C. and his wife did not rise to the level of fraud. *Id.* at 7–8.

In 2002, Congress enacted the Homeland Security Act of 2002 ("HSA"), Pub. L. No. 107-296, 116 Stat. 2135 (codified in relevant part at 6 U.S.C. § 279), abolishing the Immigration and Naturalization Service ("INS") and transferring the responsibility for the care and placement of UAC from INS to ORR. 6 U.S.C. §§ 279(a), (b)(1)(A), (g)(2).

The HSA defines a UAC as "a child who—(A) has no lawful immigration status in the United States; (B) has not attained 18 years of age; and (C) with respect to whom— (i) there is no parent or legal guardian in the United States; or (ii) no parent or legal guardian in the United States is available to provide care and physical custody." 6 U.S.C. § 279(g)(2). Further, it assigns ORR broad authority over the care and custody of UAC while they are in federal custody due to their immigration status, including coordinating their care and placement, ensuring their best interests in custodial decisions and that they are protected from smugglers, traffickers, and others who might seek to victimize and exploit UAC. 6 U.S.C. § 279(b)(1)(A) & (b)(2)(A)(ii). These responsibilities are carried out through cooperative agreements and contracts with care providers under ORR policies and oversight. *See* 6 U.S.C. § 279(b)(1); 31 U.S.C. § 6305; 8 U.S.C. § 1232(i).

Congress enacted the Trafficking Victims Protection Reauthorization Act of 2008 ("TVPRA") to strengthen protections for UAC and support their safe repatriation or appropriate placement. Pub. L. No. 110-457. The statute, consistent with the HSA, makes the Secretary of HHS responsible for the care and custody of UAC. 8 U.S.C. § 1232(b)(1). Pursuant to the TVPRA, "any department or agency of the Federal Government that has an unaccompanied alien child in custody shall transfer the custody of such child to the Secretary of Health and Human Services not later than 72 hours after determining that such child is an unaccompanied alien child." 8 U.S.C. § 1232(b)(3).

The TVPRA also states that HHS, and other agencies, "shall establish policies and programs to ensure that unaccompanied alien children in the United States are protected from traffickers and other persons seeking to victimize or otherwise engage such children in criminal, harmful, or exploitative activity." 8 U.S.C. § 1232(c)(1). It also provides that UAC "may not be placed with a person or entity unless the Secretary of Health and Human Services makes a determination that the proposed custodian is capable of providing for the child's physical and mental well-being." 8 U.S.C. § 1232(c)(3)(A). This safety and suitability determination must "at a minimum, include verification of the custodian's identity and relationship to the child, if any, as well as an independent finding that the individual has not engaged in any activity that would indicate a potential risk to the child." *Id.*

B. The Unaccompanied Children Program Foundational Rule

In the Unaccompanied Children Program Foundational Rule, codified at 45 C.F.R. Part 410, ORR established comprehensive regulations governing its UAC program consistent with its statutory responsibilities. Specifically, the Foundational Rule provides that ORR must release UAC from its custody "[s]ubject to an assessment of sponsor suitability," 45 C.F.R. § 410.1201, a process which starts with an "application package" that "[p]otential sponsors shall complete." *Id.* § 410.1202(a). The assessment of sponsor suitability includes "review of the potential sponsor's application package, including verification of the potential sponsor's identity, physical environment of the sponsor's home, and relationship to the unaccompanied child, if any, and an independent finding that the individual has not engaged in any activity that would indicate a potential risk to the unaccompanied child." *Id.* § 410.1202(b).

While ORR is attempting to identify and vet a sponsor, ORR generally places minors in "standard programs that are not restrictive placements." 45 C.F.R. § 410.1104. Standard programs must be "licensed by an appropriate State agency to provide residential, group, or

transitional or long-term home care services for dependent children" or meet the requirements of state licensing that would otherwise be applicable in states that do not license programs that care for UAC. 45 C.F.R. § 410.1001.

C. ORR's Release Policies and Practices

To carry out its statutory and regulatory mandate under the HSA and TVPRA, and the Foundational Rule, ORR has developed policies and procedures for identifying and conducting suitability assessments of potential sponsors. These procedures are generally set out in ORR's publicly available UACB Bureau Policy Guide ("UACB Policy Guide") at Section 2. *See* UACB Policy Guide, available at https://acf.gov/orr/policy-guidance/unaccompanied-children-bureau-policy-guide (last visited June 8, 2026). In light of ORR's obligation to protect UAC from smugglers, traffickers, and others who may seek to victimize them, "safe and timely release . . . involves several steps, 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." UACB Policy Guide § 2.1.[2]

A potential sponsor must complete a sponsorship application package, provide unexpired government-issued identification documentation for the sponsor and any other adults living in the household or identified in a sponsor care plan, and, along with any adult living in his or her household, undergo a background check. *Id.* §§ 2.2.4, 2.5. All potential sponsors must also

[2] There are three categories of potential sponsors: (1) Category 1, consisting of parents or legal guardians, including qualifying step-parents that have legal or joint custody of the child or teen; (2) Category 2, consisting of siblings, grandparents, or other immediate relatives (such as aunts, uncles, first cousins), and includes biological relatives, relatives through marriage, and half-siblings; and (3) Category 3, consisting of other sponsors, such as distant relatives, unrelated adult individuals, or an institutional/organizational sponsor. *Id.* § 2.2.1. Additionally, ORR classifies cases as Category 4 when no potential sponsor has been identified. *Id.*

submit proof of address, income, sponsor-child relationship, individual taxpayer identification number or social security number, and criminal history documents (if applicable). *Id.* § 2.2.4. Additionally, in certain circumstances, a home study, which consists of interviews, a home visit, and a written report containing the home-study case worker's findings, is performed. *Id.* § 2.4.2.

Once the assessment of the potential sponsor is complete, the care provider makes a release recommendation. *Id.* § 2.7. ORR makes the final release decision. *Id.* ORR will deny the sponsorship application of a potential sponsor who ORR determines is not capable of providing for the physical and mental well-being of the UAC or if the placement would result in danger to the child or the community. 45 C.F.R. § 410.1205 (Release decisions; denial of release to a sponsor).

D. Appeals of ORR Decisions

If ORR denies the application of a parent, legal guardian, or close relative potential sponsor, the denied potential sponsor may appeal that decision through an administrative process. 45 C.F.R. § 410.1206. ORR policy requires that, if ORR denies the sponsor application of a parent, legal guardian, or close relative, the ORR Director, or their neutral and detached designee must send the potential sponsor a Notification of Denial Letter, after receiving all the required information and documentation in a specific case. 45 C.F.R. § 410.1205(c); UACB Policy Guide § 2.7.7. Denied potential sponsors who receive this letter may seek an appeal of ORR's denial decision, with a hearing or without a hearing. *Id.* § 2.7.8.

In deciding an appeal of a release denial, the Departmental Appeal Board's ("DAB's") role (as the Assistant Secretary's neutral and detached designee who was not involved in the denial decision) is not to substitute its judgment for that of ORR, but to determine whether ORR acted within its statutory authority and applied its regulations and policies reasonably, and

whether its decision to deny the Petitioner sponsorship of the UAC was supported by substantial evidence. *See* 45 C.F.R. § 410.1206; UACB Policy Guide § 2.7.4.

The burden of proof is on the Petitioner to demonstrate that ORR's decision to deny release was not based on substantial evidence, and the standard that the DAB is to apply is a preponderance of the evidence. *See Lucas R v. Becerra*, No. CV 18-5741-DMG (PLAx), 2022 WL 2177454, *28 (C.D. Cal. Mar. 11, 2022) ("The Court will not require the case management team to determine that a sponsor is suitable by a clear and convincing evidentiary standard . . . Due process does not demand that the Court impose procedures that shift the burden to ORR to prove that the sponsor is unfit. Instead, a minor's rights are adequately protected so long as the minor and sponsor have the opportunity to appeal a denial and submit additional evidence of a sponsor's fitness, if necessary.").

The DAB's decision to affirm or overrule ORR's decision to deny release to a potential sponsor is the final administrative decision of the agency on the application that had been under consideration. UACB Policy Guide § 2.7.8. However, if there is new information or a change in circumstances regarding the reunification application, or regarding the unaccompanied alien child's circumstances, a new reunification application may be submitted that highlights the change(s) and explains why such changes should alter the initial decision. *Id.* Similarly, if ORR discovers new information or becomes aware of a change in the circumstances of the potential sponsor and/or the unaccompanied alien child, ORR may assess the case anew. *Id.*

III. ARGUMENT

A. ORR's Continued Care of A.E.Q.C. Does Not Violate Substantive or Procedural Due Process

Petitioner argues that ORR's continued care of him constitutes a procedural due process violation because ORR did not provide his father Mr. Q.C. with meaningful notice or an

opportunity to be heard because of various purported procedural deficiencies. Doc. No. 1 ¶¶ 119–133 (Second Claim for Relief). Petitioner also argues a violation of substantive due process, asserting that ORR's conduct in denying release of A.E.Q.C. to his father infringed on a liberty interest in family integrity and association, and that ORR's continued custody of A.E.Q.C. "shocks the conscience." *Id.* ¶¶ 112–118 (First Claim for Relief). These arguments are unavailing, however, because they are contrary to well-established precedent.

1. Procedural Due Process

A procedural due process analysis typically considers the three factors articulated by the Supreme Court in *Mathews v. Eldridge*, 424 U.S. 319 (1976). That framework requires consideration of the following factors: (1) "the private interest that will be affected by the official action"; (2) "the 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) "the Government's interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail." *Id.* at 335.

Under the *Mathews* analysis, Petitioner cannot demonstrate that the substantial due process procedures that ORR provided here to enable Mr. Q.C. to challenge the denial of his sponsorship application in an administrative hearing before an independent and neutral DAB ALJ—including the opportunity to present witness testimony and other evidence to demonstrate his fitness—were constitutionally inadequate.

The first *Mathews* factor addresses "the private interest that will be affected by the official action." *Id.* at 334. Petitioner identifies two constitutional interests: that of A.E.Q.C. being free from custody and that of a right to family integrity or familial association between A.E.Q.C. and his father, Mr. Q.C., who sought to sponsor him. Doc. No. 1 ¶ 122. Neither

interest outweighs the remaining *Mathews* factors under the circumstances of this case where ORR identified potentially serious safety concerns about releasing A.E.Q.C. to Mr. Q.C.

As the Supreme Court has recognized, children "unlike adults, are always in some form of custody" and do not have "a right to come and go at will[.]" *Reno v. Flores*, 507 U.S. 292, 302 (1993) (quoting *Schall v. Martin*, 467 U.S. 253, 265 (1984). As such, a UAC's "interest in freedom from institutional restraints" may be subordinated to a state's interest in the child's welfare." *Schall*, 467 U.S. at 265.

Additionally, a parent's interest in raising their child is "neither absolute nor unqualified." *Martin v. St. Mary's Dep't of Soc. Servs.*, 346 F.3d 502, 506 (4th Cir. 2003); *see also D.B. v. Cardall*, 826 F.3d 721, 741 (4th Cir. 2016) ("[A]lthough 'the interest of parents in the care, custody, and control of their children' has been recognized as a 'fundamental liberty interest[ ],' *Troxel v. Granville*, 530 U.S. 57, 65 (2000), that right is qualified, and in most cases, "the constitutionality of state actions that interfere with family integrity depends on the adequacy of the procedures available to contest them."). That interest must give way to the state's responsibility to investigate circumstances that could lead to neglect and abuse, as required by the TVPRA for ORR. *See* 8 U.S.C. § 1232(c)(3)(A) (prohibiting ORR from releasing a child to a sponsor unless ORR makes an *affirmative* determination "that the proposed custodian is capable of providing for the child's physical and mental well-being") (emphasis added).

The second *Mathews* factor looks to "the risk of an erroneous deprivation of such interest through the procedures used," as well as whether further or different process would lead to a more accurate resolution. *Mathews*, 424 U.S. at 335. Notably, in a 2022 decision on cross summary judgment motions in the *Lucas R* litigation, a class action challenging certain ORR policies and practices relating to the care and custody of unaccompanied alien children, including

the sufficiency of procedural protections governing children's release to sponsors, the court found that due process does not require ORR to determine that a sponsor who is a parent is suitable by a clear and convincing evidentiary standard. *Lucas R v. Becerra*, No. CV 18-5741-DMG (PLAx), 2022 WL 2177454, *28 (C.D. Cal. Mar. 11, 2022).

As the *Lucas R* court recognized, "[d]ue process does not demand that the Court impose procedures that shift the burden to ORR to prove that the sponsor is unfit." *Id.* Instead, acknowledging unique interests and challenges in the immigration context and the broad statutory discretion provided to ORR by the TVPRA for conducting the mandated suitability determinations to ensure safe releases of UAC to potential sponsors, the court stated that, "a minor's rights are adequately protected so long as the minor and sponsor have the opportunity to appeal a denial and submit additional evidence of a sponsor's fitness, if necessary." *Id.*; 8 U.S.C. § 1232(c)(3)(A).[3] The court found that ORR's then-existing hearing policies that at the time applied only to UAC with parent or legal guardian sponsors "provide the fundamental hallmarks of due process, including review by a neutral factfinder who is not involved in the original denial." *See Lucas R,* 2022 WL 2177454, at *26.[4] The court only added that the notice must inform denied sponsors that they are entitled to be represented by counsel (at no cost to the

[3] Individual habeas cases cited by Petitioner—*Bertran v. Cardall*, *Santos v. Smith*, and *Maldonado v. Lloyd*—do not compel a contrary result. *See* Doc. No. 1 ¶ 121. Those cases notably pre-date the *Lucas R* partial summary judgment decision and ORR's implementation of notice and appeal processes for certain denied sponsors and did not consider what due process procedural protections are due, as the remedy was release. *See Lucas R*, 2022 WL 2177454, at *26 n.12.

[4] On August 30, 2022, in alignment with its partial summary judgment decision, the *Lucas R* court issued a preliminary injunction ordering ORR to extend its notice and appeal processes in the ORR Policy Guide which were previously afforded only to denied sponsors who are parents and legal guardians to close relatives, among other changes to its policies regarding release of children to sponsors. *See Lucas R,* 2022 WL 3908829, at *1; *cf. J.E.C.M. by and Through His Next Friend Saravia v. Marcos*, 689 F.Supp.3d 180, 195 (E.D. Va. 2023).

Government). *Id.* Notably absent from the *Lucas R* court's reasoning, however, was any mention of a requirement that the formal Federal Rules of Evidence or a particular standard of review must be followed in hearings on sponsor denial appeals to satisfy due process. *Id.* at 26–28. Thus, Petitioner's claims that the ALJ improperly placed the burden on Mr. Q.C. and failed to apply the Federal Rules of Evidence at his hearing (*see* Doc. No. 1 ¶ 124) are unavailing. Likewise, the *Lucas R* court did not find that due process demands a *pre*-determination hearing. *Id.*

Petitioner's complaint that the ALJ did not conduct a *de novo* review of the merits of Mr. Q.C.'s sponsorship application (Doc. No. 1 ¶ 61(a)) is also unavailing. Petitioner does not establish that *de novo* review was constitutionally required, but even if it was, the record demonstrates that the ALJ's review met that standard. The ALJ acknowledged the UAC Policy Guide, including the provision addressing *de novo* review (Doc. No. 1-22 at 5); considered the full evidentiary record (*id.* at 3); and made an independent factfinding regarding each of the allegations that were the bases for ORR denying Mr. Q.C.'s application (*id.* at 6–8). Notably, the ALJ found against ORR's determination that inconsistent salary information submitted by Mr. Q.C. and his wife indicated fraud, refuting any claim of unfair deference. *Id.* at 7–8.

As the Supreme Court has recognized, "due process is flexible and calls for such procedural protections as the particular situation demands." *Morrissey v. Brewer*, 408 U.S. 471, 481 (1972) (cited in *D.B. v. Cardall*, 826 F.3d 721, 743 (4th Cir. 2016)). As such, a "hearing" required by due process need not be "an adversarial hearing, a full evidentiary hearing, or a formal hearing." *D.B.*, 826 F.3d at 743 (citations omitted).

Consistent with ORR's regulations in the Foundational Rule at 45 C.F.R. §§ 410.1205 and 410.1206, which codified due process requirements ordered in the *Lucas R* preliminary

injunction in alignment with the court's summary judgment decision, and were previously incorporated into ORR's policies and procedures, Mr. Q.C. received notice of the denial of his application to sponsor his son, was informed about the evidence supporting ORR's release denial decision,[5] and provided the opportunity to request reconsideration of the decision and an administrative hearing before an independent DAB ALJ who was not involved in the ORR's decision. *See* Doc. No. 1-20 at 3–6. In his hearing, Mr. Q.C. was able to present witnesses, submit additional evidence, and tell his side of the story in favor of sponsorship. *See* Doc. No. 1-22. The fact that Mr. Q.C. disagreed with ORR's final sponsorship decision that A.E.Q.C. could not be released to him safely, as was found to be reasonable and affirmed in the written decision by the ALJ (*see* Doc. No. 1-22 at 6–7) does not mean that procedural due process was lacking. To the contrary, Mr. Q.C. and A.E.Q.C. had an ample and meaningful opportunity to be heard. Also, Mr. Q.C. is not prohibited from filing another sponsorship application in the future with additional information he wishes to have ORR to consider. *See* UACB Policy Guide § 2.7.4 ("[T]he fact that ORR previously denied an individual's application to sponsor a child does not mean ORR will automatically deny their future sponsor application.").

Finally, *Mathews* instructs that one must consider the "Government's interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail." *Mathews*, 424 U.S. at 334. Here, the Government's interest is substantial. ORR stands in the shoes of the child as *parens patriae* to protect the child's interests in health and safety. *See D.B.*, 826 F.3d at 740–41. Congress decided to codify ORR's interest in this regard by prohibiting ORR from releasing any child to any sponsor

[5] Petitioner states that he was provided with a "limited set of supporting documents" with ORR's denial letter (Doc. No. 1 ¶ 53) but acknowledges receiving the full evidentiary record in advance of his ALJ hearing (*id.* ¶ 56).

without first determining that it can do so safely. 8 U.S.C. § 1232(c)(3)(A). While Petitioner complains about the length of time taken by ORR to decide Mr. Q.C.'s sponsorship application (*see* Doc. No. 1 ¶ 127), this claim is moot given that that the application has been decided. *See Kinuthia v. Biden*, No. CV 21-11684-NMG, 2022 WL 17653503, at *11 (D. Mass. Nov. 9, 2022) ("[T]he court recommends that plaintiff's procedural due process allegations be dismissed as moot. They appear to be premised on USCIS's delay in issuing his new [Employment Authorization Document] and failure to provide alternative identification. Plaintiff has his EAD now . . . ."). Nor has Petitioner made any showing of unreasonable delay. The record demonstrates that from the date Mr. Q.C. submitted his initial sponsorship application, ORR engaged with him and his wife regarding additional required information, and other necessary steps, until a decision was rendered on the application in December 2025. *See* Ex. 2 ¶¶ 23–34. During this time, ORR was also considering allegations involving UAC previously in his care. *Id.* Thus, Petitioner fails to show any unreasonable delay in deciding Mr. Q.C.'s application.

Critically, as the court in *JECM* explained, "[t]he potential exploitation of [UAC] by sponsors underscores the strong interest that ORR has in ensuring the safe release of children in its care." 689 F.Supp.3d 180, 199 (E.D. Va. 2023) (discussing evidence of incidents such as the trafficking of UAC by their assigned sponsors in Marion, Ohio and a New York Times investigation that supported legitimate governmental concern regarding mistreatment of UAC where children released by ORR across the country had taken dangerous jobs in factories, which had in some cases been encouraged or even required by sponsors).

In sum, an application of the *Mathews* factors to the specific circumstances of A.E.Q.C.'s case demonstrates that ORR has not violated his or Mr. Q.C.'s procedural due process rights.

2. Substantive Due Process

Petitioner asserts a violation of the substantive component of the Due Process Clause,

arguing that ORR's conduct infringes on A.E.Q.C.'s and his parents' liberty interest in family integrity and association, and that ORR's continued care of A.E.Q.C. "shocks the conscience." Doc. No. 1 ¶¶ 112-118. "Substantive due process is far narrower in scope than procedural due process" and requires Petitioner to show not only that he was deprived of a constitutionally protected interest, "but also that the action causing the deprivation falls so far beyond the outer limits of legitimate governmental action that no process could cure the deficiency." *J.E.C.M. by and Through His Next Friend Saravia v. Lloyd*, 352 F.Supp.3d 559, 586 (E.D. Va. 2018) (citing *Plyler v. Moore*, 200 F.3d 365, 374 (4th Circ. 1996) (emphasis, internal quotation marks, and citations omitted in the original) (holding that unaccompanied alien child plaintiffs failed to state a substantive due process claim where they alleged that ORR's policies and procedures made it increasingly difficult for children to be released from ORR's care and custody). Petitioner simply cannot make that requisite showing here.

As discussed above, any constitutional liberty interest that A.E.Q.C.'s father, Mr. Q.C., has in raising him is "neither absolute nor unqualified," and ORR has countervailing interests in protecting A.E.Q.C. from risk of harm upon release, as required by the TVPRA. *JECM*, 352 F.Supp.3d at 587–88 (citing *Martin*, 346 F.3d at 506) (internal quotation marks omitted); 8 U.S.C. § 1232(c)(3)(A). Thus, "the constitutionality of state actions that interfere with family integrity depends on the adequacy of the procedures available to contest those actions." *Id.* at 588 (citing *D.B.*, 826 F.3d at 741) (internal quotation marks omitted). As shown above, ORR has put in place ample due process procedures in its regulations and policy which enable denied potential sponsors to contest ORR's release decisions.

Further, to demonstrate that governmental conduct "shocks the conscience," "[Petitioner] must allege conduct that is 'patently egregious' or 'outrageous,' that 'violates the decencies of

civilized conduct,' or that fails to 'comport with traditional ideas of fair play and decency." *J.E.C.M*, 352 F.Supp.3d at 586-87 (citing *County of Sacramento v. Lewis*, 523 U.S. 833, 846–49 (1998)) (internal quotation marks and citations omitted in the original). Moreover, "[t]o be sufficiently egregious, the official conduct must do more than produce a harmful or unfortunate result . . . rather, the conduct must be so out of step with contemporary norms and comparable governmental practices that no decent society can tolerate it." *Id.* (citation omitted). Under the circumstances here, where A.E.Q.C.'s father, Mr. Q.C., has had a meaningful opportunity to challenge his sponsorship denial in an administrative hearing before an independent ALJ, as is consistent with ORR's regulations and policy and legal precedent, ORR's conduct cannot be said to "shock the conscience." *See D.B.*, 826 F.3d at 741 ("[W]hen a state's interference with parental control is predicated on a determination that the parent is unable to provide adequate care for a child, such interference does not contravene substantive due process, at least in the absence of governmental action that shocks the conscience"). Thus, Petitioner's substantive due process challenge is unavailing.

B. Petitioner's Administrative Procedure Act, TVPRA, and *Accardi* Doctrine Claims Fail

Petitioner asserts claims under the Administrative Procedure Act ("APA"), Trafficking Victims Protection Reauthorization Act ("TVPRA"), and *Accardi* doctrine. *See* Doc. No. 1 ¶¶ 134–155. These claims fail for related reasons. Beginning with his APA claim (Fifth Claim for Relief), Petitioner asserts two grounds for such relief: (1) "unjustified and inexcusable delay" in rendering a decision on Mr. Q.C.'s sponsorship application; and (2) because ORR's decision was contrary to "overwhelming evidence" supporting A.E.Q.C.'s release to Mr. Q.C. Doc. No. 1 ¶¶ 147–155.

Section 706(1) of the APA permits a reviewing court to "compel agency action unlawfully withheld or unreasonably delayed." 5 U.S.C. § 706(1).[6] Here, there is no dispute that ORR has rendered a final decision denying Mr. Q.C.'s sponsorship application and that an ALJ affirmed the denial on appeal. This forecloses Petitioner's claim for APA relief based on any purported delay in deciding Mr. Q.C.'s application as any such claim is moot. *See, e.g.*, *Williams v. Ozmint*, 716 F.3d 801, 809 (4th Cir. 2013) ("A claim may be mooted when the claimant receives the relief he or she sought to obtain through the claim, because the court no longer has [] effective relief to offer.") (internal quotation marks omitted).

Petitioner's claim is also unavailing because habeas review under § 2241 is limited to determining whether A.E.Q.C. is in custody unlawfully. Whether ORR unreasonably delayed a decision on Mr. Q.C.'s sponsorship application is irrelevant to that inquiry and is not cognizable. *See Thieme v. Warden Fort Dix FCI*, 154 F.4th 115 (3d Cir. 2025) ("[F]or an APA claim to be brought in habeas, it must have some relationship to the prisoner's release."); *Preiser v. Rodriguez*, 411 U.S. 475, 484 (1973) ("[T]he essence of habeas corpus is an attack by a person in custody upon the legality of that custody, and that the traditional function of the writ is to secure release from illegal custody.").

Moreover, the Supreme Court has held that a claim under 5 U.S.C. § 706(1) can only proceed where the plaintiff asserts that an agency failed to take a discrete action that the agency is *required* to take. *Norton v. Southern Utah Wilderness Alliance*, 542 U.S. 55, 64 (2004). Accordingly, an agency's delay in acting cannot be unreasonable with respect to action that is not required. *See id.* Here, the statute mandates that ORR release a child only to a sponsor that ORR, in its child welfare experience and judgment, determines will safely care for the UAC.

[6] While Petitioner does not cite § 706(1), that is the section applicable to claims based on delay.

ORR found that releasing A.E.Q.C. to Mr. Q.C. would pose a risk to the child. Thus, there can be no claim of unreasonable delay, and thus no subject-matter jurisdiction under the APA, for a claim that ORR was required to release A.E.Q.C. to Mr. Q.C. Also, as explained, the record does not support Petitioner's claim that a decision on Mr. Q.C.'s sponsorship application was unreasonably delayed. *See supra* at 16; *Hyatt v. U.S. Patent & Trademark Office*, 146 F. Supp. 3d 771, 780 (E.D. Va. 2015) (citing *Telecommunications Research & Action Ctr. v. FCC*, 750 F.2d 70, 80 (D.C. Cir. 1984)) (to determine whether agency delay is unreasonable under § 706(1), "courts routinely employ a multi-factor standard rather than a firm rule").

Petitioner's second APA claim, alleging that ORR's decision to deny Mr. Q.C.'s sponsorship application was contrary to "overwhelming evidence" also fails. The APA provides that this Court may "set aside" an agency action only if it is "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law." 5 U.S.C. § 706(2)(A). This standard is extraordinarily "narrow," and does not authorize a district court "to substitute its judgment for that of the agency." *Citizens to Preserve Overton Park, Inc. v. Volpe*, 401 U.S. 402, 416 (1971), *abrogated on other grounds by Califano v. Sanders*, 430 U.S. 99 (1977). Indeed, the Court "must defer to the agency if its action has a rational basis." *Am. Meat Inst. v. U.S. Dep't of Agric.*, 646 F.2d 125, 127 (4th Cir. 1981); *Nazareth Hosp. v. Sec'y U.S. Dep't of Health & Hum. Servs.*, 747 F.3d 172, 180 (3d Cir. 2014).

Here, ORR made a decision on Mr. Q.C.'s sponsorship application pursuant to its statutory mandate that it could not release A.E.Q.C. to any potential sponsor unless it concluded that the sponsor has not engaged in any activity that would indicate a potential risk to the child. 8 U.S.C. § 1232(c)(3)(A). ORR determined that releasing A.E.Q.C. to Mr. Q.C.'s custody would place him at risk because, among other reasons, a former UAC that Mr. Q.C. previously

sponsored indicated that Mr. Q.C. required him to work and to pay bills, in violation of the sponsorship agreement. *See* Doc. No. 1-20. Thus, ORR's decision was not arbitrary.

The ALJ's decision upholding ORR's sponsorship denial, which was the final administrative decision of the agency[7], satisfies the "rational basis" standard. The ALJ found that while Mr. Q.C.'s and his wife's failure to enroll other UAC in school was "not likely grounds enough" to deny his sponsorship application, the serious allegations related to him requiring a former UAC in his custody to pay for bills, including rent, food, and utilities called into serious question his ability to provide and care for A.E.Q.C. Doc. No. 1-22 at 7. Records filed by Petitioner, which were presented to the ALJ, corroborate these concerns, showing that a UAC reported on or before August 15, 2024, that Mr. Q.C. had been charging him hundreds of dollars each month for rent, food, and utilities since the UAC arrived. *See* Doc. No. 1-5 at 6. The UAC reported he was required to pay if he needed any clothing and that he felt he could not stop working despite his wish to study because he did not know where he could live and was afraid of being homeless or going hungry. *Id.* The UAC reported that Mr. Q.C. required other minors in the household to pay him. *Id.*

After the initial report, the Office on Trafficking in Persons ("OTIP") conducted additional follow-up with the Post Release Services ("PRS") case manager. Ex. 2 at Ex. 9. A follow-up report, which was submitted to the ALJ (Ex. 2 ¶ 36), stated that the UAC worked from January to May 2024, typically 3–5 days per week for 4–8 hours per day, first at a pizza shop, then at a fruit-packing facility, while Mr. Q.C. also arranged for construction shifts, sometimes in

[7] The UACB Policy Guide provides that "[t]he Assistant Secretary's or their neutral and detached designee's decision to affirm or overrule the ORR Director's or their designee's decision to deny release to a potential sponsor is the final administrative decision of the agency on the application that had been under consideration." UACB Policy Guide § 2.7.8.

lieu of school. Ex. 2 at Ex. 9. Mr. Q.C. required payment of $100 per week for food, $250 per month for rent, and $90 per month for utilities. *Id.* In June 2024, Mr. Q.C. added $150 per month for rent when the UAC stopped working due to illness. *Id.* The UAC reported he would not eat if he did not pay, that he could not leave the residence until he turned 18, and that Mr. Q.C. would withhold his birth certificate and immigration documents. *Id.* The UAC also reported pressure to work to pay a $11,000 family migration debt. *Id.* A teacher corroborated a portion of the interactions with Mr. Q.C. *Id.* The report noted that while no corroborating evidence was found regarding allegations that other UAC in Mr. Q.C.'s custody were required to work, Mr. Q.C. declined Post Release Services in many cases, limiting oversight. *Id.*

Records further indicate that the former UAC was contacted again in January 2025 and stated he started paying bills in June of 2024. Doc. No. 1-5 at 4–5. The UAC provided additional information that he had been assaulted and that afterwards, Mr. Q.C. "gave him options" on whether to continue school or work, and that he agreed to work. *Id.* Records did not indicate that Mr. Q.C. reported an assault to authorities. See Doc. No. 1-22 at 6.

Given this and other evidence, the ALJ had a rational basis upon which to find that Mr. Q.C. did not meet his burden to prove that ORR's decision should be overturned. While the ALJ did not find Mr. Q.C.'s failure to enroll other UAC in school alone to be sufficient to deny his sponsorship application, the additional supported allegation that he required a former UAC to pay for household expenses was a sufficiently serious concern to uphold the decision. As such, Petitioner's APA claim fails.[8]

[8] The ALJ's decision noted that the UAC's alleged withdrawal of the allegations to Mr. Q.C.'s wife was not supported by any evidence in the record. Doc. No. 1-22 at 6. The child advocate appointed for A.E.Q.C. submitted letters supportive of reunification with Mr. Q.C. *See* Doc. Nos. 1-19, 1-24. The child advocate's views are not controlling on ORR or the ALJ though they

In his Third Claim for Relief, Petitioner asserts that ORR violated the TVPRA's requirement that A.E.Q.C., as a UAC, be placed in "the least restrictive setting that is in his best interests. *Id.* ¶¶ 134–138. The TVPRA does not provide a standalone cause of action because it does not contain an express waiver of the government's sovereign immunity, and the government has not otherwise consented to suit under that statute. *See* 8 U.S.C. § 1232; *Lane v. Pena*, 518 U.S. 187, 192 (1996); *cf. Adams v. Calhoun Cty.*, No. 18-1867, 2019 WL 3501815, at *2 (6th Cir. 2019) (no waiver of state sovereign immunity); *Mjsilovic v. Okla. Ex rel. Bd. of Regents for Univ. of Okla.*, 841 F.3d 1129, 1132–34 (10th Cir. 2016) (same).

Accordingly, any claim that ORR has violated the TVPRA must be evaluated under the APA (§ 702(2)(A)) as claim that the agency action was "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law." *See Lucas R.*, 2018 WL 7200716, at *7 n.12. Petitioner cannot show that the independent ALJ's affirmance of ORR's decision not to release A.E.Q.C. to Mr. Q.C. lacked any rational basis under the TVPRA. Importantly, the TVPRA provides that UAC "may not be placed with a person or entity unless the Secretary of Health and Human Services makes a determination that the proposed custodian is capable of providing for the child's physical and mental well-being." 8 U.S.C. § 1232(c)(3)(A). This safety and suitability determination must "at a minimum, include verification of the custodian's identity and relationship to the child, if any, as well as an independent finding that the individual has not engaged in any activity that would indicate a potential risk to the child." *Id.* As explained above, the ALJ had a rational basis for upholding ORR's sponsorship denial decision for Mr. Q.C. in light of the potential risk to A.E.Q.C. Thus, Petitioner's TVPRA claim fails.

---

were considered by the ALJ. *See* Doc. No. 1-22 at 8 (noting child advocate report was submitted and child advocate testified at hearing). The child advocate's most recent letter (Doc. No. 1-24) expresses disagreement with the ALJ's decision but provides no new material information.

Finally, in Petitioner's Fourth Claim for Relief, he argues for relief under the *Accardi* doctrine based on the Respondents' purported violation of the Foundational Rule. Doc. No. 1 ¶¶ 139–146. Petitioner repeats the substance of his TVPRA claim, asserting that Respondents violated their duty to place A.E.Q.C. in the least restrictive setting that is in his best interest. *Id.* Petitioner also argues that Respondents failed to timely adjudicate Mr. Q.C.'s sponsorship application. *Id.* Neither claim succeeds.

Under the *Accardi* doctrine, a court may set aside agency action that is not in compliance with its own regulations or internal procedures. *See Leslie v. Att'y Gen. of U.S.*, 611 F.3d 171, 175 (3d Cir. 2010). But not every agency regulation or procedure falls under the doctrine. Rather, to state a claim for an *Accardi* violation, Petitioner must plausibly allege that a regulation or procedure "regulate[s] the rights and interests of others" and thus is "controlling upon the agency." *Id.* (citing *Columbia Broad. Sys., Inc. v. United States,* 316 U.S. 407, 422 (1942)); *see United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260, 268 (1954). When an agency regulation "does not protect fundamental constitutional or statutory rights," a violation of the regulation will only warrant judicial relief when there is "a showing of prejudice." *Leslie*, 611 F.3d at 178 (citing *Chong v. INS,* 264 F.3d 378, 389 (3d Cir. 2001)).

Petitioner fails to identify any regulation or internal procedure that Respondents failed to comply with, and as such, fails to plead a viable *Accardi* claim. ORR followed applicable laws, policies, and regulations in deciding Mr. Q.C.'s sponsorship application. These included laws requiring ORR to consider the safety and suitability of any placement. Any *Accardi* claim also fails because the remedy for an *Accardi* violation would be "limited to compelling the agency to abide by" the regulation, which it has done here, not to order release. *C.G.B. v. Wolf*, 464 F. Supp. 3d 174, 227 n.44 (D.D.C. 2020). The Court should also deny relief under *Accardi* for

Petitioner's claim that ORR failed to timely adjudicate Mr. Q.C.'s sponsorship application. The application has been adjudicated, and any claim under *Accardi* is moot.[9] And any delay in deciding the application is irrelevant to whether A.E.Q.C.'s continued custody by ORR is lawful. Thus, Petitioner's claims under the APA, TVPRA, and *Accardi* doctrine should be denied.

IV. CONCLUSION

For the reasons stated, the Court should deny the Petition for Writ of Habeas Corpus.

Respectfully submitted,

TROY RIVETTI
United States Attorney

/s/ David Lew
DAVID LEW
Assistant U.S. Attorney
Joseph F. Weis, Jr., U.S. Courthouse
700 Grant Street, Suite 4000
Pittsburgh, PA 15219
Phone: (412) 894-7482
Fax: (412) 644-5870
david.lew@usdoj.gov
PA ID No. 320338

/s/ Michael C. Colville
MICHAEL C. COLVILLE
Assistant U.S. Attorney
Joseph F. Weis, Jr. U. S. Courthouse
700 Grant Street, Suite 4000
Pittsburgh, PA 15219
Tel.: (412) 894-7337
Fax: (412) 644-6995
Email: michael.colville@usdoj.gov
PA ID No. 56668

[9] Notably, 45 C.F.R. § 410.1205(b), cited by Petitioner (Doc. No. 1 ¶ 142) refers to adjudication of a "completed" sponsorship application. The record reflects that Mr. Q.C. updated his application after it was submitted. *See* Ex. 2 ¶¶ 23–34.