IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF PENNSYLVANIA

A.E.Q.C., a minor, by and through his Next Friend, [redacted]	)	
Petitioner,	)	Case No. 2:26cv1008-WSH
v.	)	
ROBERT F. KENNEDY, JR. et al.,	)	
Respondents.	)	

REPLY IN SUPPORT OF PETITION FOR WRIT OF HABEAS CORPUS

The Government's response ignores the fact that this case involves the relationship between a parent and their child—a relationship that has unique Constitutional significance. As a result, the Government irrationally argues that well settled principles of family integrity do not apply to the government's refusal to release A.E.Q.C. to the care of his biological parents. This is wrong as a matter of law and common sense.

The Government dismissively waves aside Petitioners' arguments and assures the Court that there is no issue here, since A.E.Q.C. has already received sufficient due process. Opp. at 12-16. [1] The Government betrays its confusion regarding the appropriate constitutional burdens, when it suggests, as a solution, that Mr. Q.C. is "not prohibited from filing another sponsorship application in the future with additional information he wishes to have ORR to consider." [2] Opp. at 15. This is not what the Constitution requires. Despite a brief of some 25 pages, the Government never addresses the overwhelming credible evidence that it is in A.E.Q.C.'s best interest to be returned to his parents' care, and that his well-being and safety continue to suffer

[1] For brevity's sake, the Government's Brief in Opposition is referred to here as "Opp."
[2] Mr. Q.C. would do just that but the Government provides no direction on what kind of proof would remedy the Government's concerns. In effect, he is left to try again hoping for better luck with all the attendant delay that another application would entail while his son continues to languish and deteriorate in custody.

while he remains in government custody. Ultimately, the Government shows no regard for the consequences of its argument, which is that a 15-year-old child who has already spent over 530 days in custody will remain there, separated from his parents and family presumably for three more years until he turns 18.

I. ORR violated A.E.Q.C.'s Substantive and Procedural Due Process Rights.

(a) *Lucas R.* Does Not Control This Matter.

The Government's argument that A.E.Q.C. has received "enough" due process rests entirely on its citation to an unreported decision from a California district court. *Lucas R. v. Becerra,* No. CV 18-5741-DMG (PLAx), 2022 WL 2177454 (C.D. Cal. Mar. 11, 2022). However, that case does not address the constitutional rights of biological *parents* seeking to be reunited with their children while those children languish in Government custody. As the Government knows, *Lucas R.* deals with close family members, who are not the child's parents, seeking sponsorship of their younger sibling or grandchildren. *Id.* at 9. *Lucas R.* does not address the question of the due process that should be afforded to a *parent* seeking reunification with their child and therefore is not dispositive in this matter. [3]

Furthermore, contrary to the Government's argument made entirely in a footnote, *Lucas R.* does not nullify the holdings of the cases affirming the shared interest in family unity which are relied upon by Petitioner. *See* Opp. at 13 fn 3. Indeed, decisions after *Lucas R.* reference the

[3] Furthermore, *Lucas R.* was decided in 2022, a time when the expectation was that sponsor applications from parents would be decided within 10 days absent rare circumstances and where any demand for additional information would not inordinately delay adjudication. *Lucas R.* at 27. In this case, by contrast, ORR took almost a year to deny Mr. Q.C.'s application resulting in his son languishing in government custody. The stakes are simply higher when a child remains in government custody separated from his parents.

very same authorities relied upon by Petitioner showing that there is a right to family unity and special considerations for the parent-child bond even when the child is in ORR custody.[4]

If *Lucas R.* were to be read in the manner the Government suggests, it would run headlong into bedrock Supreme Court decisions about the reciprocal rights of parents and children to family unity without interference from government intrusion except in the most limited and serious of circumstances. *Lucas R.* never addressed those questions and certainly never provided a conclusive, let alone controlling, answer to the question of what level of due process must be afforded to a biological parent being denied custody of their child.

(b) The Government's Erroneous Reliance on *Lucas R.* only Highlights Its Confusion and the Fact that A.E.Q.C. was Denied Due Process.

While invoking *Lucas R.* to argue there is no due process violation, the Government dismisses well settled law on the right of a parent and child to family integrity and the quantum of due process required when the Government interferes with that right to family integrity.

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[4] In two very recent cases, *M.A. v. Molina,* No. 4:26-cv-00415, 2026 WL 741623 (N.D. Ohio Mar. 17, 2026) and *E.H.C.F. by Contreras Flores v. Kennedy*, No. 3:25-cv-2142, 2026 WL 145229 (D. Conn. Jan. 16, 2026) the U.S. District Court for the Northern District of Ohio and the U.S. District Court for the District of Connecticut, cited the same cases relied upon by Petitioner here to find that at least when a parent is requesting reunification, the burden should be on ORR to show why continued custody of the child is appropriate, rather than placing the burden on the parent. *See Molina* at * 6 *citing*, *Santos v. Smith*, 260 F. Supp. 3d 598, 613 (W.D. Va. 2017) ("[W]hen 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."); and *Molina* at *7, citing *Beltran v. Cardall*, 222 F. Supp. 3d 476, 485 (E.D. Va. 2016) (finding sponsorship process inadequate because "[a]t no point was the onus on ORR to justify its deprivation of Petitioner's fundamental parental rights"). *Kennedy* at *26 ("Finally, other courts have found that when a parent (rather than another relative or a friend) seeks reunification with her child, ORR procedures improperly place the burden of proof on the parent to demonstrate suitability rather than on ORR to justify its continued custody of the child.) *Citing Santos*, 260 F. Supp. 3d at 613 ("[W]hen 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 (finding process inadequate because "[a]t no point was the onus on ORR to justify its deprivation of Petitioner's fundamental parental rights"). *See* also *Kennedy* at *27 ("To summarize, "the deficient procedures employed by ORR created a significant risk" that E.H.C.F. "would be erroneously deprived of [his] right to family integrity.") *Citing Beltran*, 222 26 F. Supp. 3d at 488. ("'This risk could have been mitigated by additional procedural safeguards,' including enhanced transparency regarding ORR's decision-making, an expedited suitability determination, and adjusting the burden of proof to account for the important private interest at stake. *Id.* '")

ORR's policies explicitly require a *de novo* review by a neutral decision maker when a parent is appealing a denial. Here, the ALJ did not apply that standard of review at ORR's request, framing her decision in terms of whether ORR had a legitimate basis for their decision. *De novo* review would have forced the ALJ to adjudicate whether A.E.Q.C. was placed in the least restrictive placement that was in his best interests based on the totality of the evidence in ORR's record and any additional evidence provided during the appeal. *De Novo* review would not have afforded undue deference to ORR's original decision and would have required more from ORR to justify their prolonged detention of A.E.Q.C. The failure to provide the requisite Due Process here included misapplying appropriate standards of proof and failing to place the burden on ORR to justify continued custody. These errors effectively insulated their own evidence and decison-making from scrutiny increasing the risk of error and ensuring that the opportunity to be heard actually afforded to Mr. Q.C. was far from meaningful.

The denial of appropriate Due Process to A.E.Q.C. mattered in the most consequential way: he remains in custody despite overwhelming evidence that continued custody is not in his best interest. If the ALJ had conducted a *de* novo review and applied the appropriate burdens and standards of evidence, she would have been forced to confront the overwhelming evidence that A.E.Q.C.'s best interest demanded release to his parents' care.

The government also mischaracterizes the state's interest. The government undoubtedly has a legitimate interest in the safe placement of unaccompanied children, but, as the very case relied on by the Government points out, the Government's interests ultimately converge with those of the family. *Id.* at 37. The government shares a strong interest in the "'preservation, not severance, of natural familial bonds.'" *Id.* (quoting *Santosky v. Kramer*, 455 U.S. 745, 747 (1982)). However, the Government made no effort to reconcile those interests. Had the

Government operated in fidelity to its statutory mandate to serve the best interests of A.E.Q.C. this case would have long ago been resolved, and the child would be home with his parents.

II. The Government's Refusal to Release A.E.Q.C. Violates the APA.

(c) Release of A.E.Q.C. Has Been and Is Being Unreasonably Delayed.

The government suggests both that the issue of delay is moot since a decision to deny Mr. Q.C.'s application to be reunited with his son was ultimately made and, regardless, that there was no unreasonable delay. Opp. at 16. The government cites a Second Circuit case for this proposition. *Kinuthia v. Biden*, No. CV 21-11684-NMG, 2022 WL 17653503 (D. Mass. Nov. 9, 2022). *Kinuthia* has no relevance here. At issue there was a delay in the issuance of an Employment Authorization card, which was ultimately issued to the petitioner. *Kinuthia* involved nothing approaching the seriousness of a child in prolonged detention. Here, Mr. Q.C. raises the issue of unreasonable delay because of how long ORR took to decide his application without any basis for that delay and because the ongoing delay in resolution of this case continues to harm his son who remains in government custody.

The government argues that the delay here was not unreasonable because ORR took the necessary steps over the course of the year before it decided Mr. Q.C.'s application. Opp. at 15-16. However, the government provides no accounting for its failure to act after the home study was completed with a positive recommendation and all sponsor documentation including employment verification was received. In fact, ORR's representative, Toby R. Biswas's declaration demonstrates that there was no active consideration of Mr. Q.C.'s application between May, when all requested documents were received and August, when ORR requested an updated authorization for release of information since the original authorization had expired due to ORR's delay in rendering a decision. Opp. Ex. 2 at 32. The declaration is even clearer that

between August and December, ORR took no additional action on Mr. Q.C.'s request to have his son released from ORR to his care until December when finally the decision to deny was made. Opp. Ex. 2 at 32-33. The record is clear that ORR unreasonably and unjustifiably delayed making a decision for approximately eight months, thereby allowing A.E.Q.C. to languish in government custody. That delay, and the ongoing delay in this case, do have Constitutional significance.[5] The delay undermined Mr. Q.C.'s ability to challenge ORR's position, and actively contributed to AEQC's deteriorating mental and physical health. ORR's inaction was in clear violation of their statutory duties and A.E.Q.C.'s constitutional right to family integrity.

(d) The Government's Refusal to Release A.E.Q.C. is Arbitrary and Capricious.

The government argues that the decision to deny release was not arbitrary and capricious but rather rational because "a former UAC that Mr. Q.C. previously sponsored indicated that he was required to work and pay bills." Opp. at 20. Even if you accept ORR's concerns about this allegation, it is not rational that the ALJ, as a neutral arbiter, credited implausible, undocumented and unfounded hearsay evidence to the exclusion of the independent, clearly articulated findings of both the ORR home study and the report of the independent child advocate that A.E.Q.C. should be released to his parents.

In their response, the government misrepresents the timing, substance, and investigation of the allegations made against Mr. Q.C. In sum, a case manager raised concerns about a UAC in Mr. Q.C.'s care in August 2024, which appropriately triggered a referral to the Office of Trafficking Persons (OTIP) generating the report attached to the Government's Response. Opp.

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[5] *See Lucas R. v. Beccera*, at 27 (concluding that "'significant' and 'unexplained delay[s]in responding to [a proposed sponsor's] unification request' violate due process irrespective of other procedural defects) (citing *Santos v. Smith*, 260 F. Supp. 3d 598, 613–14 (W.D. Va. 2017). *See also Molina*, 2026 WL 741623 (N.D. Ohio) (summarizing the several courts holding that significant and unexplained delay is a violation of due process).

Ex. 9. However, closer review of the exhibit reveals the inadequacy of that report as a basis to deny release of A.E.Q.C. to the care of his parents. The August 2024 report is based solely on conversations with third parties and not the UAC himself. Even more egregious is the complete lack of authentication. The "report" has no author, no date, no record of procedures, no official format, no corroboration, no identification of the parties involved, or even an indication of the purpose of the document. Additionally, the government has failed to identify any protective action taken in response to these concerns. For months after the concern was raised by the case manager, the UAC and other sponsored youth remained in Mr. Q.C.'s care with ORR's knowledge.

In early January 2025, after Mr. Q.C. applied to sponsor his biological son, ORR staff contacted the four previously sponsored UACs who lived in Mr. Q.C.'s house. Three UACs spoke glowingly about the support they received from Mr. Q.C. In each instance, they denied any risk, unsafe conditions, or trafficking and the two youth who were living in the household at the time the allegations were made denied that any of the sponsored youth were asked to pay bills. Only the one UAC, whose case manager made the initial referral to OTIP, stated when pressed that he dropped out of school and began working to pay bills in June of 2024. However, there is absolutely no indication that this was at the insistence of Mr. Q.C. or even that he was paying bills to Mr. Q.C. It is plausible, based on the information in the report attached as Ex. 9, that the bills were in relation to a debt for family travel to the United States. We do not know the truth and neither does the Government who nonetheless relied on this allegation to deny reunification of a parent and child.

In stressing these allegations now in this matter, the Government invites this Court to do precisely what the ALJ did. The Government wants the Court to defer to ORR and to credit

wholly inadmissible evidence rife with double hearsay, that is uncorroborated in any meaningful fashion, and contradicted by the direct, live testimony of Mr. Q.C. and the testimony of the child advocate explaining why it was in A.E.Q.C.'s best interest to return home. The Government also dismisses its own home study which recommended release of the child to his parents. However, if the basis for the denial of release was known to ORR prior to the completion of the requested home study, a positive home study recommendation should have outweighed the preexisting concerns. *Molina*, fn 1. In sum, the government ignores any evidence gathered *after* the concern was raised thereby giving undue weight to the original information based on hearsay and no weight to any positive information gathered during the sponsorship process which has been verified, corroborated and subject to cross examination in the appeal hearing. This is arbitrary and capricious.

III. The Refusal to Release A.E.Q.C. to the Care of His Parents is Contrary to the Mandate that He Be Afforded the Least Restrictive Placement that Serves His Best Interests.

Finally, the government mischaracterizes ORR's statutory mandate under the TVPRA, seizing on one aspect of its statutory obligation but completely ignoring the broader, far more encompassing framework. In addition to assessing sponsor suitability, the TVPRA requires ORR to consider the least restrictive placement in the best interests of the child. ORR waves away the concern about the fifteen year old's wellbeing "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." Opp. at 3. However, ORR and its appeal process completely disregarded the consideration of his best interests and the concrete and ongoing harms that A.E.Q.C. has and will continue to suffer.

As the record clearly stated, and the Government nowhere disputes, ORR's home study in February 2025 concluded affirmatively with a positive recommendation for A.E.Q.C.'s

release.[6] The child advocate's best interest determination also found that it was in the child's best interest to be released from ORR custody to his parents. That determination was based on months of multiple conversations with A.E.Q.C., his parents and shelter case managers and clinicians in addition to a thorough review of the case file. These two findings provide significant evidence in favor of releasing A.E.Q.C. to the least restrictive setting, his parents' home. The summary dismissal of these affirmative findings and best interests' analysis is not rational but arbitrary and capricious especially when ORR's statutory responsibility is to place the child in the least restrictive setting that is in his best interests. 8 U.S.C. § 1232(c)(2)(A).

Accepting the government's argument that *any* activity of a parent indicating some potential risk – no matter how vague or how little consequence the Government attaches to it when it is raised -- is sufficient, in and of itself, to justify continued separation of a child from his parents is directly counter to well-settled law, and here, in the case of a parent seeking reunification with their child, is unconstitutional and contrary to the laws governing ORR.

IV. Conclusion

A fragile child remains in detention with no prospect of being released before his childhood ends. His well-being has deteriorated precisely because of his separation from his family. In response, the Government suggests that the system does not have to recognize the fundamental Constitutional rights of the child and the parents to family integrity and to abide by its obligation to provide the due process protections commensurate with that relationship. The

[6] Per ORR's policy, a home study is designed to "(1) Assess the potential sponsor's ability to meet the child's needs; (2) Educate and prepare the potential sponsor for the child's release; and (3) Corroborate information gathered on the sponsor assessment." UAC Policy Guide, § 2.4.2.

appropriate remedy here is for, at long last, the Court to order the immediate release of this child into the custody and care of his parents.[7]

Dated: June 17, 2026

Respectfully submitted,

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[7] Respondent Holy Family Institute and its CEO Michael Sexauer filed a response to the Petition (ECF 15) denying any violations of law and asserting that Holy Family Institute and its CEO Michael Sexauer have no independent authority to detain or to release A.E.Q.C. However, Respondent Holy Family Institute does have physical custody of the minor, A.E.Q.C., and is responsible for his continued care, and they remain indispensable parties. However, counsel for Petitioner are more than willing to work with counsel for Holy Family Institute and its CEO Michael Sexauer to minimize burden and cost.

CERTIFICATE OF SERVICE

I hereby certify that on June 17, 2026, a true and correct copy of the foregoing Reply in Support of Petition for Writ of Habeas Corpus was served on all counsel of record via the Court's ECF system.

Dated: June 17, 2026

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