UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF TEXAS HOUSTON DIVISION

S.D.C.G.C. and M.J.G.C., minors, by and through their next friend, **EMELDA YESSENIA CARBAJAL RÍOS**,

Petitioners/Plaintiffs,

v.

ROBERT F. KENNEDY, JR, in his o fficial capacity as Secretary of Health and Human Services, 200 Independence Avenue SW, Washington, DC 20201; **ANGIE SALAZAR**, in her official capacity as Acting Director of Office of Refugee Resettlement, 330 C Street SW, Room 5123, Washington, DC 20201; **ALONDA GALVAN and JESSE SANTOSCOY**, in their official capacities as Federal Field Specialists, Office of Refugee Resettlement; and **MAYRA LOPEZ**, in her official capacity as Senior Program Director of LSSS Upbring Krause Children's Shelter,

Respondents/Defendants

Case No. 4:26-cv-3981

PETITION FOR WRIT OF HABEAS CORPUS AND COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

Date: May 19, 2026

PETITION FOR WRIT OF HABEAS CORPUS AND COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

TO THE HONORABLE UNITED STATES DISTRICT COURT JUDGE:

S.D.C.G.C. and M.J.G.C., two minor children, and [redacted], as Next Friend, petition this Court for a Writ of Habeas Corpus, pursuant to 28 U.S.C. § 2241 and the Administrative Procedure Act, 5 U.S.C. § 701, *et seq.*, to remedy their continued unlawful detention by Respondents. Petitioners hereby request that an immediate hearing be set on this matter. Minor Petitioners also request that they be released during the pendency of this Petition. In support thereof, Petitioners allege as follows:

INTRODUCTION

1. Petitioners, S.D.C.G.C. and M.J.G.C., are two siblings, aged ten (10) and fourteen (14) years old, who arrived in the United States from their home country of Honduras on April 26, 2025, and were immediately detained by the Department of Homeland Security ("DHS"). DHS designated S.D.C.G.C. and M.J.G.C. as unaccompanied children and transferred them to the custody of the Department of Health and Human Services' Office of Refugee Resettlement ("ORR").

2. S.D.C.G.C. and M.J.G.C. are still detained in the custody of ORR at LSSS Upbring Krause Children's Shelter in Katy, Texas. S.D.C.G.C. and M.J.G.C. have been held in ORR custody since April 27, 2025, or for 387 days. This prolonged detention is despite the fact that ORR immediately identified S.D.C.G.C. and M.J.G.C.'s maternal aunt, [redacted] as a qualified "sponsor" residing in the United States who could receive them into her custody, and Ms. [redacted] cooperated extensively with ORR and fulfilled numerous requirements to prove her relationship to the children and ability to provide for their physical and mental well-being.

3. S.D.C.G.C. and M.J.G.C.'s unlawful prolonged detention is the result of ORR's policies and practices regarding sponsor reunification. ORR has a statutory and regulatory responsibility to "promptly" place S.D.C.G.C. and M.J.G.C. "in the least restrictive setting that is in the best interest of the child." 8 U.S.C. § 1232(c)(2)(A); 45 C.F.R. §§ 410.1003(f), 410.1205(b) (family member sponsor applications must be adjudicated within 10-14 days). To fulfill its mandate, ORR releases most unaccompanied children in ORR custody to their parents or other relatives in the United States. In this case, however, Ms. [redacted], has been trying to reunify with her niece and nephew for more than a year.

4. Despite ORR's legal obligation, ORR has repeatedly delayed S.D.C.G.C. and M.J.G.C.'s reunification process and failed to process Ms. [redacted]'s sponsorship application expeditiously. In addition, ORR has continued to add new requirements to the sponsorship process throughout S.D.C.G.C. and M.J.G.C.'s time in custody, prolonging their detention. Pro bono attorneys for S.D.C.G.C. and M.J.G.C. have requested information on this case and advised ORR of the children's continued suffering from their prolonged detention, as has the children's federally appointed Child Advocate, but it remains pending to this day. ORR's failure to act "promptly" violates S.D.C.G.C. and M.J.G.C.'s constitutional rights to due process and family integrity.

5. Rather than reunify this family, ORR collaborated with DHS to detain Ms. [redacted] at her home in April 2025 pursuant to "Operation Guardian Trace. They then requested that Krause facility staff submit a denial of her sponsorship application within weeks of being detained, since she was unavailable to receive the children at that moment. Fortunately, Ms. [redacted] secured pro bono counsel in her immigration case, and she was soon granted bond by an Immigration Judge and released from detention. However, S.D.C.G.C. and M.J.G.C. suffered considerable grief and trauma due to their aunt's detention, and this has prolonged their own detention as well. Ms. [redacted] now seeks to complete the sponsorship process, but she continues to experience delay. The undersigned counsel has sent ORR multiple litigation demands in this case, without ever receiving a response.

7. This petition seeks to liberate S.D.C.G.C. and M.J.G.C. from detention and reunify them with their sponsor on the basis that their continued detention is unlawful and violates the substantive and procedural due process protections of the Fifth Amendment, the Administrative Procedure Act, the *Accardi* doctrine, the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008, and the Immigration and Nationality Act and its implementing regulations. S.D.C.G.C. and M.J.G.C. respectfully ask this Court to order their immediate release to the custody of Ms. [redacted] in Texas, or to the least restrictive community placement available.

JURISDICTION AND VENUE

8. This Court has jurisdiction under the U.S. Constitution. U.S. Const. art. I § 9, cl. 2 ("The privilege of the Writ of Habeas Corpus shall not be suspended, unless when in Cases of Rebellion or Invasion the public Safety may require.").

9. The Court also has jurisdiction under 28 U.S.C. § 1331 (federal question); 28 U.S.C, § 1651 (the All Writs Act); 28 U.S.C. § 2241 (habeas corpus); and 5 U.S.C. § 701 (the Administrative Procedure Act).

10. This Court has additional remedial authority under 28 U.S.C. §§ 2201 and 2202 (the Declaratory Judgment Act) and Fed. R. Civ. P. 65 to grant declaratory and injunctive relief.

11. Venue is proper in the Southern District of Texas because a substantial part of the events giving rise to these claims occurred and continue to occur in this district.

12. Venue is also proper under 28 U.S.C. § 2241 because S.D.C.G.C. and M.J.G.C. are detained within this district.

PARTIES

13. Petitioners S.D.C.G.C. and M.J.G.C. are two siblings and unaccompanied children in the custody of the Office of Refugee Resettlement ("ORR"). S.D.C.G.C. is ten (10) years old, and M.J.G.C. is fourteen (14) years old. They are detained at LSSS Upbring Krause Children's Shelter in Katy, Texas. S.D.C.G.C. and M.J.G.C. are trying to reunify with their aunt in Texas.

14. [redacted] is the maternal aunt, ORR sponsor, and Next Friend of Petitioners. S.D.C.G.C. and M.J.G.C. appear by and through Ms. [redacted]

15. Respondent Angie Salazar is the Acting Director of ORR, the subagency of the U.S. Department of Health and Human Services ("HHS") responsible for overseeing the care and custody of unaccompanied minors. ORR is the government entity directly responsible for the detention of S.D.C.G.C. and M.J.G.C. As the Acting Direct of ORR, Respondent Salazar is a custodian of Petitioners, with authority to produce and release them. Respondent Salazar is sued in her official capacity.

16. Respondent Robert F. Kennedy is the Secretary of HHS, a cabinet-level department of the United States Government. ORR is a component of HHS. As the Secretary of HHS, Respondent Kennedy is a custodian of Petitioners, with authority to produce and release them. Respondent Kennedy is sued in his official capacity.

17. Respondents Jesse Santoscoy and Alondra Galvan are ORR Federal Field Specialists assigned to S.D.C.G.C., M.J.G.C., and Ms. [redacted]' reunification case. Federal Field Specialists Santoscoy and Galvan are government officials responsible for the care and custody of S.D.C.G.C. and M.J.G.C., as well as other children in ORR custody. In this role, Federal Field Specialists Santoscoy and Galvan are responsible for determining S.D.C.G.C. and M.J.G.C.'s placement and have the authority to approve their release to an appropriate sponsor's care. Accordingly, these ORR Respondents are

custodians of Petitioners, with authority to produce and release them. Respondents Santoscoy and Galvan are sued in their official capacities.

18. Respondent Mayra Lopez is the Senior Program Director of LSSS Upbring Krause Children's Shelter where S.D.C.G.C. and M.J.G.C. are being held at the time of this petition. As Director of LSSS Upbring Krause Children's Shelter, Respondent Lopez is a custodian of Petitioners, with authority to produce them. Respondent Lopez is sued in her official capacity.

REQUIREMENTS OF 28 U.S.C. § 2243

19. The Court must grant the petition for writ of habeas corpus or order Respondents to show cause "forthwith" unless the Petitioners are not entitled to relief. 28 U.S.C. § 2243. If an order to show cause is issued, Respondents must file a return "within three days unless for good cause additional time, not exceeding twenty days, is allowed." *Id.*

20. Habeas corpus is "perhaps the most important writ known to the constitutional law…affording as it does a *swift* and imperative remedy in all cases of illegal restraint of confinement." *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis added). "The application for the writ usurps the attention and displaces the calendar of the judge or justice who entertains it and receives prompt action from him within the four corners of the application." *Yong v. I.N.S.*, 208 F.3d 1116, 1220 (9th Cir. 2000) (citation omitted).

LEGAL FRAMEWORK

The Care, Custody, and Release of Unaccompanied Immigrant Children

21. Each year, hundreds of immigrant children flee violence, mistreatment, and trafficking in their home countries, to seek protection in the United States. Many of these children come from countries where gang violence, government corruption, and instability create conditions that make these regions among the most dangerous for children. According to the United Nations, nearly two-thirds of immigrant children from these regions have experienced harms that qualify them for international refugee protection.

Indeed, U.S. federal law recognizes that minors are distinctively vulnerable and establishes a child-welfare framework, not a carceral one, to govern their custody and release.

22. Noncitizen children who encounter immigration officials at the U.S. border or in the interior of the United States may be designated an "unaccompanied [noncitizen] child" or "UAC" if they meet three conditions defined in the Homeland Security Act of 2002, Section 462, that is: 1) under 18 years of age, 2) lacking lawful immigration status in the United States, and 3) not having a parent or legal guardian in the U.S. who is available to provide care and physical custody. *See* 6 U.S.C. § 279(g)(2). For many children apprehended and designated as UACs, they do have a parent or legal guardian in the U.S. who can care for them—and in some cases already has been caring for them—but they are detained and held in the custody of the Office of Refugee Resettlement ("ORR)" until that can be satisfactorily proven pursuant to various ORR policies and protocols, at which point they are normally released from detention to reunify with that family member.

23. According to ORR's UAC Bureau Policy Guide, unaccompanied children in ORR custody are to be "released in a safe, efficient, manner without unnecessary delay," whereby "safe and timely release must promote public safety and ensure that sponsors are able to provide for the physical and mental well-being of children."[1] In practice, however, that is no longer the case. Due to numerous novel policy and practice changes during the current Administration, detained unaccompanied children across the United States are experiencing continuous delays in being reunified with their families, which is significantly harming their mental health and wellbeing. This prolonged detention is contrary to the legal framework designed to protect these vulnerable minors, the policy rationales underlying ORR's role as their custodians in immigration custody, and the constitutional interests and due process rights of individuals and families in the United States.

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[1] *Available at* https://acf.gov/orr/policy-guidance/unaccompanied-children-program-policy-guide-section-2#2.1 (last accessed May 15, 2026).

A. Statutory and Regulatory Framework

24. The care and custody of unaccompanied immigrant children is governed by a legal framework consisting primarily of two statutes, a settlement agreement that is binding on the pertinent federal agencies, and federal regulations: the Homeland Security Act of 2002, the Trafficking Victims Protection Reauthorization Act, the 1997 *Flores* Settlement Agreement, and the Foundational Rule.

25. Prior to 2002, the Office of Juvenile Affairs in the former 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"). It remains under the supervision of U.S. District Judge Dolly M. Gee in the Central District of California. *Flores v. Bondi*, No. CV 85-4544-DMG (AGRx).[2]

26. 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.

27. Congress' decision to transfer responsibility for the care and custody of unaccompanied children from the INS to ORR reflected Congress' determination that caring for children who arrive to the United States without their parent or legal guardian and immigration enforcement were incompatible roles for a single agency.[3] Within HHS, ORR is responsible for children's

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[2] Following the promulgation of the Foundational Rule, the *Flores* Settlement Agreement was partially terminated as to HHS. *Flores v. Garland*, 2024 WL 3467715 (C.D. Cal., June 28, 2024).

[3] *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

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…"), 34591.

28. With strong bipartisan support, Congress then expanded protections for unaccompanied children in the Trafficking Victims Protection Reauthorization Act of 2008 ("TVPRA"), reaffirming Congress' intent to treat unaccompanied children differently than the manner in which adults are treated by the Department of Homeland Security ("DHS"), both in detention and in immigration proceedings. 8 U.S.C. § 1232 *et seq*.

29. The TVPRA requires federal officials who discover an unaccompanied child to transfer the child to the care and custody of HHS within 72 hours (absent exceptional circumstances). *Id.* § 1232(b)(3). The TVPRA also tasks ORR with ensuring that unaccompanied children are "promptly placed in the least restrictive setting that is in the best interest of the child." *Id.* § 1232(c)(2)(A). This is usually with a sponsor. *See, e.g.*, *Saravia v. Sessions*, 905 F.3d 1137, 1142–43 (9th Cir. 2018). Congress enacted the TVPRA specifically to facilitate the safe, speedy release and minimally restrictive placement of unaccompanied children. *See, e.g.*, 154 Cong. Rec. S10886 (daily ed. Dec. 10, 2008) (statement of Sen. Feinstein, sponsoring senator).

30. Neither the HSA nor the TVPRA make any mention of a sponsor's potential immigration status as a prerequisite to receive an unaccompanied child into their custody. Similarly, neither statute gives ORR authority to: (1) inquire into immigration status as a condition for sponsorship; (2) collect information about potential sponsors for immigration or law enforcement purposes; or (3) share potential sponsor's immigration status with law enforcement or immigration enforcement entities.

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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.")

31. In 2024, ORR promulgated regulations ("The Foundational Rule") codifying the "policies, standards, and protections for [unaccompanied children], consistent with the HSA and TVPRA, and to implement the substantive requirements of the [*Flores* Settlement Agreement] as they pertain to ORR." 89 Fed. Reg. at 34385 (promulgating 45 C.F.R. §§ 410.1000 *et seq.*).

32. The Foundational Rule includes "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.* In response to comments on their proposed regulations, ORR explained that "[t]he HSA and the TVPRA do not make any mention of a sponsor's potential immigration status as a prerequisite to receive an unaccompanied child into their custody and do not imbue ORR with the authority to inquire into immigration status as a condition for sponsorship." *Id.* at 34442.

33. The Foundational Rule establishes that "ORR shall release a child from its custody without unnecessary delay" to sponsors in a specific order of preference with parents and legal guardians taking first priority and other family members following. 45 C.F.R. § 410.1201(a). As required by the regulation, sponsor suitability assessments must include various investigations and background checks, and "may include" background checks "based on fingerprints for some potential sponsors and adult residents of the potential sponsor's household." *Id.* § 410.1201(c). Furthermore, "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). Other completed sponsor applications by close relatives who were not the child's primary caregiver must be adjudicated within 14 days, absent unexpected delay. *Id.* § 410.1205(c).

34. As part of its sponsor suitability process, ORR may require "verification of the employment, income, or other information provided by the potential sponsor as evidence of the ability to support the child." 45 C.F.R. § 410.1202(c). In the Preamble to the Foundational Rule, ORR stated that although employment is "a permissible consideration as part of the suitability assessment[,] . . . ORR will not deny an otherwise qualified sponsor solely on the basis of low income or employment status." 89 Fed. Reg. at 34446.

35. ORR's subregulatory framework is laid out in the UC Policy Guide. The UC Policy Guide was first published publicly in 2015 and is available on ORR's website. Office of Refugee Resettlement, *Unaccompanied Alien Children Bureau Policy Guide* (2025) ("Policy Guide"), https://acf.gov/orr/policy-guidance/unaccompanied-children-bureau-policy-guide. The Policy Guide governs the placement, care, and release of unaccompanied children in ORR custody, consistent with ORR's legal authorities. Policy Guide, Introduction.

36. Section 2 of the guide sets out ORR's policies with respect to securing "[s]afe and timely release" of unaccompanied children "to parents, guardians, relatives, or individuals designated by the child's parents, referred to as 'sponsors.'" Policy Guide, § 2.1. Under the Policy Guide, "[s]afe and timely release must promote public safety and ensure that sponsors are able to provide for the physical and mental well-being of the children." *Id.* The Policy Guide describes the sponsor identification and application process in detail, including specific ORR requirements prior to application adjudication and approval. *Id.* at §§ 2.2-2.7.

B. Legal and Factual Background of Prolonged Detention of Unaccompanied Immigrant Children

37. The substantive component of due process forbids the Government from infringing in any way upon fundamental liberty interests unless the infringement is narrowly tailored to serve a compelling state interest. *United States v. Salerno*, 481 U.S. 739, 749 (1987). In the immigration context, whether the infringement is narrowly tailored to serve a compelling governmental interest is determined by evaluating whether the infringement

on liberty: 1) is impermissible punishment or permissible regulation; and 2) is excessive in relation to the regulatory goal Congress sought to achieve. *See id.* at 747; *see also Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

38. "[T]he 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 narrower than that of an adult. *In re Gault*, 387 U.S. 1, 13 (1967) ("neither the Fourteenth Amendment nor the Bill of Rights is for adults alone"); *see also Reno v. Flores*, 507 U.S. 292, 316 (1993) (O'Connor, J. and Souter, J., concurring), quoting *Gault*, 387 U.S. at 13 ("[The Supreme Court] ha[s] consistently [...] rejected the assertion that 'a child, unlike an adult, has a right 'not to liberty but to custody.'"). Further, "incarceration is rarely if ever a necessary condition for raising the living standards of those capable of surviving safely in freedom, on their own or with the help of family or friends." *O'Connor v. Donaldson*, 422 U.S. 563, 575 (1975). Therefore minors, like adults, have a substantial liberty interest "in avoiding unjustified physical restraint." *Lucas R. v. Becerra*, 2022 WL 2177454, at *14 (C.D. Cal. Mar. 11, 2022). *See also, e.g., Parham v. J.R.*, 442 U.S. 584, 600 (1979).

39. The serious harm of prolonged detention of unaccompanied children, including that caused by unnecessary/arbitrary additional vetting requirements, is well documented. *See Lucas R.*, 2022 WL 2177454 at *17 ("Numerous child welfare experts have expounded on the harm that detention causes children, particularly young children" and "[i]t is undisputed that being separated from family members is inimical to a child's well-being.").

40. In 2018 in similar circumstances, ORR policy changes caused unaccompanied children's length of custody in ORR to increase significantly, with children spending months in congregate care designed to hold children for only a few weeks. *See, e.g.*, Dep't of Health and Hum. Servs., Office of the Inspector Gen., *Care Provider Facilities Described Challenges Addressing Mental Health Needs of Children in HHS Custody*, 13 (Sept. 2019), https://perma.cc/YLT7-R3HP ("HHS OIG Report") ("[C]hildren's average length of stay in ORR custody increased markedly after ORR implemented

the new fingerprinting policy in June 2018", from 61 days in June 2018 to 93 days in November 2018 and then decreased after ORR ended fingerprinting requirements for adult household members and then for parents, reaching 48 days in April 2019).

41. The then-Assistant Secretary for the Administration for Children and Families later conceded that the policy did not "add[] anything to the protection and safety of the children."[4] Indeed, extended lengths of stay in ORR custody harmed children's mental health and wellbeing. *See, e.g.*, HHS OIG Report, 13 (After implementing new restrictive reunification policies, "[ORR f]acilities reported that it became more difficult to identify sponsors willing to accept children after the new fingerprinting requirements were implemented, which delayed placing children with sponsors, adding further stress and uncertainty."); *see also id.* at 12–13 ("According to facility staff, longer stays resulted in higher levels of defiance, hopelessness, and frustration among children, along with more instances of self-harm and suicidal ideation.").

42. In February 2026, sixteen organizations dedicated to the health, education and well-being of children, including the American Academy of Pediatrics, filed an amicus brief in support of protections for immigrant minors in federal custody,[5] which federal officials are seeking to terminate. The amici confirm the egregious harms to children resulting from detention, which worsen the longer their detention continues. In particular, they state the following:

> Medical research overwhelmingly shows that even a short amount of time in detention is seriously harmful to children, particularly those who have already experienced trauma in their home countries or during

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[4] *See* John Burnett, *Several Thousand Migrant Children In U.S. Custody Could Be Released Before Christmas*, NPR (Dec. 18, 2018), available at https://perma.cc/6WHS-BNR6; *J.E.C.M. v. Lloyd,*, 352 F. Supp. 3d 559, 583 (E.D. Va. 2018) (citing amicus brief filed by Human Trafficking Legal Center).

[5] *Flores v. Reno*, No. 2:85-cv-04544-DMG-AGR (C.D. Cali), *available at* https://youthlaw.org/wp-content/uploads/aap-et-al.-amicus-brief.pdf.

> their journey to the United States. Studies of detained immigrants found negative physical and emotional symptoms among detained children, including anxiety, depression and post-traumatic stress disorder. Children in detention also show regression in development, high levels of anxiety and depression, and suicide attempts.8 Widely accepted studies demonstrate that stress, anxiety, and behavioral issues increase the longer the child is detained.

Id. at 7-8.

43. The constitutional right to family integrity or to familial association is [also] well established." *Rosenbaum v. Washoe Cty.*, 663 F.3d 1071, 1079 (9th Cir. 2011); *see also 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); *Ching v. Mayorkas*, 725 F.3d 1149, 1157 (9th Cir. 2013) ("The right to live with and not be separated from one's immediate family is 'a right that ranks high among the interests of the individual' and that cannot be taken away without procedural due process."); *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); *Jordan v. Jackson*, 15 F.3d 333, 343 (4th Cir. 1994); *see also Smith v. Org. of Foster Families for Equality & Reform*, 431 U.S. 816, 845 (1977) ("the liberty interest in family privacy has its source, and its contours are ordinarily to be sought...in intrinsic human rights."); *Hodge v. Jones*, 31 F.3d 157, 163 (4th Cir. 1994) (the "sanctity of the family unit is a fundamental precept firmly ensconced in the Constitution"); *Angelica S. v. U.S. Dep't. of Health and Hum. Svcs.*, 786 F.Supp.3d 158, 175 ("Courts have found that family separation and prolonged detention qualify as irreparable injury.") (citing *Jacinto-Castanon de Nolasco*, 319 F. Supp. 3d 491, 502 (D.D.C. 2018); *Andrieu v. Ashcroft*, 253 F.3d 477, 484 (9th Cir. 2001) (en banc)). *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).

44. Numerous courts have also held that a child's right to familial association is not limited to parents. *See Moore v. City of East Cleveland*, 431 U.S. 494, 504 (1977) ("The tradition of uncles, aunts, cousins, and especially grandparents sharing a household along with parents and children has roots equally venerable and equally deserving of constitutional recognition."); *J.E.C.M. v. Lloyd*, 352 F. Supp. 3d 559, 585 (E.D. Va. 2018) (rejecting argument that child's interest in family unity is unique to parents, and finding "siblings, aunts or uncles, grandparents, or first cousins" are family "captured in ORR's second-level category of would-be sponsors" and also "constitutionally significant"); *Aristotle P. v. Johnson*, 721 F. Supp. 1002, 1006 (N.D. Ill. 1989) (children have "constitutionally protected right to associate with their siblings"); *See Smith*, 431 U.S. at 843 ("biological relationships are not [the] exclusive determina[nt] of the existence of a family")..

45. Longstanding Supreme Court precedent establishes 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. *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976); *Mullane v. Central Hanover Bank & Trust*, 339 U.S. 306 (1950). 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 v. Smith*, 260 F. Supp. 3d 598, 613-14 (W.D. Va. 2017).

46. In accordance with these procedural safeguards, ORR has a statutory and regulatory responsibility to determine the safety and suitability of [redacted] without unnecessary delay. Based on the facts provided below, S.D.C.G.C. and M.J.G.C.'s sponsor is safe and qualified, and ORR has a duty to grant Ms. [redacted]'s reunification request and place S.D.C.G.C. and M.J.G.C. in the least restrictive setting that is in their best interests, with their aunt.

FACTUAL ALLEGATIONS

A. S.D.C.G.C. and M.J.G.C. are unaccompanied children with a vetted sponsor capable of providing for their physical and mental well-being.

47. S.D.C.G.C. and M.J.G.C. are siblings and citizens of Honduras who are currently ten (10) and fourteen (14) years old, respectively. S.D.C.G.C. and M.J.G.C. came to the United States because of death threats and violence their family experienced in Honduras. [redacted] They eventually fled to Mexico.

48. S.D.C.G.C. and M.J.G.C. attempted to immigrate with their parents initially but were sent back to Mexico, where they remained for some time in a shelter. [redacted] they fled to the United States seeking protection. They entered the United States with the goal of reunifying with their maternal aunt, [redacted], in Texas. At the time, they were just nine (9) and thirteen (13) years old, respectively.

49. S.D.C.G.C. and M.J.G.C. presented themselves to immigration officials upon crossing the U.S.-Mexico border on or around April 26, 2025. They were immediately detained by the Department of Homeland Security ("DHS"), designated as unaccompanied children, and transferred to the custody of the Office of Refugee Resettlement ("ORR"). On April 27, 2025, they were placed at LSSS Upbring Krause Children's Shelter in Katy, Texas.

50. Ms. Carbajal Ríos came forward immediately and applied to sponsor S.D.C.G.C. and M.J.G.C. out of ORR custody. The children have always had a close and loving relationship with their aunt, and she volunteered to care for them, like she had back in Honduras, and make sure they were safe. She completed the sponsorship requirements set forth in the ORR Unaccompanied Children Bureau Policy Guide § 2.2 (2025), including the Family

Reunification Packet, Family Reunification Application, Proof of Address, Supporting Documents, Authorization for Release of Information, Sex Offender Searches, and Background Checks.

51. Before Ms. Carbajal Ríos came to the United States, she spent a lot of time with S.D.C.G.C. and M.J.G.C. in Honduras, including every holiday, birthday, and family gathering. There were even times that M.J.G.C. stayed with Ms. [redacted] in her house due to familial violence at his home. Though Ms. [redacted] immigrated to the United States before S.D.C.G.C. and M.J.G.C., she maintained constant communication with them, and even sent money to their mother regularly to help support them financially. She has done the same for them during their time in ORR custody in the United States.

52. Ms. [redacted] has been a key source of support for S.D.C.G.C. and M.J.G.C. as they contend with detention fatigue, attempt to address and overcome their past trauma and family separation, and face continued uncertainty as to their futures. She has visited the children in person several times, and she has sent them gifts for holidays and their birthdays. Both children are eager to reunify with Ms. [redacted], and they have remained patient and hopeful throughout this process, displaying an exceptional maturity and strength of character for their young ages.

53. During their time in ORR custody, S.D.C.G.C. and M.J.G.C. have appeared in Immigration Court multiple times, and their proceedings are ongoing. In April 2026, an Immigration Judge conducted a competency hearing for S.D.C.G.C. and found that S.D.C.G.C. was not able to assist or represent herself in Immigration Court due in part to her young age. S.D.C.G.C.'s proceedings remain consolidated with those of M.J.G.C.

54. S.D.C.G.C. and M.J.G.C. both may qualify for legal relief that could enable them to obtain lawful permanent status in the United States. [redacted] and been forced to move multiple times during their early childhood—trauma which has been compounded by their prolonged detention by Respondents.

55. S.D.C.G.C. and M.J.G.C. are now receiving pro bono legal assistance from the nonprofit organization of one of the undersigned counselors, the Galveston-Houston Immigrant Representation Project ("GHIRP"), which issued a litigation demand letter highlighting their particular case and imploring that Respondents approve this family's reunification; however, they continue to suffer in detention without resolution to this day.

56. While in ORR's custody, S.D.C.G.C. and M.J.G.C. have been deprived of their liberty. They are restricted in their movement and activities. Progress towards their goals – such as furthering their education – have been put to the side. They have had precious moments taken from them, such as birthdays and holidays with their family. All of this has had a profound impact on their mental health and wellbeing.

57. Being detained has also prevented S.D.C.G.C. and M.J.G.C. from interacting with each other as much as they would like, due to being segregated by gender at the ORR facility. Although they are provided with some opportunities to spend time together, they often request more. For instance, in one ORR record from November 10, 2025, S.D.C.G.C. "reported feeling content because she was able to hug her brother during the weekend," suggesting this was an unusual occurrence for her.

B. Respondents refuse to promptly release S.D.C.G.C. and M.J.G.C. to their vetted sponsor, [redacted]

58. Ms. [redacted] has complied with numerous requirements of the ORR sponsorship process, including DNA testing, fingerprinting multiple times, and multiple background checks. She has provided proof of her biological relationship to the children, as well as proof of her income, identification, and current address. She has also provided an Alternate Caregiver ("ACG") who has similarly passed multiple rounds of fingerprinting and background checks.

59. ORR has continued to add new requirements to the sponsorship process throughout S.D.C.G.C. and M.J.G.C.'s time in custody, which has prolonged

their detention. Yet, Ms. [redacted] has been forthcoming, communicative, and cooperative with ORR and the LSSS Upbring Krause Children's Shelter staff throughout this process, which has now lasted more than a year.

60. By October 2025, Ms. [redacted] had completed all of the requirements outlined in the ORR Unaccompanied Children Bureau Policy Guide with the last step being to attend an in-person identification verification appointment. An ORR Federal Field Specialist initially instructed the Krause facility case manager to proceed without an identification verification; however, later that month, ORR reassigned the case to a new Federal Field Specialist, who insisted on the identification verification before the case could be approved.

61. Ms. [redacted] remained on the "waiting list" to get an appointment scheduled for the identification verification for several months. She followed up with the Krause facility case manager in November and with the Federal Field Specialist in December, but there had been no movement on the case. In mid-December, the Krause facility case manager alerted the Federal Field Specialist that Ms. [redacted] and her ACG's fingerprints and background checks would expire again in January.

62. On December 17, 2025, the Federal Field Specialist informed Ms. [redacted] and her ACG that they needed to apply for Individual Tax Identification Numbers ("ITIN") with the Internal Revenue Service ("IRS"), pursuant to a new ORR requirement. They complied, sending in their passports with ITIN applications to the IRS, which they were told would take approximately four weeks. While they were waiting for the IRS to complete the process and return their passports to them, their fingerprints expired for the second time.

63. On January 22, 2026, ORR received the Sponsor Vetting Packet, which showed that the case had been certified by a Federal Field Specialist and already had a Sponsor Suitability Report ("SSR"), and the identification verification could occur upon release. They were therefore only waiting on the ITIN issuance to complete the process. It was at this point, upon

information and belief, that ORR shared Ms. [redacted]'s information with the Department of Homeland Security ("DHS").

C. Respondents worked together to detain Ms. [redacted], then attempted to deny her sponsorship application because she was in immigration detention, after having already determined she was a suitable caregiver for S.D.C.G.C. and M.J.G.C.

64. On March 18, 2026, Ms. [redacted] received a call from an agent with Homeland Security Investigations ("HSI"), an agency within DHS, requesting that she come to their local office on March 20, 2026 for an identification verification appointment. When she informed the officer that she does not currently have her identification document, since she had to send it to the IRS to request an ITIN, she was told to come anyway.

65. On March 19, 2026, the undersigned counselor called the HSI agent who had contacted Ms. [redacted]. He indicated that HSI's request to interview Ms. [redacted] was "consensual," in other words, not mandatory. He stated that Ms. [redacted] "could voluntarily agree" to attend, or not.

66. The undersigned counselor asked if this interview was in connection with "Operation Guardian Trace." The HSI agent confirmed that it was. He said that ORR had scheduled it, then backtracked immediately and said that actually, ORR did not schedule it.

67. Operation Guardian Trace was recently revealed as an official DHS initiative targeting the sponsors of children in ORR custody for detention and deportation. Pursuant to DHS documentation filed in court:

> "As part of Operation Guardian Trace, Agents are required to interview and investigate sponsors and or guardians/parents. During the process, if the sponsor/guardian/parent is determined to be illegally present in

the United States, HSI will arrest and initiate administrative removal proceedings for possible reunification."[6]

68. Therefore, upon information and belief, this appointment was not designed to further the ORR reunification process at all, but rather to detain Ms. [redacted] and further prolong S.D.C.G.C. and M.J.G.C.'s suffering. Indeed, the only contact Ms. [redacted] had with any immigration agency or law enforcement entity or individual since entering the U.S. many years ago on a visa was through the ORR sponsorship process.

69. On March 19, 2026, the undersigned counselor sent a litigation demand to the Respondents as well as a request to change the location of the identification verification appointment for Ms. [redacted] to a neutral location. No response was received.

70. On or about that same day, an ORR Federal Field Specialist communicated with Ms. [redacted] as to the remaining requirements in her case, stating that she needed to receive her passport back from the IRS so that she could redo her fingerprints once more, then the application would be completed. The HSI interview was *not* one of the outstanding requirements to complete the ORR sponsorship of S.D.C.G.C. and M.J.G.C.

71. Based on the information conveyed from the Federal Field Specialist as well as the information the undersigned counselor obtained from the HSI agent regarding the voluntary nature of the interview, Ms. [redacted] decided not to participate.

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[6] *See* Mark Betancourt, "Migrant children detained in Southern California used as 'bait' to arrest and deport their parents," LAist (Mar. 18, 2026), https://laist.com/news/migrant-children-southern-california-used-as-bait-to-arrest-deport-parents; *see also* Claudia Boyd-Barrett, Renuka Rayasam, & Amanda Seitz, 'They Tricked Me': A Father Was Chained After He Went to ICE To Reunite With His Kids, KFF Health News (Mar. 24, 2026), https://kffhealthnews.org/courts/trump-deportation-immigration-unaccompanied-children-bait-parent-arrests-hhs/.

72. Approximately three weeks later, on April 13, 2026, DHS agents came to Ms. [redacted]'s home and detained her. They initially questioned her about S.D.C.G.C. and M.J.G.C.'s journey to the United States, and whether she had arranged or funded it for them. She said that she had not. They still took her into custody. It did not seem to matter that she was a fully vetted ORR sponsor, had no criminal history, and had entered the United States legally. DHS sent Ms. [redacted] to an immigration detention center in Alvarado, Texas.

73. Counsel for DHS filed a document in Ms. [redacted]s Immigration Court proceedings, the Form I-213, which stated the following regarding their encounter with her:

> On April 13, 2026, as part of the Unaccompanied Alien Child (UAC) Initiative, Homeland Security Investigations (HSI) , collaborating with the U. S. Department of Health and Human Services, Office of Refugee Resettlement (HHS-ORR) to investigate and identify criminal involvement of sponsors applying to take custody of UACs currently in the care of HHS-ORR, located and interviewed [redacted] who is the intended sponsor of [M.J.G.C.] and [S.D.C.G.C.], Unaccompanied Alien Children (UAC).

74. The document further noted that no "criminal involvement" or arrest history in any database was found by HSI, which accords with the results of multiple rounds of background checks that had been ordered by ORR already.

75. Ms. [redacted] secured pro bono counsel in her detained immigration proceedings in coordination with undersigned counsel, and she was granted a bond by the Immigration Judge on May 4, 2026. The DHS attorney at the hearing waived appeal of the bond decision.

76. Nonetheless, on May 5, 2026, the undersigned counsel learned that ORR was pursuing a denial of Ms. [redacted] sponsorship due to her detention, based on guidance received from an ORR Assistant Branch Chief.

77. Undersigned counsel sent a renewed litigation demand to the Defendants, immediately, reiterating that Ms. [redacted] had already been granted bond by the Immigration Judge, that DHS had waived appeal, that Ms. [redacted] family was planning to post the bond as soon as possible, and that she was expected to be released from detention that week. A copy of the bond order was provided as proof.

78. Again, ORR did not respond to the litigation demand.

79. On May 6, 2025, Ms. [redacted] was released from immigration detention. Undersigned counselor notified the Krause facility and ORR Federal Field Specialists and Assistant Branch Chief immediately.

80. Ms. [redacted] contacted the relevant parties to resume the ORR sponsorship process right away, and she and her ACG attended appointments to redo their fingerprints; however, she still has not received her ITIN or her passport back from the IRS, after almost five complete months of waiting.

D. S.D.C.G.C. and M.J.G.C.'s federally appointed Child Advocate has recommended reunification with Ms. [redacted]

81. On January 26, 2026, ORR approved the appointment of a Child Advocate from the Young Center for Immigrant Children's Rights for both S.D.C.G.C. and M.J.G.C., pursuant to the Trafficking Victims Protection and Reauthorization Act ("TVPRA"). *See* 8 U.S.C. § 1232(c)(6)(A). The role of the TVPRA-appointed Child Advocate resembles that of a guardian *ad litem* in state court, as they assess the best interests of particularly vulnerable unaccompanied children, like S.D.C.G.C. and M.J.G.C., and develop determinations regarding their custody, detention, release, legal representation, relief from removal, and safe repatriation.

82. On May 12, 2026, S.D.C.G.C. and M.J.G.C.'s Child Advocate, Hector Gonzalez Magno, submitted a Best Interests Determination in Support of Reunification to ORR. *See* **Exhibit 1** (filed under seal). Mr. Gonzalez Magno recommended as follows:

> **To honor the children's wishes, ensure their placement in the least restrictive setting and preserve their family integrity, the children should be released to their aunt without further delay. Ms. [redacted] has fully satisfied government sponsorship requirements and is ready to provide a safe, stable, and loving home.**

Id. at 1 (emphasis in original).

83. S.D.C.G.C. and M.J.G.C.'s Child Advocate also confirmed the lengths that Ms. [redacted] has gone to in order to satisfy ORR that she is a suitable sponsor for her niece and nephew, stating:

> We urge ORR to acknowledge Ms. Rios' efforts to obtain an ITIN and waive the requirement given the IRS delays. [redacted] have clearly expressed their strong desire to reunify with [redacted] and there are no safety concerns for [S.D.C.G.C.] and [M.J.G.C.]'s reunification with their aunt.

Id. at 1.

84. Mr. Gonzalez Magno also reiterated that federal, state, and international law demands that ORR immediately release the children from custody, stating:

> [S.D.C.G.C.] and [M.J.G.C.]'s best interests require their immediate release to their aunt. This outcome respects the children's expressed wishes, their right to family unity, and is in accordance with the relevant law, regulations, and policy given the absence of safety concerns and the family's full compliance with ORR policy requirements.

Id. at 5.

85. The Child Advocate recommendation concluded:

> [S.D.C.G.C.] and [M.J.G.C.] have been in ORR care for more than 381 days, awaiting reunification while care provider staff and reunification specialists completed the assessment of their aunt's sponsorship application. Ms. [redacted] has fully complied with every requirement of the ORR sponsorship process requested of her thus far. Ms. [redacted] maintains a loving and close relationship with both children. Ms. [redacted] has adequately demonstrated her ability to provide [redacted] with a safe, stable, and nurturing home. No safety concerns have been identified by the Young Center or any other stakeholder. On the contrary, Ms. [redacted] has received a positive Sponsor Suitability Determination from the assigned [Division of Sponsor Administration Federal Field Specialist] as well as from the Program.
>
> *Id.* at 8.

E. S.D.C.G.C. and M.J.G.C.'s mental health has suffered tremendously due to their prolonged detention and the Respondents' detention of their sponsor.

86. When S.D.C.G.C. and M.J.G.C. first came into ORR custody, they were happy and hopeful, displaying the resilience and innocence of most young children. They made friends with other children in their shelter, and they enjoyed attending educational classes at the facility and learning new things. M.J.G.C. showed himself to be good at basketball, becoming one of the best players at the shelter, and S.D.C.G.C. displayed an interest in science and animals, as she aspires to be a veterinarian one day. Both kids have been recognized as smart and incredibly mature for their age.

87. Over the course of their detention, however, both S.D.C.G.C. and M.J.G.C. have shown a marked decline in their mental health and affect. This is evident in the records maintained by ORR, as the children regularly speak with their assigned clinicians and have progress reports added to their files.

88. For example, after only a few months in detention, S.D.C.G.C.'s clinician noted that she was bored because the shelter schedule is the same every day. This report of boredom continued in her records for many months thereafter.

89. Around half a year into their time in custody, their feelings turned to worry, anxiety, and frustration. They initially expected to be released into their aunt's custody promptly, and had already spoken with their clinicians about their excitement to go live with her and enroll in school in their new home. They had even been prepared by the Krause facility staff for what responsibilities they had after their release from ORR custody, and they were given resources on finding parks and restaurants nearby.

90. Starting in 2026, however, the progress reports consistently indicate that the children are sad, withdrawn, and hopeless, and this is explicitly linked to their prolonged detention and desire to be with their family. Many times, it has caused them to get emotional and cry. A May 4, 2026 "mental health update" from S.D.C.G.C.'s case review, for instance, which was signed by multiple ORR Unification Specialists, Case Managers, and Clinicians, confirms that S.D.C.G.C. "continues to report sadness, boredom and hopelessness over her length of stay."

91. Moreover, there are several reports in S.D.C.G.C.'s recent records where she is dealing with the circumstance of seeing her friends at the shelter discharged from ORR custody or reunified with family members, while she and her brother remain detained. This includes many children who had shorter lengths of stay than her. By contrast, the Progress Notes from S.D.C.G.C.'s initial months in custody reflect that she felt "content" about her peers being discharged at that time, whereas by 2026 as her own length of stay increased significantly, this occurrence understandingly caused her "mixed feelings."

92. Furthermore, when Ms. [redacted] was detained by DHS, it caused the children a great deal of suffering. They were accustomed to talking to her regularly, and they even had an in-person visit planned with her the week after she was taken into custody, but that of course did not happen. When she was

detained, it took several days for them to get to speak to her, and when they could communicate, they got far less time than they used to have with her.

93. ORR records from this time consistently note that the children were depressed and anxious about their futures. S.D.C.G.C. began to think that her brother, who is 14, would be stuck at the ORR facility until he turned 18, and that he would then leave her behind at that time when he aged out of custody. She feared she would be left alone. M.J.G.C. similarly expressed feeling trapped.

94. Fortunately, now that Ms. [redacted] has been released from DHS custody and been able to resume her regular communications with S.D.C.G.C. and M.J.G.C., they are doing a little better. However, they remain stuck in the ORR facility, where they have been for almost 14 months now, unable to reunite with their family. Now, they are losing hope that they will ever get out of detention.

95. On May 15, 2026, the undersigned counselor sent one final litigation demand to Respondents, with a draft copy of this habeas petition laying out the facts of this case. For the third time, no response was received.

96. Thus, as there still has been no decision on Ms. [redacted] sponsorship application, and seeing as the Respondents did not reply to three separate litigation demands in this case, this family feels that they have no choice but to bring this habeas action requesting a federal judge order their release in accordance with well-established law, policy, and procedure and in promotion of these children's best interests and this family's constitutional rights.

CLAIMS FOR RELIEF

CLAIM I

VIOLATION OF THE DUE PROCESS CLAUSE OF THE FIFTH AMENDMENT OF THE CONSTITUTION (SUBSTANTIVE DUE PROCESS) AND 8 U.S.C. § 1231(a)(6); ADMINISTRATIVE PROCEDURE ACT, 5 U.S.C. §§ 702, 706.

F. Petitioners repeat and incorporate by reference each and every allegation contained in the preceding paragraphs as if fully set forth herein.

G. The government may not deprive a person of life, liberty, or property without due process of law. U.S. Const. amend. V. "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that the Clause protects." *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

H. Petitioners have a fundamental interest in liberty and being free from official restraint. Because S.D.C.G.C. and M.J.G.C.'s removal is not reasonably foreseeable and there is no other justification for their detention, their detention is neither authorized by 8 U.S.C. § 1231(a)(6) nor related to any legitimate government interests, in violation of the substantive due process protections of the Fifth Amendment.

CLAIM II
VIOLATION OF THE DUE PROCESS CLAUSE OF THE FIFTH AMENDMENT OF THE CONSTITUTION (PROCEDURAL DUE PROCESS); ADMINISTRATIVE PROCEDURE ACT 5 U.S.C. §§ 702, 706.

I. Petitioners repeat and incorporate by reference each allegation contained in the preceding paragraphs as if fully set forth herein.

J. The procedural due process guarantee of the Fifth Amendment requires that individuals be provided notice and an opportunity to be heard before being deprived of liberty or property interests. *Mathews v. Eldridge*, 424 U.S. 319, 332 (1976). "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that [the Due Process] Clause protects." *Zadvydas,* 533 U.S. at 690.

K. A child's interest in being free from confinement is no narrower than that of an adult. In re Gault, 387 U.S. 1, 13 (1967); Reno v. Flores, 507 U.S. 292,

316 (1993) (O'Connor, J. and Souter J., concurring) ("[The Supreme Court] ha[s] consistently [...] rejected the assertion that 'a child, unlike an adult, has a right 'not to liberty but to custody.'"). This includes the right of a child "to be raised and nurtured by their parents." D.B. v. Cardall, 826 F.3d 721, 740 (4th Cir. 2016) (citations omitted); Troxel v. Granville, 530 U.S. 57, 65 (2000) ("[T]he interest of parents in the care, custody, and control of their children [] is perhaps the oldest of the fundamental liberty interests recognized by [the Supreme] Court.").

L. The Due Process Clause entitles S.D.C.G.C. and M.J.G.C. to meaningful process assessing whether their detention is justified. S.D.C.G.C. and M.J.G.C.'s prolonged and continued detention without an opportunity to contest their detention in front of a neutral adjudicator provides insufficient process and violates the Due Process Clause of the Fifth Amendment of the Constitution.

CLAIM III
VIOLATION OF THE FOURTH AMENDMENT OF THE CONSTITUTION; ADMINISTRATIVE PROCEDURE ACT 5 U.S.C. §§ 702, 706.

M. Petitioners, S.D.C.G.C. AND M.J.G.C., repeat and incorporate by reference each and every allegation contained in the preceding paragraphs as if fully set forth herein.

N. The Fourth Amendment protects "[t]he right of the people to be secure in their persons . . . against unreasonable searches and seizures." U.S. Const. amend. IV. The Supreme Court has consistently recognized that immigration arrests and detentions are "seizures" within the meaning of the Fourth Amendment. *See INS v. Lopez-Mendoza*, 468 U.S. 1032, 1044 (1984) (acknowledging that deportation proceedings are civil, but the Fourth Amendment still applies to the "seizure" of the person).

CLAIM IV
VIOLATION OF THE ADMINISTRATIVE PROCEDURE ACT
5 U.S.C. §§ 702, 706

O. Petitioners, S.D.C.G.C. and M.J.G.C., reallege and incorporate by reference each and every allegation contained in the preceding paragraphs as if set forth fully herein.

P. Under the Administrative Procedure Act, 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).

Q. Respondents' detention of S.D.C.G.C. and M.J.G.C. is arbitrary and capricious, not in accordance with the law, and contrary to constitutional right because their removal is not reasonably foreseeable, and there is no other justification for their detention.

R. Respondents failed to articulate a reasoned explanation for their decision in light of all available evidence and failed to consider all the aspects of the problem as well as obvious, less-restrictive alternatives to custody.

S. Additionally, Respondents acted arbitrarily, capriciously, and contrary to law by disregarding the controlling child-welfare framework governing custody and release of immigrant children. Congress, through the Homeland Security Act and the TVPRA, requires that unaccompanied children be maintained in the least restrictive setting appropriate to their needs and that the government undertake prompt and continuous efforts toward placement with qualified family sponsors. *See* 6 U.S.C. § 279(b)(1)(C)–(D); 8 U.S.C. § 1232(c)(2). Respondents' continued detention of S.D.C.G.C. and M.J.G.C. violate these statutory requirements.

CLAIM V
VIOLATION OF THE *ACCARDI* DOCTRINE

T. Petitioners, S.D.C.G.C. and M.J.G.C. re-allege and incorporate by reference every allegation contained in the preceding paragraphs as if set forth fully herein.

U. When the government has promulgated "[r]egulations with the force and effect of law," those regulations "supplement the bare bones" of federal statutes, such that the agencies are bound to follow their own "existing valid regulations." *United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260, 266, 268 (1954). The Accardi doctrine also obligates agencies to comply with procedures set out in their operative manuals and binding guidance. *See Morton v. Ruiz*, 415 U.S. 199, 235 (1974) (finding that an agency is obligated to comply with procedural rules outlined in its internal manual).

V. Respondents have failed to comply with ORR policies designed to promote S.D.C.G.C. and M.J.G.C.'s safe, timely release to their sponsor; have failed to expeditiously process and advance Ms. [redacted] sponsorship application in accordance with the UAC Bureau Policy Guide; and have failed to safeguard the health and wellbeing of S.D.C.G.C. and M.J.G.C. in detention, intentionally and callously prolonging their time in ORR custody and preventing their reunification with their aunt.

W. S.D.C.G.C. and M.J.G.C. have no adequate remedy at law.

CLAIM VI
RELEASE PENDING ADJUDICATION

X. Petitioners, S.D.C.G.C. and M.J.G.C., repeat and re-allege the allegations contained in all preceding paragraphs of this Petition as if fully set forth herein.

Y. Pursuant to *Mapp v. Reno*, this Court has the "inherent authority" to set bail pending the adjudication of a habeas petition when the petition has raised (1) substantial claims and (2) extraordinary circumstances that (3) "make the grant of bail necessary to make the habeas remedy effective." 241 F.3d 221, 226 (2d Cir. 2001).

Z. S.D.C.G.C. and M.J.G.C. present numerous substantial constitutional and statutory claims challenging their detention.

AA. S.D.C.G.C. and M.J.G.C. have demonstrated extraordinary circumstances: they are minor children, and they pose no flight risk; they have a vetted family member sponsor awaiting and pleading for their release, and their sponsor has complied with all government requirements; thus, their continued detention serves no lawful purpose and violates both statutory and constitutional protections.

BB. Given these extraordinary circumstances and the substantial claims presented, S.D.C.G.C. and M.J.G.C. respectfully request that this Court either release them pending adjudication of this habeas petition or order the government to demonstrate that its detention of S.D.C.G.C. and M.J.G.C. is justified.

CLAIM VII
VIOLATION OF THE *FLORES* SETTLEMENT AGREEMENT/THE FOUNDATIONAL RULE, 45 C.F.R. §§ 410.1000 *et seq.*

CC. Petitioners, S.D.C.G.C. and M.J.G.C., repeat and re-allege the allegations contained in all preceding paragraphs of this Petition as if fully set forth herein.

DD. The Foundational Rule incorporates the duty to promptly place S.D.C.G.C. and M.J.G.C. in the least restrictive setting that is in their best interests under the Foundational Rule. 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).

EE. Respondents' failure to qualify S.D.C.G.C. and M.J.G.C.'s sponsor, Ms. [redacted] as capable and willing to care for S.D.C.G.C. and M.J.G.C., despite Ms. [redacted] being a fit sponsor; Respondents' failure to transfer S.D.C.G.C. and M.J.G.C. to the custody of Ms. [redacted] and Respondent's continued incarceration of S.D.C.G.C. and M.J.G.C. all constitute violations of the Foundational Rule.

CLAIM VII
VIOLATION OF SECTION 235 OF THE TRAFFICKING VICTIMS PROTECTION REAUTHORIZATION ACT, 8 U.S.C. § 1232

FF. Petitioners, S.D.C.G.C. and M.J.G.C., repeat and re-allege the allegations contained in all preceding paragraphs of this Petition as if fully set forth herein.

GG. Respondents have a non-discretionary duty to promptly place S.D.C.G.C. and M.J.G.C. in the least restrictive setting that is in their best interest under the TVPRA. 8 U.S.C. § 1232(c)(2)(A).

HH. Respondents have failed to act promptly.

II. Respondents have arbitrarily and unlawfully failed to place S.D.C.G.C. and M.J.G.C. in the least restrictive setting that is in their best interest.

JJ. Respondents' failure to release S.D.C.G.C. and M.J.G.C. and transfer them to the custody of their sponsor Ms. [redacted] in Texas, constitutes a violation of Respondents' non-discretionary duties under the TVPRA.

PRAYER FOR RELIEF

WHEREFORE, Petitioners S.D.C.G.C. and M.J.G.C. respectfully request that this Court:

1. Grant the Petition for Writ of Habeas Corpus and order the immediate release of Petitioners S.D.C.G.C. and M.J.G.C. from the custody and control of Respondents;

2. In the alternative, hold an immediate bond hearing at which Respondents must demonstrate by clear and convincing evidence that Petitioner's detention is justified and that Petitioners pose a flight risk or danger to the community;

3. Order that Respondents shall immediately cease holding S.D.C.G.C. and M.J.G.C. in detention and either (a) release them to the custody of their sponsor, Ms. [redacted]; or (b) place them in the least restrictive community setting available in or near Ms. [redacted]s place of residence pending resolution of this habeas petition;

4. Order that Respondents shall not transfer Petitioners outside of the Southern District of Texas for the duration of this proceeding pending adjudication of this petition;

5. Declare that Petitioners' detention is unlawful under the Fifth Amendment, Fourth Amendment, the Administrative Procedure Act, the Accardi doctrine, and the Immigration and Nationality Act;

6. Award such other and further relief as this Court deems just, proper, and equitable.

Dated: May 19, 2026

Respectfully submitted,

/s/ Alexa Sendukas
Alexa Sendukas
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/s/ Frances Bourliot
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Pro Bono Attorneys for Petitioners

Verification of Someone Acting on Petitioner's Behalf Pursuant to 28 U.S.C. § 2242

I am submitting this verification on behalf of Petitioners because I am Petitioners' attorney. I, Alexa Leigh Sendukas, and others working under my supervision have discussed with Petitioners the events described in the Petition. I hereby certify that the statements made in this attached Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

/s/ Alexa Leigh Sendukas
Date: May 19, 2026

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF TEXAS HOUSTON DIVISION

S.D.C.G.C. and M.J.G.C., minors, by and through their next friend, [redacted]

Petitioners,

v.

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

Respondents

Case No. 4:26-cv-3981

INDEX OF EXHIBIT

Exhibit 1	Child Advocate Best Interest Determination in Support of Reunification (Filed Separately Under Seal)