IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

L.G.B.M., and M.M.B.M, by and through next of friend, Julisa Langer,	)	
Petitioners,	)	Case No. 26-cv-1227
v.	)	Hon. James Patrick Hanlon
ANGIE SALAZAR, in her official capacity as Acting Director of the Office of Refugee Resettlement (ORR), et al,	)	
Respondents.	)	

PETITIONERS' REPLY TO RESPONDENTS' MEMORANDUM IN OPPOSITION TO PETITION FOR WRIT OF HABEAS CORPUS

While the government would like to pretend that it has limitless authority to detain children simply because "juveniles, unlike adults, are always in some form of custody", *Reno v. Flores,* 507 U.S. 292 (1993), nothing in the law supports the government's continued detention of Petitioners. It is undisputed that 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), and additionally, "Parents have a fundamental due process right to care for and raise their children, and children enjoy the corresponding familial right to be raised and nurtured by their parents." *Berman v. Young,* 291 F.3d 976, 983 (7th Cir. 2002) citing *Troxel v. Granville,* 530 U.S. 57, 65-66 (2000). Respondents attempt to misdirect the court by misconstruing the facts and discussing "human trafficking and UAC sponsorship fraud". However, after 212 days of vetting Sponsor, ORR has not identified any human trafficking, fraud or safety concerns. The sole issue in this case is whether Respondents can continue their prolonged detention of two minor children in violation of the

requirements of the TVPRA, The Foundational Rule, Code of Federal Regulations, Due Process and APA. The Court should order Respondents to immediately release Petitioners from custody.

ARGUMENT

I. Factual Disputes

Respondents attempt to defend their prolonged detention of the minor children by blaming Sponsor for the delay in vetting. First, Respondents claim that on or about January 20, 2026, "[Sponsor] informed ORR that he believes he may not be a good option as a potential sponsor and suggested his wife." Dkt. 9 at 1. However, Petitioners' TVPRA Child Advocate reports, "ORR has repeatedly shifted its position regarding [Sponsor's] ability to sponsor M.M.B.M. based solely on procedural identification requirements, resulting in significant and unnecessary delay." Dkt. 14 at 3 (sealed). "On January 21, 2026, [Sponsor] informed ORR that he wished to submit a sponsor application for both [Petitioners]. *ORR advised*, however, that he could apply only as a sponsor for [L.G.B.M.] – not [M.M.B.M.] – due to his lack of U.S. issued identification document. *ORR suggested* that his U.S. citizen wife apply as a sponsor instead." *Id.* (emphasis added). Then later, in early "June 2026, *ORR directed [Sponsor] to withdraw his application* to sponsor [M.M.B.M.] …" *Id.* at 4 (emphasis added). "On June 9, 2026, ORR issued a negative sponsor suitability determination with respect to [Sponsor's] application of [M.M.B.M.]." *Id.* This action was filed later that day, and miraculously on June 16, 2026, "ORR reversed course once more and stated it would permit [Sponsor] to continue as the proposed sponsor for both children." *Id.*

Furthermore, even using Respondents' own recounting of events, they failed to vet Sponsor without unnecessary delay. Respondents acknowledge that as of March 13, 2026, Sponsor had "completed Parts 1 and 2 of the sponsor application." Dkt. 9 at 14. However, almost

an entire month passed before ORR reviewed the application with Sponsor. *Id.* Then "as of April 21, 2026 [Sponsor's] application was still pending completion of various background checks, in-person ID verification, DNA testing, and a home study." *Id.* However, what Respondents omit is that these last four actions were controlled by Respondents. ORR completes the background check. ORR schedules the in-person ID verification. ORR schedules the DNA testing. And ORR completes the home study. Respondents admit that it wasn't even until June 8, 2026, that "DSA FSS contacted sponsor to schedule the fingerprint-based background check appointment." Dkt. 9 at 14. Petitioners had already been detained for 139 days at this point.

While Respondents attempt to blame Sponsor for the delays and prolonged detention of Petitioners, the fault is clearly upon ORR. Respondents have a statutory duty to timely vet sponsors "without unnecessary delay" and mandates that children "shall be promptly placed in the least restrictive setting that is in the best interest of the child." 8 U.S.C. § 1232(c)(2)(A). Respondents have failed in their duty to promptly vet Sponsor, and this Court should order Petitioners' immediate release from their custody to Sponsor.

II. Exhaustion of Administrative Remedies

There is no statutory requirement for exhaustion of remedies under 28 U.S.C. § 2241. Moreover, Sponsor has complied with every requirement imposed by ORR for the 212 days that Petitioners have been detained and yet ORR has still failed to adjudicate the sponsorship application. Respondents have had ample time to complete the vetting of Sponsor. Sponsor has no other administrative remedies available to him to secure the release of Petitioners. Sponsor cannot even submit an appeal until ORR has rendered a decision on Sponsor's application. 45 C.F.R. § 412.102.

Furthermore, district courts have jurisdiction to grant writs of habeas corpus to petitioners who are held in the custody of the federal government in violation of the constitution, laws, or treaties of the United States. 28 U.S.C. § 2241. The "court shall summarily hear and determine the facts and dispose of the matter as law and justice require." 28 U.S.C. § 2243. "Federal courts have 'broad discretion in conditioning a judgment granting habeas relief.'" *Beltran v. Cardall,* 222 F. Supp. 3d 476, (E.D. Virginia, 2016) (ordering RMB to be released from ORR to Petitioner's care and custody), citing *Hilton v. Braunskill,* 481 U.S. 770, 775 (1987). Challenging ORR's continued detention of UACs is "properly within the scope of [the] habeas corpus proceeding." *D.B. v. Cardall,* 836 F.3d 721, 731 (4th Cir. 2016). Therefore, this Court has the authority to order Petitioners' immediate release from ORR custody.

III. OBBBA

The OBBBA is an appropriations bill "to provide for reconciliation pursuant to title II of H. Con. Res. 14." OBBBA, Pub. L. No. 119-21, 139 Stat. 72 (2025). OBBBA does not establish or expand ORR's sponsorship vetting process or requirements. Rather, it simply allocates federal funds and limits how ORR can use those funds. Contrary to Respondents' representation, the text of Section 87001 does not require Petitioners' continued detention. The use of the word "shall" in the applicable section pertains solely to what a background check must include when it is performed. *Id.*, §87001(b), "Use of Funds."

IV. Substantive Due Process

Respondents completely misstate the due process issues in this case. Petitioners do not challenge ORR's authority to vet potential sponsors. Rather, Petitioners challenge Respondents' unreasonable delay in adjudicating Sponsor's application, thus causing their prolonged detention at 212 days and counting. Pursuant to the *Flores* Settlement, ORR "shall release a minor from its

custody without unnecessary delay." *Flores v. Reno*, No. CV 85-4544 ¶ 14. Additionally, ORR must "release a child from its custody without unnecessary delay" when "the detention of the unaccompanied child is not required either to secure the child's timely appearance before DHS or the immigration court, or to ensure the child's safety or that of others." 45 C.F.R. § 410.1201.

"The substantive component of due process 'bar[s] certain government actions regardless of the fairness of the procedures used to implement them.'" *D.B.* 836 F.3d at 740 citing *Daniels v. Williams,* 474 U.S. 327, 331 (1986). "Just as parents possess a fundamental right with respect to their children, children also enjoy a 'familial right to be raised and nurtured by their parents.'" *Id.*, citing *Berman v. Young,* 291 F.3d 976, 983 (7th Cir. 2002).

While Respondents claim to be acting in the best interest of UACs, their actions and inactions demonstrate otherwise. Petitioners have a fundamental substantive due process right to be with their father/grandfather. While Respondents seemingly claim that the delay in release of Petitioners to Sponsor is due to a five-year-old report concerning human trafficking allegedly caused by ineffective background checks, Respondents provide no evidence or even contend that these human trafficking concerns apply to Sponsor. Indeed, "[t]he results of ORR's background checks verify that [Sponsor] has no substantiated child safety findings." *See* Exhibit 1 – Young Center Best Interest Determination (BID) (redacted).

"The Supreme Court has recognized that certain intrusions into the parent-child relationship may be so flagrant as to be invalid even if a fair process is afforded." *D.B.* 836 F.3d at 741, citing *Troxel v. Granville,* 530 U.S. 57, 67 (2000). Respondents' refusal to release Petitioners is a flagrant violation of their substantive due process rights because even after 212 days in immigration detention, Respondents cannot identify a single safety concern about releasing Petitioners to Sponsor. Yet, Petitioners remain detained.

V. Procedural Due Process

"Procedural due process imposes constraints on governmental decisions which deprive individuals of 'liberty' or 'property' interests within the meaning of the Due Process Clause or the Fourteenth Amendment." *See Mathews v. Eldridge,* 424 U.S. 319, 332 (1976). When private interests are affected by official government action, the court must consider the test set out in *Mathews*. Petitioner's due process rights require consideration of: "(1) the private interest that will be affected by the official action; (2) the risk of erroneous deprivation of that interest through procedures used, and (3) the government's interest, including the fiscal and administrative burdens that the additional or substitute procedures would entail." *Lucas R. v. Becerra*, No. CV 18-5741-DMG (PLAx), 2022 U.S. Dist. LEXIS 124773, at *50 (C.D. Cal. Mar. 11, 2022), citing *Mathews* 424 U.S. at 335.

As discussed, Petitioners and Sponsor have a fundamental liberty interest for children to be raised by their parents. *Berman*, 291 F.3d at 983. Moreover, Petitioners' interest in freedom from being detained by Respondents "lies at the heart of the liberty that [the Due Process] Clause protects." *Zadvydas v. Davis,* 533 U.S. 678, 690 (2001). "Each additional day in ORR custody prolongs [Petitioners'] separation from the family members who know them, love them, and stand ready to care for them." *See* Exhibit 1 at 12 (redacted). Respondents seemingly agree that this factor weighs in favor of Petitioners, stating only that it doesn't "outweigh[] the remaining *Mathews* factors under the circumstances … where J.B.H.E.'s sponsorship applications were only recently submitted…." Dkt. 9 at 19-20.

The second *Matthews* factor also favors Petitioners, who have been erroneously deprived of both their freedom and the right to be cared for by their father/grandfather, for 212 days and counting. Respondents point to *Lucas R* as justification for their failure to adjudicate the sponsor

application. However, *Lucas R* is inapplicable to this case and does not support the continued prolonged detention of children. In *Lucas R,* the court held that ORR did not have to meet the clear and convincing evidence standard when denying a sponsor application. *Lucas R. v. Becerra,* No. CV 18-5741-DMG (PLAx), 2022 LX 158185 (C.D. Cal. Mar. 11, 2022). The court held that there were adequate protections in the process of appealing a sponsorship denial (i.e. *after* the sponsorship application is adjudicated). *Id.*, *92. *Lucas R* does not grant Respondents the authority to detain children for prolonged periods of time without adjudicating the sponsorship application, nor does the holding change Respondents' legal obligations to act without unnecessary delay.

Third, while Respondents have a legitimate interest in protecting UACs from smugglers, traffickers, and others who may seek to victimize them, these interests can be met through *timely* vetting of a Sponsor. "ORR has completed the substantive components of its sponsor vetting process including a home study, criminal history checks, public records checks, sex offender registry checks, child abuse and neglect (CA/N) checks, and verification of relationship." *See* Exhibit 1 at 7 (redacted).

VI. The Administrative Procedures Act

Respondents claim that their decision to detain Petitioners for the last 212 days does not constitute final agency action because they have no requirement to timely vet sponsors and release Petitioners. Dkt. 9 at 23 ("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."). Respondents' failure to recognize their legal obligations may partially explain why they have violated the law's requirements.

In addition to the arguments noted above, the law requires that Respondents "shall adjudicate the completed sponsor application of a parent … within 10 calendar days … absent unexpected delays (such as a case that requires a home study)". 45 C.F.R. § 410.1205(b). Respondents have surpassed that benchmark by 202 days. Fifty-three days ago, on June 29, 2026, Respondents received the completed home study report that issued a positive recommendation support release of Petitioners. *See* Exhibit 1 at 2. Still, Petitioners remain in detention. The law further provides that ORR shall release children to family members "without unnecessary delay" when continued custody is not required to ensure the child's safety or appearance at immigration proceedings. 8 U.S.C. § 1232(c)(2)(A). Respondents have an absolute obligation under the APA and *Accardi* doctrine to follow their own policies and the law. Respondents have failed to adjudicate the sponsorship application. Petitioners have "already experienced significant hardship and trauma prior to and during their migration" and their "prolonged separation from family can exacerbate existing trauma and emotional distress and contribute to developmental disruption." *See* Exhibit 1 at 10.

CONCLUSION

Despite Sponsor's undisputed familial relationship to Petitioners, cleared background checks, positive recommendation in the home study report, and recommendation from the independent Child Advocate, Respondents continue to detain Petitioners. This Court should order Petitioners' immediate release to Sponsor.

Dated: August 21, 2026

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on August 21, 2026, a copy of the foregoing was filed electronically along with any exhibits. Service of this filing will be made on the EDF-registered counsel by operation of the Court's electronic filing system.

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