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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
EASTERN DIVISION

I.J.S., a minor; by and through Erica Santamaria, as Next Friend of Minors

Petitioner,

v.

ANGIE SALAZAR, Acting Director of the Office of Refugee Resettlement; Federal Field Specialist, Office of Refugee Resettlement; Federal Field Specialist Supervisor, Office of Refugee Resettlement; ALEX J. ADAMS, Assistant Secretary of the Administration for Children and Families; and ROBERT F. KENNEDY, JR., Secretary of the U.S. Department of Health and Human Services,

Respondents.

Case No. 5:26-cv-5404

VERIFIED PETITION FOR WRIT OF HABEAS CORPUS

INTRODUCTION

1. Petitioner is an Unaccompanied Child[1] ("UC") who was transferred to the Office of Refugee Resettlement ("ORR") the day after her arrival in the United States on April 5, 2026.

2. Petitioner has been detained at ORR-subcontracted facility Hanna's House in Rancho Cucamonga, California for approximately 164 days (as of September 16, 2026).[2]

3. Petitioner, who is 15 years old, has experienced lengthy ORR custody despite the sponsorship attempts of her mother, M.E.S.N., which began the day after Petitioner's arrival in the United States. M.E.S.N. is classified as a Category 1 sponsor, or a "parent or legal guardian." Office of Refugee Resettlement, *ORR Unaccompanied Alien Children Bureau Policy Guide: Section 2*, available at https://acf.gov/orr/policy-guidance/unaccompanied-children-program-policy-guide-section-2#2.2. There is no dispute that M.E.S.N. is Petitioner's mother, as Petitioner's birth certificate lists M.E.S.N. as her biological mother.

4. Since Petitioner's placement in ORR custody, M.E.S.N. has been diligent in her reunification efforts. The day after Petitioner was transferred to ORR custody on April 5, 2026, M.E.S.N. provided her Mexican voter card to the case manager. On April 23, 2026, she submitted the Family Reunification Packet ("FRP"), which ORR requires to be considered a sponsor.

5. M.E.S.N. has repeatedly contacted Petitioner's assigned case manager for

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[1] An "unaccompanied child" is a child with no lawful immigration status in the United States, who is under the age of eighteen, and who has arrived in the U.S. or at the border without a parent or guardian and without legal status. 6 U.S.C. § 279(g)(2).

[2] In 2024, the average number of days UCs spent in ORR custody was 30 days. In 2025, that number grew to 117 days. *See* https://acf.gov/orr/about/ucs/facts-and-data (last visited July 2, 2026).

assistance in moving along the sponsorship process when, for weeks, she heard nothing about application progress.

6. Believing she needed additional identification documents, on July 28, 2026, M.E.S.N. began the process of obtaining a Washington state identification and immediately informed ORR. She did not get the physical identification until August 17, 2026. This was not a necessary exercise and caused further delay. Indeed, under ORR Policy Guide § 2.2.4, as a Category 1 parent sponsor, M.E.S.N. qualifies to request an identity document exception and alternative verification. ORR never informed M.E.S.N. of this even as I.J.S.'s physical and emotional health were further deteriorating.

7. In addition to ORR's failure to share the different requirements for biological parents, as here, ORR has inexplicably failed to schedule appointments for tasks they deem essential for reunification. Most concerning is ORR's failure to initiate a home study following Petitioner's disclosure on July 28, 2026, that she is [redacted] This failure contravenes Trafficking Victims Protection Reauthorization Act ("TVPRA") requirements and ORR policy, which requires a home study under "Mandatory Home Study No. 3" when a child's health or welfare has been significantly threatened by physical or sexual abuse. *See* 45 C.F.R. §410.1204(b)(1)(iii). ORR's failure to initiate this key requirement for reunification between I.J.S. and her mother, has also led to a worsening in Petitioner's emotional and physical well-being, which were already fragile before the disclosure in July.

8. Even when ORR did schedule an appointment required for its sponsorship process, as it did on June 13, 2026, for M.E.S.N.'s fingerprinting, the agency failed to inform M.E.S.N. of the appointment until June 16, 2026. When ORR discovered this, the ORR case manager directed M.E.S.N. to contact the Division of Sponsor

Administration Federal Field Specialist (DSA-FFS) to reschedule the appointment. The new appointment took approximately a month to schedule and finally happened on July 18, 2026. The results, which came over a week later, did not show any disqualifying factors for M.E.S.N.

9. At present, in addition to the home study, the following—effectively everything required to complete the sponsorship vetting process—remains pending: (1) DNA testing, (2) background checks for M.E.S.N., (3) vetting of any alternate caregivers ("ACG") (including fingerprinting, background checks, and verification of identity), and (4) the Division of Vetting Summary report.

10. After 164 days in custody, ORR has made no real progress to comply with their statutory mandate under the TVPRA to *promptly* release Petitioner to her mother despite verification of the M.E.S.N.'s identity and relationship to Petitioner, as well as an independent finding (through fingerprinting) that M.E.S.N. has not engaged in any activity that would indicate a potential risk to the child. 8 U.S.C. § 1232 (c)(6)(A); 8 U.S.C. § 1232 (c)(3)(A).

11. Accordingly, to vindicate Petitioner's constitutional and statutory rights, this Court should grant this petition for a writ of habeas corpus and order release.

JURISDICTION

12. This Court has subject matter jurisdiction over this matter pursuant to 28 U.S.C. § 2241 (habeas corpus); 28 U.S.C. § 1651 (All Writs Act); 28 U.S.C. § 2201 (Declaratory Judgment Act); 28 U.S.C. § 1361 (writ of mandamus); and 28 U.S.C. § 1331 (federal question). This Court also has jurisdiction pursuant to Art. I, § 9, cl. 2 of the United States Constitution (Suspension Clause).

13. Federal district courts have jurisdiction to hear habeas claims by noncitizens challenging the lawfulness of their detention. *See Zadvydas v. Davis*, 533 U.S. 678,

687 (2001).

14. This Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241 *et. seq.*, the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28 U.S.C. § 1651.

VENUE

15. Petitioner lies within the jurisdiction of the United States District Court for the Central District of California because she is detained in an ORR-subcontracted facility in Rancho Cucamonga, CA.

16. Venue is also proper in this District because Respondents are officers, employees, or agencies of the United States, a substantial part of the events or omissions giving rise to Petitioner's claims occurred in this District, and no real property is involved in this action. 28 U.S.C. § 1391(e).

PARTIES

I. Petitioner

17. Petitioner I.J.S. is a 15-year-old girl currently detained at Hanna's House in Rancho Cucamonga, CA. Petitioner is in the custody, and under the direct control of Respondents and their agents. Petitioner I.J.S.'s mother and sponsor is M.E.S.N.[3]

II. Respondents

18. Respondent Angie Salazar is sued in her official capacity as the Acting Director of ORR, the component of the U.S. Department of Health and Human Services ("HHS") responsible for implementing the Department's obligations to unaccompanied minors who are immigrants. ORR is the government entity directly

[3]The use of M.E.S.N.'s (sponsor-mother) initials further ensures I.J.S.'s (petitioner-child) privacy. *See* Fed. R. Civ. P. 5.2(a), (c), (h) (mandating use of a minor's initials, providing for limited access to files in proceedings related to immigration detention "unless the court orders otherwise," and noting that failure to redact personal information in the first instance constitutes a waiver of that protection).

responsible for the continued detention of Petitioner and has the authority to release them. Respondent Salazar is thereby a legal custodian of Petitioner.

19. Respondent "ORR Federal Field Specialist" is sued in their official capacity as an ORR Federal Field Specialist ("FFS"). In this role, FFS is responsible for determining Petitioner's placement and has authority to approve their respective releases to an appropriate sponsor's care. Respondent FFS is thereby a legal custodian of Petitioner.

20. Respondent "ORR Federal Field Specialist Supervisor" is sued in thei official capacity as an ORR FFS Supervisor. FFS Supervisors are the government officials responsible for the care and custody of children in ORR facilities and supervise FFSs. In this role, FFS Supervisor is responsible for determining Petitioner's placement and has authority to approve their respective releases to an appropriate sponsor's care. Respondent FFS Supervisor is thereby a legal custodian of Petitioner.

21. Respondent Alex J. Adams is sued in his official capacity as the Assistant Secretary of the Administration for Children and Families ("ACF"). ACF is comprised of 23 offices, including ORR, responsible for the welfare of children and families. Respondent Adams is thereby responsible for Petitioner's continued detention and custody and is a legal custodian of Petitioner.

22. Respondent Robert Kennedy, Jr. is sued in his official capacity as the Secretary of HHS. In this capacity Secretary Kennedy oversees ACF and ORR and is therefore the "head" of those agencies. 6 U.S.C. § 271(a)(2). HHS is responsible for the care and placement of UC in federal custody. *See* 8 U.S.C. § 1232(c); 6 U.S.C. § 279. HHS and ORR enter contracts with public and private entities to house, care for, and provide legal assistance to UC apprehended by the Department of Homeland Security ("DHS") pursuant to the Immigration and Nationality Act ("INA"). *See* 6

U.S.C. § 279. Respondent Secretary Kennedy is thereby a legal custodian of Petitioner.

STATEMENT OF FACTS

23. Petitioner I.J.S. is a 15-year-old child who entered the United States on April 4, 2026. On April 5, 2026, she was designated as a UC and placed in custody of ORR. I.J.S. is currently housed at Hanna's House–Rancho Cucamonga Transitional Foster Care Program and has been in ORR custody for approximately 164 days, or more than five months.

24. I.J.S. seeks reunification with her mother, M.E.S.N., a Category 1 sponsor who resides in Washington state and is willing and able to care for her. Prior to coming to the United States, I.J.S. maintained frequent communication with her mother. Petitioner hopes to reside with M.E.S.N. once again upon release from ORR custody.

25. M.E.S.N. and I.J.S. have a close mother-daughter relationship. Until she left for the United States in 2023, M.E.S.N. was I.J.S.'s primary caretaker. She took her to school every day. Since she has come to the United States, M.E.S.N. has continued to care for I.J.S. as best she can, sending money to her daughter for clothing, food, and necessities. Since I.J.S.'s arrival in April, on the occasion when they have been in family sessions together, M.E.S.N. has been supportive of her daughter, providing affective attention and praise to I.J.S. as she processes trauma.

26. M.E.S.N.'s FRP was submitted on April 23, 2026. Even before and since that date, M.E.S.N. has worked to comply with ORR's reunification requirements. Just a day after her daughter was placed in ORR custody, on April 6, 2026, M.E.S.N. provided her Mexican voter card. In August 2026, after relocating to Washington state, she obtained a Washington state identification card, which she promptly

submitted to ORR's Division of Sponsor Administration. ORR failed to inform M.E.S.N. that this additional verification was not necessary given M.E.S.N.'s status as a Category 1 sponsor thereby qualifying her for an exemption under ORR Policy Guide § 2.2.4, causing unnecessary and unlawful delay in family reunification.

27. M.E.S.N. has demonstrated the utmost diligence in meeting ORR's requirements to secure Petitioner's release to her care. Most recently, after the household member whom M.E.S.N. was residing with declined to partake in the reunification process, including submitting fingerprints, M.E.S.N. obtained independent housing and immediately conveyed this to ORR. M.E.S.N. has also identified two ACG's, a friend who lives locally in Washington as well as Petitioner's uncle in Georgia. However, ORR has yet to schedule any vetting appointments to date.

28. In contrast to M.E.S.N.'s diligence, ORR has delayed in processing M.E.S.N.'s sponsorship application. The only action taken to date is scheduling a fingerprinting appointment for M.E.S.N. But, the agency failed to inform M.E.S.N. of the appointment and she did not attend. Following the missed appointment, M.E.S.N. was instructed to reschedule the fingerprinting appointment herself. The appointment, which was scheduled approximately a month later and which M.E.S.N. promptly attended, returned fingerprinting results that did not contain any disqualifying information.

29. Although the relationship between M.E.S.N. and I.J.S. as mother and daughter is not disputed, ORR has not scheduled a DNA test. It has also not scheduled background checks for M.E.S.N., or secured proof of income or an affidavit attesting to income from M.E.S.N.

30. Further, no home study has been initiated. As set forth in greater detail *supra* at ¶ 7, this failure not only contravenes the TVPRA, but is especially concerning because I.J.S. is [redacted] Coping with this past trauma and abuse in prolonged confinement has led to an ever-worsening emotional and physical state. Petitioner has experienced chronic sadness, worry, fear, and depression, which began when she was placed in custody and has intensified. She has been withdrawn from group activities and has had periods during her custody when she refuses to eat. Beginning as early as April 23, 2026, she expressed a desire to leave detention as soon as possible. I.J.S. reported that she experiences sadness and guilt approximately 2-3 times per week and worries daily. As time has gone on, she is increasingly withdrawn; she often has her head down and has no desire to speak. I.J.S. experiences daily stomachaches requiring physician care and medication. She experienced bilateral rib cage pain, which necessitated a trip to urgent care. I.J.S. wakes up feeling shaky three to four times a week due to the intensity with which she misses her family. ORR has been medicating Petitioner to manage her emotions and pain. She is having flashbacks at night to the trauma she disclosed and is unable to sleep for an entire night. She has reported feeling pressure in her chest and throat and a sensation that she cannot breathe.

31. As of the filing of this Petition, I.J.S. remains separated from her mother despite the availability of a suitable family sponsor. There is no question about M.E.S.N.'s identity and relationship with Petitioner. However, no progress has been made on M.E.S.N.'s sponsorship application since July 2026 when the fingerprinting requirements were completed despite M.E.S.N.'s efforts and Petitioner's worsening physical and mental health in detention. Her continued detention has unnecessarily prolonged her separation from family and caused significant emotional distress that

could be alleviated through reunification with M.E.S.N. and the support of her family.

LEGAL FRAMEWORK

A. Law and Procedure Governing this Habeas Petition

32. A writ of habeas corpus under 28 U.S.C. § 2241 may issue if, among other things, a person is "in custody under or by color of the authority of the United States," or is "in custody in violation of the Constitution or laws or treaties of the United States." 8 U.S.C. § 2241(c).

33. A habeas court's role is at its "most extensive in cases of pretrial and noncriminal detention," especially "where there ha[s] been little or no previous judicial review of the cause for detention," as is the case here. *Boumediene v. Bush*, 553 U.S. 723, 780 (2008).

34. The Court must grant the petition for writ of habeas corpus or issue an order to show cause ("OSC") to Respondents "forthwith," unless Petitioner is not entitled to relief. 28 U.S.C. § 2243. If an OSC is issued, this Court must require Respondents to file a return "within *three days* unless for good cause additional time, not exceeding twenty days, is allowed." *Id.* (emphasis added). The writ or OSC shall be directed to the person having custody of the person detained. *Id.*

B. Legal Framework Governing the Care and Custody of UCs

35. Three key laws and agreements govern the federal government's treatment and custody of unaccompanied immigrant children: (1) the 1997 *Flores* Settlement Agreement ("FSA"), largely codified into the federal regulatory scheme through ORR's promulgation of its Foundational Rule in 2024; (2) the Homeland Security Act of 2002 ("HSA"); and (3) the TVPRA.

1. The *Flores* Settlement Agreement

36. The FSA arose from a lawsuit filed by a group of immigrant children challenging their detention and seeking to be released to family members or sponsors within the United States. *See Flores v. Sessions*, 862 F.3d 863, 869 (9th Cir. 2017) (discussing history of the *Flores* litigation). In 1997, the plaintiff children entered into a consent decree with the federal government to create a nationwide policy governing the custody and release of immigrant children. *See* Stipulated Settlement Agreement, *Flores v. Reno*, No. CV-85-4544 (C.D. Cal. Jan. 17, 1997).[4]

37. The FSA remains under the supervision of U.S. District Judge Dolly M. Gee in the Central District of California. *See Flores v. Bondi*, No. CV 85-4544-DMG (AGRx).[5]

2. The Homeland Security Act of 2002

38. Enacted in 2002, the HSA divided responsibilities for the processing and treatment of UC between ORR – a sub-department of the Department of Health and Human Services – and the then-newly created Department of Homeland Security.[6] *See* 6 U.S.C. § 279(a). ORR was assigned functions including "coordinating and implementing the care and placement" of UC in appropriate custody. 6 U.S.C. § 279(b).

3. The Trafficking Victims Protection Reauthorization Act

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[4] Available at: https://www.aclu.org/sites/default/files/assets/flores_settlement_final_plus_extension_of_settlement011797.pdf. (last visited Sept. 12, 2026).

[5] Following the promulgation of the ORR Foundational Rule, described *infra*, the FSA was partially terminated as to children in HHS custody. *Flores v. Garland*, 2024 WL 3467715, CV 85-4544-DMG (AGRx) (C.D. Cal. Jun. 28, 2024).

[6] Prior to the creation of DHS, all matters related to the custody, detention, and deportation of immigrant children was managed by the Immigration and Naturalization Service ("INS"), which was abolished simultaneously with the creation of DHS.

39. Enacted in 2008,[7] the TVPRA requires federal officials to screen unaccompanied immigrant children for certain vulnerabilities upon their arrival in the United States. *See* 8 U.S.C. § 1232(a)(4). It mandates that custody of an UC be transferred to the HHS Secretary within 72 hours of their arrival in the United States.[8] 8 U.S.C. § 1232(b)(3).

40. The TVPRA enacted procedures for ensuring "safe and secure" placements for these children, and, crucially, mandated that an UC "*shall* be *promptly* placed in the least restrictive setting that is in the best interest of the child." 8 U.S.C. § 1232(c)(1), (c)(2)(A) (emphasis added).

41. It specifically mandates home studies where, as here, [redacted] [redacted] *Id.* at § 1232(c)(3)(B). This requirement is reflected in ORR policy, which explicitly implements this statutory mandate, requiring a home study under "Mandatory Home Study No. 3" when a child's health or welfare has been significantly threatened by physical or sexual abuse. 45 C.F.R. §410.1204(b)(1)(iii); ORR Policy Guide § 2.4.2.

4. The ORR Foundational Rule

42. In 2024, after a notice and comment period, HHS adopted a final rule intended to further codify key aspects of the framework governing care and placement of UC as required by the HSA and TVPRA, and to implement the

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[7] The TVPRA is a reauthorization of the Trafficking Victims Protection Act of 2000, intended to combat the trafficking of persons. *See* Pub. L. No. 106-386, 114 Stat. 1464 (Oct. 28, 2000). Through the 2008 Reauthorization, Congress established certain rights for unaccompanied children navigating the immigration process, recognizing that they are a "particularly vulnerable population" to whom the country "owes a special obligation" to treat "humanely and fairly." 154 Cong. Rec. S10866 (daily ed. Dec. 10, 2008) (statement of Sen. Feinstein).

[8] In most cases, custody of an unaccompanied child is transferred to HHS, and ultimately ORR, from DHS, which houses Immigration and Customs Enforcement ("ICE") and Customs and Border Protection ("CBP").

substantive requirements of the FSA. *See generally* UC Foundational Rule (Jul. 1, 2024) ("Foundational Rule"). 45 C.F.R. Part 410.

43. The Foundational Rule contains a non-exhaustive list of factors that ORR is to consider when evaluating the best interests of an UC, including, but not limited to, the child's expressed interests; age and maturity; mental and physical health; adjustment to the community; cultural background and primary language; length or lack of time they have "lived in a stable environment"; individualized needs, including disability; development and identity; wishes of the parents or legal guardians; and "interactions and interrelationship" of the child with their parents, siblings, and anyone who "may significantly affect" the child's well-being. 45 C.F.R. § 410.1001.

44. The Foundational Rule also provides a non-exhaustive list of 17 factors that ORR may consider when evaluating what is the "least restrictive setting that is in the best interest of the child," including danger to self; danger to community/others; runaway risk; trafficking or other safety concerns; age; gender; LGBTQI+ status or identity; disability; specialized services or treatment requested or required; criminal background; location of potential sponsor and safe, timely release options; behavior; siblings in ORR custody; language access; whether they are pregnant or parenting; location of apprehension; and length of stay in ORR custody. 45 C.F.R. § 410.1103(a), (b).

45. Further, the Foundational Rule provides guidance on how ORR is to evaluate the suitability of a potential sponsor who seeks to assume the care and custody of a UC. 45 C.F.R. § 410.1202. Such evaluation may require a home study, wherein ORR "investigat[es] [] the living conditions in which the UC would be placed" prior to their release. 45 C.F.R. § 410.1204.

46. Absent "an unexpected delay," ORR is mandated to adjudicate a completed sponsor application for a relative who has previously been the child's primary caregiver "within 10 calendar days of receipt of the completed sponsor application," and to adjudicate applications by relatives who were not previously the child's primary caregiver within 14 calendar days. 45 C.F.R. § 410.1205(b).

47. If ORR formally denies release to a potential sponsor "who is a parent or legal guardian or close relative," ORR must promptly notify the potential sponsor in writing, provide an explanation of the reasons for the denial along with "evidence and information" supporting the decision, inform the potential sponsor that they may request an appeal of the decision, and allow for submission of additional evidence supporting their suitability. 45 C.F.R. § 410.1205(c). Absent "good cause," the appeal process "shall be completed within 30 calendar days of the potential sponsor's request for an appeal." 45 C.F.R. § 410.1206(f).

48. In addition to the above, ORR supervisory staff "who supervise field staff" are required to conduct "automatic review of all pending sponsor applications . . . within 90 days of an [UC] entering ORR custody." 45 C.F.R. § 410.1207(a). This "review" is not perfunctory, but rather is designed to keep the child and potential sponsor informed of outstanding issues in the reunification process and to work to resolve them. The Foundational Rule requires ORR and subcontracted facility staff to "update the potential sponsor and [UC] on the status of the case, explaining the reasons that the release process is incomplete." 45 C.F.R. § 410.1207(b). Further, the Rule provides that ORR and subcontracted facility staff "shall work with the potential sponsor, relevant stakeholders, and ORR to address the portions of the sponsor application that remain unresolved." *Id.*

5. Substantive and Procedural Due Process

49. It is axiomatic that civil immigration detention is limited by both substantive and procedural due process protections, which apply "to all 'persons' within the United States, including [noncitizens], whether their presence here is lawful, unlawful, temporary, or permanent." *Zadvydas*, 533 U.S. at 693. Indeed, 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. *Id.* at 690.

50. In addition, courts in this District have found that UCs have a protected interest in their statutory entitlements under the TVPRA. *See e.g., Immigrant Defs. L. Ctr. v. U.S. Dep't of Homeland Sec.*, No. CV 21-0395 FMO (RAOX), 2025 WL 1191572, at *15 (C.D. Cal. Mar. 14, 2025) (finding "statutory entitlements [under the TVPRA] are constitutionally protected property interests") (collecting cases); *Lucas R. v. Azar*, No. CV 18-5741-DMG (PLAx), 2018 WL 7200716, at *9, (C.D. Cal. Dec. 27, 2018) (noting that a statute can create "a substantive interest protected by the Due Process Clause by using 'mandatory language' that imposes an obligation on government officials, and referring to such mandatory language in the TVPRA) (citing 8 U.S.C. § 1232(c)(2)(A): a UC "*shall* be promptly placed in the least restrictive setting that is in the best interest of the child") (emphasis in original).

ARGUMENT

A. Petitioner's Claims are Cognizable as a Habeas Action, and Administrative Exhaustion is Not Required.

51. Petitioner seeks habeas relief pursuant to the TVPRA and both the substantive and procedural components of the Due Process Clause of the Fifth Amendment. These claims may properly sound in habeas, as "challenges to the statutory

framework authorizing detention, questions of law raised in the application or interpretation of statutes, and constitutional claims, such as claims that the discretionary process itself was constitutionally flawed," have been found to "fit comfortably" within the scope of the habeas statute. *Alam v. Keeton*, CV-19-05538-PHX-MTL (CDB), 2020 WL 5439513, at *4 (D. Ariz. 2020) (quoting *Jennings v. Rodriguez*, 583 U.S. 281, 296 (2018); *Leonardo v. Crawford*, 646 F.3d 1157, 1160 (9th Cir. 2011); *Singh v. Holder*, 638 F.3d 1196, 1202 (9th Cir. 2011)) (internal quotation marks omitted).

52. In addition, Petitioner is not required to exhaust administrative remedies, as exhaustion in the habeas context is prudential, rather than jurisdictional. *See Laing v. Ashcroft*, 370 F.3d 994, 997 (9th Cir. 2004); *Hernandez v. Sessions*, 872 F.3d 976, 988 (9th Cir. 2017). Even prudential exhaustion is not required if "administrative remedies are inadequate or not efficacious, pursuit of administrative remedies would be a futile gesture, [or] irreparable injury will result." *Laing*, 370 F.3d at 1000; *see also Hernandez*, 872 F.3d at 988. In any event, where Petitioner's sponsor – who would be eligible to appeal a denial of their application under controlling regulations – has received no decision from ORR on her sponsorship application, there is no administrative remedy available for Petitioner to pursue.

53. Despite full compliance with ORR's requirements, the ongoing delays in approval – well beyond the 10-day decision timeframe and the 90-day review requirement outlined in ORR's own guidance, 45 C.F.R. § 410.1205(b) – has resulted in I.J.S. and her sponsor being left in a state of limbo. Indeed, to date, Petitioner have been languishing in ORR custody for more than five months.

54. Requiring exhaustion would also cause Petitioner irreparable harm in the form of additional detention in ORR custody, and continued separation from their

readily available sponsors and family. *See Cortez v. Sessions*, 318 F. Supp. 3d 1134, 1139 (N.D. Cal. 2018) (habeas petitioner "suffers potentially irreparable harm every day that [they] remain[] in custody without a hearing, which could ultimately result in [their] release from detention").

B. Petitioner's Continued Detention Violates the TVPRA Because the Statute Mandates Release to a Sponsor Unless the Government Designates Them a Danger or a Flight Risk.

55. The TVPRA was designed to provide "special protections" for unaccompanied minors in light of their status as a "particularly vulnerable group." *Saravia v. Sessions*, 280 F. Supp. 3d 1168, 1178 (N.D. Cal. 2017). Crucially, the TVPRA mandates prompt release from ORR custody to an appropriate sponsor unless the federal government makes a finding that the minor is a danger to themselves or the community, or a flight risk. *See id.* at 1196;

56. Indeed, the "focus on care and placement – rather than on detention – is evident" from both the text of the TVPRA and the HSA. *Flores*, 862 F.3d at 876. Respondents have made no findings that Petitioner is a flight risk or dangerous to themselves or the community. Nor could they, as demonstrated by the fact that Petitioner has been detained in unlocked ORR-subcontracted facilities without absconding since her arrival into ORR custody. Further, there is no evidence indicating any Petitioner named herein has ever engaged in conduct causing harm to others, clearly establishing they are not a danger to anyone.

57. Petitioner's continued detention despite the availability of her Category 1 family-member sponsor to assume her care, [redacted] is also clearly at odds with the TVPRA's mandate that ORR focus on care and placement in each child's best interest. In *I.R.L.M. v. Salazar et al.*,

2026 WL 2597933, at *9 (C.D.Cal., 2026), this Court agreed that continued separation between a petitioner and his mother "ignores TVPRA's mandate that the child be placed promptly into the least restrictive setting that is in the best interest of the child, and also ignores the extreme hardship and emotional harm being inflicted on Petitioner…".

58. Respondents disregard their responsibility to Petitioner by allowing her to languish in an unfamiliar facility full of strangers for months on end, while failing to advance M.E.S.N.'s application to assume care has not been approved. Indeed, no DNA testing, no home study, no background checks, no further vetting have been initiated. I.J.S. remains detained far beyond the timelines required by Congress and ORR's own regulations.

C. Petitioner's Continued Detention Violates Substantive Due Process Because it is Unnecessarily Punitive and Needlessly Infringes Upon Their Right to Family Unity.

59. Petitioner's prolonged detention violates her substantive due process rights. Substantive due process "forbids the government to infringe certain 'fundamental' liberty interests *at all*, no matter what process is provided, unless the infringement is narrowly tailored to serve a compelling state interest." *Reno v. Flores*, 507 U.S. 292, 302 (1993) (emphasis in original).

60. In this context, courts in this District have emphasized the well-established nature of the "substantive due process right to family integrity or to familial association." *Lucas R.*, 2018 WL 7200716, at *9 (quoting *Rosenbaum v. Washoe City*, 663 F.3d 1071, 1079 (9th Cir. 2011)); *Ms. L. v. U.S. Immigration and Customs Enforcem.*, 310 F. Supp. 3d 1133, 1148 (S.D. Cal. 2018), *modified sub nom, Ms. L. v. U.S. Immigr. & Customs Enf't*, 330 F.R.D. 284 (S.D. Cal. 2019) (finding the

government needed to achieve its stated purpose "in a way that preserves the class members' constitutional rights to family association and integrity").

61. Respondents, in continuing to detain Petitioner, away from her mother approximately five months, have considerably encroached upon this right.

62. In addition, a statute may create a substantive interest protected by the Due Process Clause by using "mandatory language" that imposes an obligation on government officials. Courts in this District have held that the TVPRA's mandatory language gives rise to such a substantive right in the UC for whose benefit the statute was enacted. *See e.g., Immigrant Defs. L. Ctr. v. U.S. Dep't of Homeland Sec.*, No. CV 21-0395 FMO (RAOX), 2025 WL 1191572, at *15 (C.D. Cal. Mar. 14, 2025) (finding "statutory entitlements [under the TVPRA] are constitutionally protected property interests"). Here, Petitioner can individually establish that her substantive rights pursuant to the TVPRA are being violated by Respondents.

63. To date, I.J.S. has been detained, and thereby separated from her family, for approximately 164 days (as of 9/16). M.E.S.N. diligently pursued reunification and has completed fingerprinting, provided two forms of identification, and tried to move forward the process. Despite those efforts, ORR has not reunified I.J.S. with her mother and has provided no timeline for her release. During her prolonged detention, I.J.S. has repeatedly expressed sadness—

hapless at times due to her prolonged detention— displayed signs of depression, and has experienced troubling physical and emotional debilitation in recent months after [redacted] She has been isolated in custody and ORR has now begun to medicate her. Yet she remains separated from her mother who is ready and willing to continue her care for I.J.S.

64. Because of the strength of this liberty interest, Petitioner's continued detention is needlessly punitive, and infringes on her right to family unity.

D. Petitioner's Continued Detention Violates Procedural Due Process Because She Has No Effective Means by Which to Challenge Her Continued Detention and Separation from Her Sponsor.

65. All individuals in immigration detention have a protected liberty interest in their release, "*inherent* in the Due Process Clause." *R.D.T.M. v. Wofford*, 2025 WL 2617255, 1:25-cv-01141-KES-SKO (HC), at *4 (E.D. Cal. Sept. 9, 2025) (quoting *Guillermo M.R. v. Kaiser*, 2025 WL 1983677, 25-cv-05436-RFL, at *4 (N.D. Cal. Jul. 17, 2025)) (emphasis in original). In addition, the substantive family unity interest described above may underlie a procedural due process claim. *See Lucas R.*, 2018 WL 7200716, at *9.

66. Procedural due process claims are evaluated under the well-established standard in *Mathews v. Eldridge*, which requires a reviewing court to evaluate (1) the nature of the private interest affected; (2) the comparative risk of erroneous depravation of that interest with and without additional, procedural safeguards; and (3) the nature and magnitude of any countervailing interest in not providing additional or substitute procedure. 424 U.S. 319, 335 (1976).

67. In the context of immigration detention writ large, the Ninth Circuit has found it "well-settled" that due process "requires adequate procedural protections to ensure the government's asserted justification for physical confinement outweighs the individual's constitutionally protected interest in avoiding physical restraint." *Hernandez*, 872 F.3d at 990 (internal citations and quotations omitted). Thereby, Petitioner's "constitutionally protected interest" in release from ORR custody should be considered with the utmost solemnity.

68. Courts in this Circuit have found a cognizable claim for due process relief in the context of earlier family separation policies, emphasizing that the "absence of established procedures" for ensuring prompt reunification left families "in a vacuum, without knowledge of the well-being and location of their children . . . result[ing] in a number of different scenarios, all of which are negative – some profoundly so." *Ms. L.*, 310 F. Supp. 3d at 1144. Here, the risk of negative impact on Petitioner, in both the short and long term, is equally apparent.

69. First, Petitioner has a strong private interest in their liberty, as well as a substantive interest in being reunified with, and ultimately raised by her family members; here, her mother whom was her primary caregiver until she came to the United States.

70. Second, Respondents have allowed Petitioner to remain stuck in ORR's custody for an extended period of time, without providing her with a decision on her sponsor's application for reunification. Respondents have not even followed *their own* regulatory process for completing and adjudicating sponsorship applications, instead allowing Petitioner to languish in custody, worsening daily and now being regularly medicated, without explanation despite her well-documented struggle. Respondents have therefore erroneously deprived Petitioner of her due process rights, including, by denying M.E.S.N. the opportunity to appeal a potential denial of their FRP, given that no decision has ever been issued.

71. Lastly, Respondents have not provided Petitioner's counsel, Petitioner, or her sponsor with any countervailing reason why the sponsorship application in question has not been approved, much less ruled on at all.

72. Accordingly, Petitioner has a cognizable claim for relief sounding in procedural due process under the *Mathews* test.

CLAIMS FOR RELIEF

COUNT ONE

Violation of the TVPRA, 8 U.S.C. § 1232

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

74. The TVPRA provides that an unaccompanied child in ORR custody "*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) (emphasis added). Congress's use of the word "shall" imposes a mandatory obligation on Respondents.

75. Petitioner has remained in ORR custody for more than five months despite her mother's efforts to actively assume her care. Whatever explanations ORR has offered along the way, the result has remained the same: Petitioner has spent months in federal custody while reunification with family remains out of reach. Children who remain detained for more than five months, as here, have not been "promptly placed" within the meaning of the TVPRA.

76. Respondents' actions are also inconsistent with the TVPRA's requirement that placement decisions be guided by the best interest of the child. As ORR's own records reflect, Petitioner has experienced significant emotional harm arising from prolonged detention, uncertainty, and continued separation from her mother. She is also in a state of crisis after disclosing [redacted] Indeed, criterion 3 of the TVPRA requires that, as here, [redacted], a home study is required. Office of Refugee Resettlement, *Unaccompanied Children Program Policy Guide*, § 2.4.2 (Home Study Requirements under TVPRA, Mandatory Home Study No. 3), hhs.gov (last visited Sept. 12, 2026). No home study has been initiated since this disclosure on July 28, 2026.

77. Accordingly, ORR's failure to adjudicate Petitioner's FRP, timely schedule pending DNA tests or home inspections, is a violation of ORR's mandate to promptly place Petitioner in the least restrictive setting that is in her best interest. 8 U.S.C. § 1232(c)(2)(A).

COUNT TWO

Violation of Fifth Amendment: Substantive Due Process

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

79. The Due Process Clause of the Fifth Amendment provides that the government shall not "deprive any person of life, liberty, or property without due process of law." U.S. CONST. AMEND. V. The Due Process Clause applies to "all 'persons' within the United States . . . whether their presence here is lawful, unlawful, temporary, or permanent." *Zadvydas*, 533 U.S. at 693. Any individual within the United States is therefore entitled to a timely and meaningful opportunity to demonstrate that they should not be detained by the government.

80. Here, Petitioner's continued detention is untethered to any legitimate government interest because she is neither a flight risk nor a danger to the community, and has an appropriate sponsor available and eager to care for her outside of detention. *See* 8 U.S.C. § 1232(b)(2)(A) (requiring consideration of potential "danger to self, danger to the community, and risk of flight" in making placement decisions, and permitting placement with suitable family members). Fifteen-year-old Petitioner has no criminal history here in the United States or anywhere in the world, and there is no evidence that she has engaged in any conduct causing harm to herself or others.

81. Further, both Petitioner and her mother have a substantive liberty interest in family integrity and, as a child who has now been separated from her family for many months, Petitioner is suffering grave harm due to her continued detention by ORR. *Ms. L.*, 310 F. Supp. 3d at 1137.

82. Respondents' actions, as set forth above, have infringed upon Petitioner's substantive liberty interest to be free from detention and her liberty interest in family integrity.

83. Accordingly, Respondents' continued detention of Petitioner violates her substantive due process rights.

COUNT THREE

Violation of the Fifth Amendment: Procedural Due Process

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

85. The Due Process Clause of the Fifth Amendment provides that the government shall not "deprive any person of life, liberty, or property without due process of law." U.S. CONST. AMEND. V.

86. UCs are entitled to the protections of the TVPRA, and therefore have a protected property interest in their statutory entitlements thereunder. *See, e.g., Immigrant Defs. L. Ctr. v. U.S. Dep't of Homeland Sec.*, No. CV 21-0395 FMO (RAOX), 2025 WL 1191572, at *15 (C.D. Cal. Mar. 14, 2025) (finding "statutory entitlements [under the TVPRA] are constitutionally protected property interests") (collecting cases). The TVPRA expressly grants robust rights to such UC and directs HHS to establish procedures to provide for and protect said rights.

87. Petitioner's interest in her liberty and in being reunited with her mother is unquestionably strong. *See Mathews*, 424 U.S. at 335.

88. Petitioner has been erroneously deprived of her liberty due to ORR's failure to timely adjudicate her sponsorship application, much less even provide a timeline for completion of "essential tasks." This lack of any decision also prohibits Petitioner's sponsor from availing herself of ORR's own internal appeal process should her FRP theoretically be denied.

89. In contrast to Petitioner's robust interests in her liberty and family reunification, the government's interest in continuing to detain Petitioner, despite the availability of her mother to assume her custody and care, is minimal at best.

90. Accordingly, Respondents' continued detention of Petitioner, despite the availability of her Category 1 family member sponsor, and in light of Respondents' failure to timely adjudicate her sponsor's sponsorship application, violates Petitioner's procedural due process rights.

PRAYER FOR RELIEF

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

1) Assume jurisdiction over this matter;
2) Issue an order preventing the transfer of Petitioner outside of this Court's jurisdiction;
3) Issue a writ of habeas corpus compelling Respondents to immediately release Petitioner to her sponsor;
4) Issue a writ of habeas corpus prohibiting the re-detention of Petitioner absent compliance with procedural protections and relevant regulations;
5) Declare that Petitioner's detention violates the Due Process Clause of the Fifth Amendment, 8 U.S.C. § 1232, and/or 45 C.F.R. § 410.1001 *et seq.*;
6) Award Petitioner's attorney's fees and costs under the Equal Access to Justice Act, 28 U.S.C. § 2412, and on any other basis justified under law; and

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

Respectfully Submitted,

Dated: September 16, 2026

/s/Cynthia Isabel Felix
Cynthia Isabel Felix

Attorney for Petitioner

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

I represent Petitioner I.J.S. and submit this verification on her behalf. I hereby verify that the factual statements made in the foregoing Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated this 16th day of September 2026.

Respectfully Submitted,

/s/ Cynthia Isabel Felix
Cynthia Isabel Felix

Attorney for Petitioner