UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF INDIANA
HAMMOND DIVISION

S.C.N.,

Petitioner,

v.

MARKWAYNE MULLIN, Secretary of Homeland Security, *et al.*

Respondents.

No. 2:26-cv-00482

INTRODUCTION

S.C.N. ("Petitioner" or "S.C.N.") is an unaccompanied alien child who has been in the care and custody of the Office of Refugee Resettlement ("ORR") since June 18, 2026. S.C.N. petitioned for a writ of habeas corpus under 28 U.S.C. § 2241, asking this Court to order that she be immediately released from ORR custody.

This Court should deny this Petition for several reasons. As an initial matter, Petitioner's habeas action is premature because the sponsorship process for S.C.N. is still incomplete, and ORR cannot complete its statutory duties without completing its investigation of the Alternative Caregiver (ACG). Setting this aside, the Petition fails on the merits. Petitioner has not shown that S.C.N.'s custody violates any regulation, statute, or constitutional provision. ORR has followed its statutorily mandated procedures, and the custody process for S.C.N. has met due process.

FACTUAL AND PROCEDURAL BACKGROUND

On June 17, 2026, S.C.N., an unaccompanied alien child ("UAC") and citizen of Haiti, was encountered by U.S. Customs and Border Protection

("CBP"). *See* Declaration of Toby Biswas ("Biswas Decl.") ¶ 30. CBP determined that S.C.N. was an UAC and transferred her to ORR custody. *Id.* at ¶ 31. On June 18, 2026, S.C.N. was admitted to ORR custody and placed at National Youth Advocate Program in Indiana. [redacted] (M.J.P.), S.C.N.'s mother, was identified by the care provider as a potential Category 1 sponsor. Accordingly, the program submitted a sponsor referral to ORR to begin the vetting process. *Id.* at ¶ 33. Upon receipt of the sponsor referral, ORR contacted M.J.P. to confirm her interest in sponsoring and requested that she provide her identification documents so an application could be opened. *Id.* at ¶ 37. M.J.P. provided some information and began filling out application materials. *Id.* Over the next several weeks, ORR had several follow-up communications with M.J.P, who stated that she was having difficulty completing the application. *Id.* at ¶ 37-45. With the government's assistance, fingerprints were scheduled on July 30, 2026, and processed on August 3, 2026. *Id.* at ¶¶ 48-49. M.J.P. then completed her portion of the application. M.J.P. identified her husband as the Alternative Caregiver (ACG) for S.C.N.

In August 2026, ORR asked that ACG complete the application so that it could continue its vetting process. *Id.* at ¶ 51. The case was subsequently referred for a home study on September 8, 2026, *id.* at ¶ 59, and the assessment was completed on September 16, 2026. *Id.* at ¶ 60. In September 2026, a DNA test was scheduled, and the test was completed on October 1, 2026. *Id.* at. ¶¶ 64-65.

Currently, the sponsorship application of M.J.P. is complete. *Id.* at ¶¶ 37-60. The sponsorship process needs only ACG to produce court documents from a 2024 criminal case to complete the sponsorship process and for ORR to complete its processing. *Id.* at ¶¶ 61-63, 66-67. ORR has repeatedly communicated with M.J.P. and ACG regarding this issue. *Id.* at ¶¶ 66-67.

However, ACG has not cooperated with ORR's requests. *Id.* at ¶ 62. ORR cannot complete its statutory duties without completing its investigation of the ACG.

LEGAL FRAMEWORK

A. The Homeland Security Act of 2002 ("HSA")

In 2002, Congress enacted the HSA, Pub. L. No. 107-296, 116 Stat. 2135 (2002) (codified in relevant part at 6 U.S.C. § 279), which abolished the Immigration and Naturalization Service ("INS") and transferred responsibility for the care and placement of UACs from INS to ORR. 6 U.S.C. §§ 279(a), (b)(1)(A), (g)(2). The HSA defines a UAC as "a child who—(A) has no lawful immigration status in the United States; (B) has not attained 18 years of age; and (C) with respect to whom—(i) there is no parent or legal guardian in the United States; or (ii) no parent or legal guardian in the United States is available to provide care and physical custody." 6 U.S.C. § 279(g)(2). It assigns ORR broad authority over the care and custody of UACs while they are in federal custody due to their immigration status, including coordinating their care and placement, ensuring their best interests in custodial decisions and that they are protected from smugglers, traffickers, and others who might seek to victimize and exploit UACs. 6 U.S.C. § 279(b)(1)(A) & (b)(2)(A)(ii).

B. The Trafficking Victims Protection Reauthorization Act (TVPRA) of 2008

Congress enacted the TVPRA in 2008 to strengthen protections for UACs and support their safe repatriation or appropriate placement within the United States. The statute, consistent with the HSA, makes HHS responsible for the care and custody of UACs. 8 U.S.C. § 1232(b)(1). It also requires the HHS Secretary to decide that a sponsor "is capable of providing for the child's physical and mental well-being." 8 U.S.C. § 1232(c)(3)(A). This safety and

suitability determination must "at a minimum, include verification of the custodian's identity and relationship to the child, if any, as well as an independent finding that the individual has not engaged in any activity that would indicate a potential risk to the child." *Id.* The TVPRA also requires ORR to prioritize the safety and well-being of UACs while in its care and upon release. One of the methods of doing so as contemplated by the statute is to coordinate with the United States Department of Homeland Security ("DHS") for available vetting information—including from immigration databases: "Not later than 2 weeks after receiving a request from the Secretary of Health and Human Services, the Secretary of Homeland Security shall provide information necessary to conduct suitability assessments from appropriate Federal, State, and local law enforcement and immigration databases." 8 U.S.C. § 1232(c)(3)(C). These responsibilities are carried out through cooperative agreements and contracts with care providers under ORR policies and oversight. *See* 8 U.S.C. § 1232(i); 31 U.S.C. § 6305.

C. The Foundational Rule

In April 2024, ORR promulgated the Unaccompanied Children Program Foundational Rule (the "Foundational Rule"), codified at 45 CFR part 410, to establish comprehensive regulations governing its UAC program. The Foundational Rule also implements provisions of the Flores Settlement Agreement ("FSA") relevant to ORR's care and custody of UACs and thus led to the conditional and partial termination of the FSA as to ORR in June 2024.[1] *Cf. Reno v. Flores*, 507 U.S. 292 (1993) (upholding INS regulations about the release of UACs to properly vetted sponsors). The Foundational Rule

[1] *See Flores v. Garland*, No. 85-cv-4544, 2024 WL 3467715, at *9 (C.D. Cal. June 28, 2024).

formalized previously informal procedures, including those related to ORR's release policies and practices.

The Foundational Rule provides that ORR identifies a standard program placement for the UACs upon notification from any federal department or agency that a child in its custody is a UAC and therefore must be transferred to ORR custody. 45 C.F.R. § 410.1101(b). ORR then works with the referring federal government department or agency to accept transfer of custody of the UAC, consistent with the statutory and regulatory requirements at 8 U.S.C. § 1232(b)(3) and 45 C.F.R. § 410.1101(c). ORR places each UAC in the least restrictive setting that is in the best interest of the child and appropriate to the unaccompanied alien child's age and individualized needs. 45 C.F.R. § 410.1103(a). ORR may place a child in a shelter facility, foster home or group home (which may be therapeutic), heightened supervision facility or secure facility (including residential treatment centers), or other care facility that can provide for their specific individualized needs, including an out-of-network ("OON") placement (which may be restrictive or non-restrictive). 45 C.F.R. § 410.1102; *see also* ORR UACB Policy Guide § 1.2, https://acf.gov/orr/policy-guidance/unaccompanied-children-bureau-policy-guide (last visited June 20, 2026). ORR also considers several factors relevant to the UAC's placement, including but not limited to: danger to self; danger to the community/others; runaway risk; trafficking in persons or other safety concerns; age; and gender. 45 C.F.R. § 410.1103(b).

ORR is required to make and record prompt and continuous efforts on its part towards the release of children in custody to appropriately vetted sponsors. *See* 45 C.F.R. § 410.1203(a). All individuals seeking to sponsor a child in ORR custody (notably, even a UAC's parent or legal guardian) must undergo the sponsor assessment process, consistent with ORR's statutory

responsibilities. *See* 8 U.S.C. § 1232(c)(3)(A) ("an unaccompanied alien child may not be placed with a person or entity unless the Secretary of Health and Human Services makes a determination that the proposed custodian is capable of providing for the child's physical and mental well-being"); 45 C.F.R. §§ 410.1201(a), 1202(b). This understanding was further reinforced in the One, Big, Beautiful Bill Act of 2025, Pub. L. No. 119-21, title VIII, subtitle H, section 87001(c)(1) (2025) (defining "potential sponsor" as "an individual or entity who applies for the custody of an unaccompanied alien child").

The suitability assessment includes "verification of the potential sponsor's identity," 45 C.F.R. § 410.1202(b), "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), and "[i]n all cases, ORR shall require background and criminal records checks," *id.*, which may include a criminal history check based on fingerprints. The Foundational Rule thus reinforces congressional intent articulated in the HSA and TVPRA that HHS ensure UAC protection from human traffickers and release UACs only to those sponsors capable of protecting their well-being. *See* 45 C.F.R. § 410.1003; *see also* 8 U.S.C. § 1232(c)(3)(A)–(C) (requiring such vetting be conducted, along with potential home studies and further information sharing with DHS to effectuate that process).

D. Human Trafficking and UAC Sponsorship Fraud

In December 2022, the U.S. Senate's Committee on Homeland Security and Governmental Affairs published a report detailing the inadequate treatment of UACs in federal care and the insufficient safeguards to ensure they are not trafficked or abused following their release. *See* United States Senate Committee on Homeland Security and Governmental Affairs, Minority Staff Report, Federal Care of Unaccompanied Children: Minors Remain

Vulnerable to Trafficking and Abuse ("Minority Report"), https://www.govinfo.gov/content/pkg/GOVPUB-Y4_G74_9-PURL-gpo190271/pdf/GOVPUB-Y4_G74_9-PURL-gpo190271.pdf (last visited September 23, 2026). A congressional subcommittee launched its investigation in 2015, following reports that ORR placed eight children with members of a human trafficking ring that forced the children to work on an egg farm for 12 hours a day, six or seven days a week. *See Id.* at 26.

In the December 2022 report, it was noted that despite the increased number of UACs entering the United States in 2021 and 2022, ORR's completion of background checks significantly declined from FY 2019. *See Id.* at 35–37. Moreover, the report identified the lack of adequate background checks for potential sponsors and the waiver of background check requirements on household members, even when releasing a child to their parent, as areas where additional safeguard measures were necessary. *See Id.* at 37–45. It was therefore recommended that ORR update the UACB Policy Guide to indicate that if a potential sponsor or household member refuses to comply with required background checks, ORR should prohibit further consideration of the release of a child into their custody until such a check could be completed. *See id.* at section v.

In March 2023, after a Florida grand jury published a report outlining over 100 allegations concerning deficiencies in ORR's UAC Program, ORR established an Integrity & Accountability ("I&A") Team to detect, prevent, mitigate, and report fraud and exploitation perpetrated by sponsors, parents, and UACs. *See* Office of Refugee Resettlement, Administration for Children and Families, Recommendations to Combat Trafficking and Fraud in the UAC Program ("ORR Recommendations") at 1–3 (Feb. 4, 2025), https://www.scribd.com/document/830798358/HHS-ORR-Report (last visited

September 23, 2026).

The I&A Team identified several instances of fraudulent sponsorship applications, document falsifications, and patterns of human trafficking and exploitation. *See Id.* at 3–8. For example, the I&A Team identified instances of children and sponsors using altered birth certificates or unaltered birth certificates belonging to another person. *See Id.* at 7. The I&A Team also found that such fraud often involved collusion with others, including a family member in the child's country of origin. *See id.* In one instance, the I&A Team identified 10 UACs who were released to sponsors who committed intentional document fraud in October 2024. *See id.*

The I&A Team also found cases of fraud, abuse, and extortion by prospective sponsors. For example, the I&A Team reported that in late February 2024, an individual sponsor using multiple identities and addresses to sponsor or attempt to sponsor multiple children in Cleveland, Ohio was discovered after an investigation of potential child abuse and trafficking. *See Id.* at 7–8. The individual successfully sponsored a 15-year-old female UAC whose allegations of sexual abuse and trafficking led to charges of rape against the sponsor. *See Id.* at 7. In another case, the I&A Team found that a woman and her partner attempted to sponsor a total of 15 UACs over a five-year period by using multiple aliases, with the aliases only discovered when the sponsor underwent fingerprinting. *See id.* The I&A Team also found cases of individuals demanding payment to sponsor a UAC. *See id.* at 8. In one scheme, there were 17 reported instances of successful extortion totaling $27,694. *See id.* Despite this background, ORR's data revealed that less than 1% of sponsorship applications had been denied in recent years. *See id.*

E. ORR Release Policies and Practices

To carry out its statutory mandate under the HSA and TVPRA, and

consistent with the Foundational Rule, ORR has developed policies and procedures for identifying, and conducting suitability assessments of, potential sponsors. These procedures are generally set out in ORR's publicly available UACB Policy Guide. A full assessment of a potential sponsor's suitability is particularly appropriate because ORR is not a law or immigration enforcement agency and lacks the authority to hold individuals accountable by reassuming care if the sponsor abuses or neglects a child after a UAC has been released from ORR custody. Biswas Decl. ¶¶ 11, 18. Rather, ORR only takes children into custody upon referral by another federal agency, as described in statute. *See* 8 U.S.C. § 1232(b)(3) (requiring, absent exceptional circumstances, that any agency of the federal government transfer the custody of a child to HHS no later than 72 hours after determining that the child is a UAC). In this regard, ORR is also very different from state child welfare agencies, which typically retain such authority post-placement. Biswas Decl. ¶ 18. Accordingly, ORR must front-load child safety considerations in its identity verification and sponsor-vetting policies. *Id.*

In light of ORR's obligation to protect UACs from smugglers, traffickers, and others who may seek to victimize them, "safe and timely release . . . involves several steps, including: the identification of sponsors; sponsor application; interviews; the assessment (evaluation) of sponsor suitability, including verification of the sponsor's identity and relationship to the child (if any), background checks, and in some cases home studies; and post-release planning." UACB Policy Guide § 2.1; *see also* Biswas Decl. ¶ 19. There are four categories of potential sponsors: (1) Category 1, consisting of parents or legal guardians; (2) Category 2, consisting of siblings, half-siblings, grandparents, or immediate relatives (such as aunts, uncles, and cousins), and other biological relatives and relatives through marriage; and (3) Category 3,

consisting of other sponsors, such as distant relatives and unrelated adult individuals. UACB Policy Guide § 2.2.1; Biswas Decl. ¶ 19. ORR (through its care providers) conducts a suitability assessment of the potential sponsor, including a review of the sponsor's strengths, resources, risk factors, and special concerns within the context of each child's needs, strengths, resources, risk factors, and relationship to the sponsor. UACB Policy Guide §§ 2.2.2, 2.4; Biswas Decl. ¶ 22.

A potential sponsor must complete a sponsorship application, provide unexpired government-issued identification documentation for the sponsor and any other adults living in the household or identified in a sponsor care plan, and, along with any adult living in his household, undergo a background check. UACB Policy Guide §§ 2.2.4, 2.5; Biswas Decl. ¶ 20. All potential sponsors must also submit proof of address, income, sponsor-child relationship, and criminal history documents (if applicable). UACB Policy Guide § 2.2.4; Biswas Decl. ¶ 20.

Additionally, in certain circumstances a home study, which consists of interviews, a home visit, and a written report containing a case worker's findings, is performed. UACB Policy Guide § 2.4.2; Biswas Decl. ¶¶ 19, 22, 24, 25.

Once the assessment of the potential sponsor is complete, the care provider makes a release recommendation to ORR. UACB Policy Guide § 2.7; Biswas Decl. ¶ 24. The recommendation must take into consideration all relevant information, including the report and recommendations from a home study, if conducted, laws governing the process, and other facts in the case. Biswas Decl. ¶ 24. ORR makes the final release decision. UACB Policy Guide § 2.7; Biswas Decl. ¶ 24. Release decisions include: (1) approve release to sponsor; (2) approve release with post-release services; (3) conduct a home

study before a final release decision; (4) deny release; or (5) remand for further information. UACB Policy Guide § 2.7; Biswas Decl. ¶ 24. The Policy Guide describes various circumstances under which ORR will or may deny release.

Generally, ORR denies release if: (1) the potential sponsor is not willing or able to provide for the child's physical or mental well-being; (2) the potential sponsor is not willing to complete the mandatory fingerprint check; (3) the physical environment of the home presents a risk to the child's safety or well-being; or (4) release of the UAC would present a risk to him or herself, the sponsor, household, or community. UACB Policy Guide § 2.7.4; Biswas Decl. ¶ 25; *see also* 45 C.F.R. § 410.1205 (Release decisions; denial of release to a sponsor).

F. The One, Big, Beautiful Bill Act ("OBBBA") Section 87001

Concerned about the past abuses of the sponsorship program discussed above, ORR's release policies regarding background checks were effectively ratified by Congress in July 2025. Specifically, OBBBA's Section 87001 includes a list of things that ORR "shall" review when determining appropriateness of release using appropriated funds. OBBBA, Public Law 119-21, 139 Stat. 72. Section 87001 (July 4, 2025); *see also* Biswas Decl. ¶ 21. These requirements ensure that ORR's obligation to undertake a full assessment of each potential sponsor's suitability is completed before ORR releases the child from its custody.

G. Appeals of ORR Decisions

If ORR denies the application of a parent, legal guardian, or close relative potential sponsor, the denied potential sponsor may appeal that decision through an administrative process. 45 C.F.R. § 410.1206. ORR policy requires that, if ORR denies the sponsor application of a parent, legal guardian, or close relative, the ORR Director, or their neutral and detached

designee must send the potential sponsor a Notification of Denial Letter, after receiving all the required information and documentation in a specific case. *See* 45 C.F.R. § 410.1205(c); UACB Policy Guide § 2.7.7; Biswas Decl. ¶ 26. Denied potential sponsors who receive this letter may seek an appeal of ORR's denial decision, with a hearing or without a hearing. *Id.* § 2.7.8; Biswas Decl. ¶ 26.

In deciding an appeal of a release denial, the Departmental Appeal Board's ("DAB's") role (as the Assistant Secretary's neutral and detached designee who was not involved in the denial decision) is not to substitute its judgment for that of ORR, but to determine whether ORR acted within its statutory authority and applied its regulations and policies reasonably, and whether its decision to deny the Petitioner sponsorship of the UAC was supported by substantial evidence. *See* 45 C.F.R. § 410.1206; UACB Policy Guide § 2.7.4.

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

The DAB's decision to affirm or overrule ORR's decision to deny release to a potential sponsor is the final administrative decision of the agency on the application that had been under consideration. UACB Policy Guide § 2.7.8.

However, if there is new information or a change in circumstances regarding the reunification application, or regarding the UAC's circumstances, a new reunification application may be submitted that highlights the change(s) and explains why such changes should alter the initial decision. UACB Policy Guide § 2.7.8. Similarly, if ORR discovers new information or becomes aware of a change in the circumstances of the potential sponsor and/or the unaccompanied alien child, ORR may assess the case anew. UACB Policy Guide § 2.7.8.

ARGUMENT

A. Petitioner Has Failed to Exhaust His Administrative Remedies.

Petitioner's habeas action is premature because the sponsorship process for S.C.N. is still incomplete. Biswas Decl. ¶¶ 61-63, 66-67, 69. "Exhaustion is generally required as a matter of preventing premature interference with agency processes, so that the agency may function efficiently and so that it may have an opportunity to correct its own errors, to afford the parties and the courts the benefit of its experience and expertise, and to compile a record which is adequate for judicial review." *Weinberger v. Salfi*, 422 U.S. 749, 766 (1975), *see also: Iddir v. INS*, 301 F.3d 492, 498 (7th Cir. 2002).

Here, S.C.N. remains in ORR custody because her sponsorship process is still pending. ORR has made significant process in its vetting process, including completing the M.J.P.'s application, gathering documents, conducting a home visit, and completing a DNA test. However, the sponsorship process is stalled because ACG—M.J.P.'s husband, who lives with her—has not yet provided court records from a 2024 criminal case and thus ORR cannot complete its vetting. Biswas Decl. ¶¶ 61-63, 65, 67. Indeed, ORR's decision on S.C.N.'s sponsorship could provide her with the with relief she now seeks – her

release from ORR's care and custody. Having thus failed to exhaust administrative remedies, Petitioner cannot now seek habeas relief in federal court. *See Vazquez v. Trump*, 2026 WL 468548, at *3 (N.D. Ind. Feb. 18, 2026).

B. TVPRA Does Not Form a Basis for Habeas Relief.

This case is fundamentally different from a typical habeas petition because "juveniles, unlike adults, are always in some form of custody." *Flores*, 507 U.S. at 302. Accordingly, "where the custody of the parent or legal guardian fails," the Supreme Court has held that the "government may (indeed, we have said must) either exercise custody itself or appoint someone else to do so." *Id.*; *see also Schall v. Martin*, 467 U.S. 253, 265 (1984) (noting that a "juvenile's interest in freedom from institutional restraints . . . must be qualified by the recognition that juveniles, unlike adults, are always in some form of custody" because they "are not assumed to have the capacity to take care of themselves").

In this case, Petitioner entered the United States designated as an UAC. Biswas Decl. ¶ 30. ORR then took custody of S.C.N. under the HSA. Biswas Decl. ¶ 31. And in that circumstance, the TVPRA reinforces and expands upon the government's responsibility for the care of UACs. Unlike adults in the custody of other agencies, ORR cannot release a child in its care on their own recognizance, or to just anyone who is willing to sponsor them. *See* 6 U.S.C. § 279(b)(2)(B), *see Martin*, 467 U.S. at 165. Rather, 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). To effectuate that, the TVPRA requires that ORR make a considered decision about a child's placement based upon all the circumstances. *See* 8 U.S.C. § 1232(c)(2)(A), (c)(3)(A). *see also: Flores*, 862 F.3d at 876 (the "focus [is] on care and placement"). Petitioner asks for the Court to

order her immediate release to the custody of her sponsor before ORR has completed mandated review and vetting process. Such relief would substantially undermine TVPRA's statutory priority and the mandated safeguards. Pet. ¶ 20.

Petitioner argues that ORR has not complied with TVPRA's requirement to adjudicate a sponsorship application within 10 days (i.e., an *Accardi* doctrine claim). Pet. ¶¶ 74, 75. But the remedy for an *Accardi* violation would be "limited to compelling the agency to abide by" the regulation (which ORR has done here), "not release". *C.G.B. v. Wolf*, 464 F. Supp. 3d 174, 227 n.44 (D.D.C. 2020). As explained above, ORR has followed applicable laws, policies, and regulations in processing the sponsorship application. These included laws requiring ORR to consider the safety and suitability of any placement. Any purported delay in ORR's sponsorship process is attributable to ACG. Thus, the Court should deny this Petition.

C. Petitioner Has Not Shown His Continued Care Violates Due Process

This Petition fails on the merits because she does not demonstrate any due process violations.

"The Due Process Clause of the Fifth Amendment provides that 'No person shall ... be deprived of life, liberty, or property, without due process of law ....'" *United States v, Salerno*, 481 U.S. 739, 746 (1987). "When government action depriving a person of life, liberty, or property survives substantive due process scrutiny, it must still be implemented in a fair manner." *Id.*, citing: *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976). "The touchstone of due process is protection of the individual against arbitrary action of the government." *Wolff v. McDonnell*, 418 U.S. 539, 558 (1974). Substantive due process is "very limited and protects plaintiffs only against arbitrary government action that

shocks the conscience." *Montgomery v. Stefaniak*, 410 F.3d 933, 939 (7th Cir. 2005).

Petitioner fails to demonstrate any due process violations here. ORR has put in place ample due process procedures in its regulations and policy which enable denied potential sponsors to contest ORR's release decisions. ORR submitted and accepted identification documents for M.J.P, accomplished a home visit, and completed DNA testing – all intended to protect S.C.N., a minor, from risk of harm upon release, as required by the TVPRA.. (Biswas Decl. ¶¶ 37-60). ORR's efforts to complete the sponsorship process cannot be said to "shock the conscience." *See D.B. v.* Cardall, 826 F.3d 721, 741 (4th Cir. 2016) ("[W]hen a state's interference with parental control is predicated on a determination that the parent is unable to provide adequate care for a child, such interference does not contravene substantive due process, at least in the absence of governmental action that shocks the conscience"). Thus, the Court should deny Petitioner's substantive due process challenge.

Petitioner's procedural due process argument fairs no better. As explained above, ORR has proceeded through mandatory vetting process over the last several months. The process afforded by TVPRA and its implementing regulations—*i.e.*, the process that Petitioner's potential sponsors received and that remains available to them —comports with constitutional limits.

None of the remaining constitutional issues raised by Petitioner have merit. ORR has provided an interpreter and translation of communications related to the sponsorship applications. Biswas Decl. ¶¶ 48, 50, 52, 61. Petitioner's mother understood and has "complied with every ORR request" (Pet. ¶ 15), and she has been using both an ORR provided translator (Biswas Dec. ¶ XX) and her nephew (Biswas Decl. ¶ 48), and thus any translation issues are not an impediment. Petitioner thus fails to demonstrate a due process

violation.

D. Petitioner Has Not Shown ORR's Policies are Unconstitutional.

Petitioner asserts that the ORR policies are "unconstitutional" (Pet. ¶ 96), because "the ORR New Policies denies her a prompt and accurate resolution of her claims for release." But Petitioner fails to show how verifying the identity, doing background checks, checking fingerprints, and checking relationships via DNA testing could not be valid under any circumstances given the mandatory requirements placed upon ORR in 45 CFR § 1201 – 1205 (based upon *Reno v. Flores*), and 8 U.S.C. § 1232. *See Reno v. Flores*, 507 U.S. at 301. ("To prevail in such a facial challenge, respondents must establish that no set of circumstances exists under which the regulation would be valid."), citing: *United States v. Salerno*, 481 U.S. 739, 745 (1987). Nor has Petitioner shown that any of these vetting procedures impacted her in this case and are better classified as hypothetical harms.

E. The APA Claim is Premature and Unsupported.

Petitioner improperly attempts to bring an APA claim as part of the habeas action. If the Court even considers it, the APA claim fails as well.

The APA permits judicial review of agency action only when, *inter alia*, "there is no other adequate remedy in a court." 5 U.S.C. § 704. Where a noncitizen's claim for relief "'necessarily imply the invalidity' of their confinement," those claims "must be brought in habeas" and not as APA claims. See *Trump v. J.G.G.*, 604 U.S. 670, 672 (2025). Section 706(1) of the APA permits a reviewing court to "compel agency action" only where it has been "unlawfully withheld or unreasonably delayed." 5 U.S.C. § 706(1). A claim under 5 U.S.C. § 706(1) can only proceed where the plaintiff asserts that an agency failed to take a discrete action that the agency is required to take.

Norton v. S. Utah Wilderness All, 542 U.S. 55, 64 (2004). Accordingly, an agency's purported delay in acting cannot be unreasonable with respect to action that is not required. *See id.* Here, the TVPRA mandates that ORR release a child only to a sponsor that ORR, in its child welfare experience and judgment, determines will safely care for the UAC. 8 U.S.C. § 1232(c)(3). That determination has not yet been made and thus an APA action is improper. Accordingly, the Court should dismiss this Petition.

CONCLUSION

For the foregoing reasons, Respondents respectfully request that the Petition be denied.

Respectfully submitted,

ADAM L. MILDRED
United States Attorney

/s/ Brian W. Irvin
BRIAN W. IRVIN
Assistant United States Attorney
United States Attorney's Office
5400 Federal Plaza, Suite 1500
Hammond, IN 46320
T: (219) 937-5500
Brian.Irvin@usdoj.gov

Exhibit 1

TODD BLANCHE
Attorney General
ADAM L. MILDRED
United States Attorney
ROBERT TRGOVICH
First Assistant United States Attorney
BRIAN W. IRVIN
Assistant United States Attorney
Chief, Civil Division
(IL Bar No. 6306228)
Northern District of Indiana
5400 Federal Plaza, Ste. 1500
Hammond, IN 46320
Telephone: (219) 937-5500
E-mail: brian.irvin@usdoj.gov

Attorneys for Federal Respondents

UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF INDIANA

HAMMOND DIVISION

S.C.N.,

Petitioner,

v.

MARKWAYNE MULLIN, Secretary of Homeland Security; ROBERT F. KENNEDY, JR., Secretary of Health and Human Services; 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.

No. 2:26-cv-00482

DECLARATION OF TOBY BISWAS

Pursuant to 28 U.S.C. § 1746, I, Toby Biswas, hereby declare under penalty of perjury that the following is true and correct:

1. I am the Assistant Deputy Director for Policy for the Unaccompanied Alien Children Bureau ("UACB"), and manage the Division of Policy Coordination & Intergovernmental Affairs, and the Division of Policy Administration & Legal Affairs within the Office of Refugee Resettlement ("ORR"), an entity within the Administration for Children and Families ("ACF"), U.S. Department of Health and Human Services ("HHS").

2. I have held various roles within ORR since joining the agency in November 2009, and I have held my current role since August 2025. My responsibilities encompass the development and implementation of ORR's policies and procedures concerning the care and custody unaccompanied alien children ("UAC"). In this capacity, I am responsible for ensuring ORR's implementation of and compliance with programmatic policy prerogatives and statutory responsibilities, including those arising under the Homeland Security Act of 2002 ("HSA"), 6 U.S.C. § 279; Trafficking Victims Protection Reauthorization Act of 2008 ("TVPRA"), 8 U.S.C. § 1232; and ORR's regulations, including the Foundational Rule, 45 C.F.R. part 410.

3. This declaration is based upon my personal knowledge, information acquired in the course of performing my official duties, information contained in

the records of ACF and ORR, and information conveyed to me by current agency employees and contractors.

CARE AND PLACEMENT OF UNACCOMPANIED ALIEN CHILDREN IN ORR CUSTODY

4. An unaccompanied alien child means a child who has no lawful immigration status in the United States; has not attained 18 years of age; and with respect to whom there is no parent or legal guardian in the United States or no parent or legal guardian in the United States is available to provide care and physical custody. 6 U.S.C. § 279(g)(2).

5. Pursuant to the TVPRA, "any department or agency of the Federal Government that has an unaccompanied alien child in custody shall transfer the custody of such child to the Secretary of Health and Human Services not later than 72 hours **after determining that such child is an unaccompanied alien child**." 8 U.S.C. § 1232(b)(3) (emphasis added). Therefore, ORR only takes children into its custody upon referral by another federal agency.

6. ORR "**shall** accept referrals of unaccompanied children, from any department or agency of the Federal Government at any time of day, every day of the year." 45 C.F.R. § 410.1101(a) (emphasis added).

7. ORR has no ability to refuse a referral when the referring federal agency transfers custody to it of an individual that the other agency determines to be a UAC. See generally 8 U.S.C. § 1232(b).

8. While "ORR may seek clarification about the information provided by the referring agency as needed", the regulation does not provide for ORR to refuse to accept a referral or demand that the referring agency change the child's designation as a UAC. 45 C.F.R. § 410.1101(a); 8 U.S.C. § 1232(b).

9. After a federal department or agency notifies ORR that a child in its custody is a UAC, ORR identifies a program placement for the child. 45 C.F.R. § 410.1101(b). In order to do so, ORR requests background information from the referring federal agency to assess, among other things, whether the unaccompanied alien child is a danger to self or others, whether there are any known medical and/or mental health issues, or whether other special concerns or needs are known. ORR uses this information to determine an appropriate placement for the child in the least restrictive setting appropriate for the child's needs. 45 C.F.R. § 410.1103(a) and (b); ORR Unaccompanied Alien Children Bureau Policy Guide ("UACB Policy Guide"), available at https://acf.gov/orr/policy-guidance/unaccompanied-children-bureau-policy-guide, § 1.3.1.

10. ORR may place a child in a shelter facility, foster home or group home (which may be therapeutic), heightened supervision facility or secure facility (including residential treatment centers), or other care facility that can provide for their specific individualized needs, including an out-of-network ("OON") placement (which may be restrictive or non-restrictive). 45 C.F.R. § 410.1102; UAC Policy

Guide § 1.2.

11. ORR is not an agency with police powers / criminal law enforcement responsibilities.

12. ORR is not an agency tasked with immigration enforcement.

POLICIES FOR AN UNACCOMPANIED ALIEN CHILD'S SAFE AND TIMELY RELEASE

13. ORR's statutory mandate and goal is to release UACs to suitable sponsors where consistent with its statutory requirements to ensure that placement does not result in danger to UACs, to the community, or risk of flight by any UAC. *See, e.g.*, 6 U.S.C. § 279(b)(1), (b)(2)(A)(ii); 8 U.S.C. § 1232(c)(1), (c)(3)(A).

14. ORR must balance its responsibility to make and record prompt and continuous efforts towards release of UACs, *see* 45 C.F.R. § 410.1203(a), with concurrent duties to ensure the safety of releases.

15. The TVPRA prohibits HHS from releasing a child to a proposed custodian unless HHS first "makes a determination that the proposed custodian is capable of providing for the child's physical and mental well-being," which "shall, at a minimum, include verification of the custodian's identity and relationship to the child, if any, as well as an independent finding that the individual has not engaged in any activity that would indicate a potential risk to the child." 8 U.S.C. § 1232(c)(3)(A).

16. In addition, under its regulations, which implement the prior *Flores*

Settlement Agreement ("FSA")[1], ORR assesses all potential sponsors (even when the potential sponsor is a child's parent or legal guardian) before making any release determination, including a review of the potential sponsor's strengths, resources, risk factors, and relationship to the UAC. *See, e.g.*, 45 C.F.R. §§ 410.1201(a); 1202(b) and (c) (implementing Paragraphs 14 and 17 of the FSA, respectively).

17. Further, as part of the sponsor suitability assessment process, "ORR shall evaluate the unaccompanied child's current functioning and strengths in conjunction with any risks or concerns such as: . . . (2) History of criminal or juvenile justice system involvement (including evaluation of the nature of the involvement, for example, whether the child was adjudicated and represented by counsel, and the type of offense) or gang involvement." 45 C.F.R. § 410.1202(f).

18. The sponsor assessment process is particularly important because ORR is not a law or immigration enforcement agency and lacks the authority to hold

[1] The *Flores* Settlement Agreement is a consent decree entered into by the former Immigration and Naturalization Service governing the apprehension, process, and care and custody of alien minors in its custody. The Department of Homeland Security and Department of Health and Human Services are successor agencies to the former INS with respect to various parts of the FSA. However, the FSA has been mostly terminated as to HHS. *See Flores v. Garland*, No. 85-cv-4544, 2024 WL 3467715, at *9 (C.D. Cal. June 28, 2024) (conditionally and partially terminating the FSA as to the U.S. Department of Health and Human Services, on the basis of ORR's publication of regulations implementing the Agreement). The few remaining paragraphs of the FSA that still apply to HHS do not pertain to ORR release processes (*e.g.*, sponsor vetting processes).

individuals accountable by reassuming care if the sponsor abuses or neglects a child after a UAC has been released from ORR custody. Instead, ORR only takes children into its custody upon referral by another federal agency, as described in statute. In this regard, ORR is also very different from state child welfare agencies, which typically retain such authority post-placement. Accordingly, ORR must front-load child safety considerations in its identity verification and sponsor-vetting policies.

19. The process for the safe and timely release of an unaccompanied alien child from ORR custody involves several steps, including: the identification of sponsors; sponsor application; interviews; the assessment (evaluation) of sponsor suitability, including verification of the sponsor's identity and relationship to the child (if any), background checks, and in some cases home studies; and post-release planning. *See generally* 45 C.F.R. part 410, subpart C. Also, under ORR sub-regulatory guidance, there are three categories of potential sponsors: (1) Category 1, consisting of parents or legal guardians; (2) Category 2, consisting of siblings, half-siblings, grandparents, or immediate relatives (such as aunts, uncles, and cousins), and other biological relatives and relatives through marriage; (3) Category 3, consisting of other sponsors, such as distant relatives and unrelated adult individuals. Separately, ORR considers children who have no identified potential sponsors as Category 4 cases. *See* UACB Policy Guide § 2.2.1.

20. A potential sponsor must complete a sponsorship application package

to be considered as a sponsor. 45 C.F.R. § 410.1202. The sponsor must provide unexpired government-issued identification documentation for the sponsor and any other adults living in the household or identified in a sponsor care plan; and, along with any adult living in his or her household, undergo background checks. UACB Policy Guide §§ 2.2.4, 2.5. All potential sponsors must also submit proof of address, proof of income, proof of sponsor-child relationship, and criminal history documents (if applicable). *Id.* § 2.2.4. ORR does not disqualify potential sponsors based solely on their immigration status or for law enforcement purposes. *Id.* § 2.6.

21. With respect to the background check process, Title VIII, Section 87001(b)(1) of the One Big Beautiful Bill (" OBBB") provides ORR funds for background checks on potential sponsors, "which *shall* include: (A) the name of the potential sponsor and of all adult residents of the potential sponsor's household; (B) the social security number or taxpayer identification number of the potential sponsor and of all adult residents of the potential sponsor's household; [...]" (emphasis added).

22. ORR conducts a suitability assessment of the potential sponsor, including a review of the sponsor's strengths, resources, risk factors, and special concerns within the context of each child's needs, strengths, risk factors, and relationship to the sponsor. *See* 45 C.F.R. § 410.1202. Additionally, in certain circumstances a home study, which consists of interviews, a home visit, and a written

report containing the home-study case worker's findings, is performed. *See* 45 C.F.R. § 410.1204; UACB Policy Guide § 2.4.2.

23. Further, ORR "requires DNA testing to support proof of relationship between a potential sponsor and an unaccompanied alien child where a sponsor purports to be biologically related to the child." *See* UACB Field Guidance #27 – DNA Testing Expansion, *available at* https://acf.gov/sites/default/files/documents/orr/FG-27_-DNA_Testing_Expansion.pdf. Refusal to submit a DNA sample "may be grounds for ORR to recategorize the sponsorship as an unrelated Category 3 sponsorship and will require enhanced vetting procedures pursuant to ORR Policy." *Id.*

24. Once the assessment of the potential sponsor is complete, the care provider makes a release recommendation. UACB Policy Guide § 2.7. The recommendation must take into consideration all relevant information, including the report and recommendations from a home study, if conducted, laws governing the process, and other facts in the case. *Id.* ORR makes the final release decision. *Id.* Release decisions include: (1) approve release to sponsor; (2) approve release with post-release services; (3) conduct a home study before a final release decision; (4) deny release; or (5) remand for further information. *Id.*

25. In general, ORR denies release if: (1) the potential sponsor is not willing or able to provide for the child's physical or mental well-being; (2) the

potential sponsor is not willing to complete the mandatory fingerprint check; (3) the physical environment of the home presents a risk to the child's safety or well-being; or (4) release of the UAC would present a risk to him or herself, the sponsor, household, or community. *Id.* § 2.7.4; 45 C.F.R. § 410.1205. Additionally, pursuant to UACB Policy Guide § 2.7.4, ORR may deny release if the potential sponsor or a member of the potential sponsor's household: has been convicted of child abuse or neglect, spousal abuse; has been convicted within the last five (5) years of a felony involving physical assault, battery or drug-related offenses; has been convicted of a misdemeanor for a sex crime; has been convicted of alien smuggling or a crime related to trafficking in persons or other criminal history or pending charges or child welfare adverse findings; has knowingly provided false information, committed perjury or submitted fraudulent documentation during the sponsor assessment process; has under active criminal investigation, for a crime listed above; or, has an adverse child welfare finding.

26. In making such placements, HHS "may consider danger to self, danger to the community, and risk of flight." 8 U.S.C. § 1232(c)(2)(A). If the sole reason for the denial of release is a concern that the UAC is a danger to self or others, ORR shall send the UAC and their counsel (if represented by counsel) a copy of the Notification of Denial and the child may seek an appeal of the denial. 45 C.F.R § 410.1205(f).

27. Separately, the UAC, or their parent, or legal guardian, can request a risk determination hearing before an independent HHS hearing officer. *See* 45 C.F.R. § 410.1903. All UAC in restrictive placements based on a finding of dangerousness shall be afforded a hearing before an independent HHS hearing officer, to determine, through a written decision, whether the UAC would present a risk of danger to self or to the community if released, unless the UAC indicates in writing that they refuse such hearing. 45 C.F.R. § 410.1903(a). UAC placed in restrictive settings shall receive a written notice of the procedures. *Id.* Additionally, all other UAC in ORR custody may request a hearing to determine, through written decision, whether the UAC would present a risk of danger to self or to the community if released. 45 C.F.R. § 410.1903(b). However, "[d]eterminations made under [45 C.F.R. § 410.1903] will not compel an unaccompanied child's release; nor will determinations made under [45 C.F.R. § 410.1903] compel transfer of an unaccompanied child to a different placement. Regardless of the outcome of a risk determination hearing or appeal, an unaccompanied child may not be released unless ORR identifies a safe and appropriate placement pursuant to [45 C.F.R. §§ 410.1200-1210]; and regardless of the outcome of a risk determination hearing or appeal, an unaccompanied child may only be transferred to another placement by ORR pursuant to requirements set forth at [45 C.F.R. §§ 410.1100-1109 and 45 C.F.R. §§ 410.1600-1601]." 45 C.F.R. § 410.1903(j).

28. Notably, even where a child has a potential sponsor who is a parent or legal guardian, ORR is not required immediately to release the child to such sponsor. As referenced above, ORR has a statutory duty to first make a "determination that the proposed custodian is capable of providing for the child's physical and mental well-being…" 8 U.S.C. § 1232(c)(3)(A).

29. In addition, depending on the circumstances, ORR's sponsor vetting process may help ORR determine whether a child in its care has a parent who is "available" to provide care and custody. *See* 6 U.S.C. § 279(g)(2)(C)(ii) (defining UAC, in relevant part, as a child with respect to whom "no parent or legal guardian in the United States is **available** to provide care and physical custody.") (emphasis added). If ORR, through its sponsor vetting process, discovers information that reasonably calls into question an individual's ability to provide for the child's physical and mental well-being, that would inform its assessment of the individual's "availability."

Case Status for S.C.N. (chronological)

30. My understanding from a review of the record is that on June 17, 2026, S.C.N., an unaccompanied alien child ("UAC") and citizen of Haiti, was encountered by U.S. Customs and Border Protection ("CBP").

31. CBP determined that S.C.N. was a UAC, and S.C.N. was transferred into ORR custody pursuant to 8 U.S.C. § 1232(b).

32. On June 18, 2026, the child was admitted to ORR custody and placed at National Youth Advocate Program in Indiana. The National Youth Advocate Program is a shelter-level program, which is "[a] kind of standard program in which all of the programmatic components are administered on-site, consistent with the standards set forth in 45 C.F.R. § 410.1302. Shelters are considered a least restrictive environment." ORR UACB Policy Guide: Guide to Terms.

33. On June 18, 2026 [redacted] (M.J.P.), S.C.N.'s Mother, was identified by the care provider as a potential Category 1 sponsor. Accordingly, the program submitted a sponsor referral to ORR to begin the vetting process.

34. The sponsorship application process requires the following:

a. Proof of the Sponsor's identity.

b. Proof of Identification of Adult Household Members ("HHM"s) and Adult Caregivers ("ACG"s) Identified in a Sponsor Care Plan.

c. Proof of the Sponsor's address.

d. Proof of the Sponsor's income.

e. Proof of Social Security Number (SSN) or Individual Taxpayer Identification Number (ITIN) for the Sponsor, adult HHMs, and adult ACGs.

f. Proof of the Child's identity.

g. Proof of the Sponsor-Child relationship.

h. Vetting (background, activity, and living conditions) of the potential sponsor, and any HHMs and ACGs.

35. The complete Sponsor Vetting Process is explained in detail in ORR Field Guidance #24(https://acf.gov/sites/default/files/documents/orr/FG-24_ORR-Division-of-Sponsor-Administration-Role-Guidance.pdf).

36. The process is multi-stage and thorough. Once all documents are submitted and the evaluations / investigations done, a Division of Vetting ("DoV") report is completed. This involves coordination with federal investigative partners to determine if there are existing open criminal investigations into sponsors which would not have appeared on ORR's other background checks. The information provided by federal law enforcement partners informs the final release decision.

37. Upon receipt of the sponsor referral on June 18, 2026, an Intakes Specialist from ORR contacted M.J.P. to confirm her interest in sponsoring. The Intakes Specialist reviewed the sponsor application process with M.E.S.N., who confirmed her interest in sponsoring the child, provided her physical address, and confirmed she had a social security number. The Intakes Specialist requested she provide her identification documents so an application could be opened. A call was scheduled for June 23, 2026, as the sponsor reported she was just getting out of work and was occupied at the moment.

38. On June 23, 2026, the Intakes Specialist contacted M.J.P., who provided the following: M.J.P.'s driver's license, a selfie, and the driver's license of her husband and alternate adult caregiver ("ACG"). The sponsor also provided the ACG's phone number and her correct email address. An application was opened for the sponsor and the Intakes Specialist assisted M.J.P. in filling it out. A follow up call was planned for the following day for the sponsor to sign the application.

39. On June 24, 2026, the Intakes Specialist called M.J.P. with an ORR interpreter. The Intake Specialist provided instructions on how the sponsor could access the application, but the sponsor reported she was having technical issues and that she would request assistance from her cousin the following day.

40. On June 25, 2026, the Intakes Specialist followed up with M.J.P. via text message to set up another time to assist M.J.P. in completing the application. The Sponsor reported she would be off from work on the next Sunday, Monday, and Tuesday.

41. On June 30, 2026, the Intakes Specialist texted the sponsor to work on the sponsor application. At this point, the Intakes Specialist had assisted the sponsor in entering almost all the required information. The sponsor stated she was busy, but would be off of work the following day and requested the Intakes Specialist call back then.

42. On July 1, 2026, the Intakes Specialist called the sponsor with the

assistance of an interpreter. Verbal instructions were provided along with screenshots to assist the sponsor in logging into the application. The sponsor again struggled with opening the application and stated she would request assistance from her husband when he was available.

43. On July 2, 2026, the Intakes Specialist reached out to the sponsor via text message in Haitian Creole using the ORR interpreter. The sponsor replied via text stating that she had not accessed the application the previous evening and had not yet signed anything. The Intakes Specialist referred the case to the Division of Sponsor Administration for assignment to a Federal Field Specialist ("DSA FFS") to avoid delaying the case further because of technical issues.

44. On July 8, 2026, the assigned DSA FFS reviewed the application and supporting documents provided by M.J.P. thus far.

45. On July 17, 2026, the DSA FFS noted the applications appeared incomplete as the sponsor had not yet signed part one of the application or the Authorization for Release of Information.

46. On July 22, 2026, the DSA FFS followed up with the sponsor to notify her that the application was still incomplete as signatures were required. Until these documents are signed, ORR cannot initiate background checks.

47. On July 29, 2026, the DSA FFS again contacted the sponsor to provide the link to the application and explained what remained on the application. The DSA

FFS noted there may be an application language barrier.

48. On July 30, 2026, the DSA FFS confirmed the sponsor was able to translate the application to Haitian Creole and she stated that her nephew was assisting her. The Sponsor signed part one of the application. The DSA FFS requested the sponsor review part two of the application, the Authorization for Release of Information ("ARI") to include the city of birth and any name variations. Later that day, the sponsor completed and signed the ARI. The DSA FFS initiated the internet-based background checks the same day and scheduled the sponsor for her fingerprinting appointment on August 3, 2026.

49. On August 3, 2026, the sponsor attended her fingerprinting appointment. Results were received the same day and returned as "Appears Clear".

50. On August 6, 2026, the DSA FFS contacted the sponsor with the assistance of an ORR interpreter, but there was no answer. The DSA FFS sent the sponsor a text message translated to Haitian Creole requesting the sponsor complete the remaining portions of the application.

51. On August 10, 2026, the DSA FFS established contact with the sponsor with the assistance of an interpreter. The sponsor was asked to complete the application to have the ACG complete his ARI by August 13, 2026. The DSA FFS informed the sponsor that once the application was completed, the DSA FFS could initiate the remaining steps in the vetting process.

52. On August 14, 2026, the DSA FFS established contact with the sponsor via translated text. The FFS also spoke with the child advocate who advised that the sponsor completed sections one through eight of the sponsor application. The DSA FFS reviewed the application and the sponsor was able to proceed to section 10. The child advocate reported that she would be sending the sponsor's proof of income. The DSA FFS emailed the ACG a copy of the Authorization for Release of Information to complete and sign.

53. On August 24, 2026, the DSA FFS received the ACG's ARI. The DSA FFS scheduled the ACG for a fingerprinting appointment on August 31, 2026 and initiated internet-based background checks.

54. On August 27, 2026, ORR received the ACG's social security card.

55. On August 31, 2026, ORR received the results of the ACG's fingerprint-based background checks, which were referred to the FFS for further review due to his criminal history showing up from his fingerprint-based background checks

56. On September 1, 2026, the sponsor and child's birth certificates were sent for consular verification.

57. On September 2, 2026, the DSA FFS referred the case for a discretionary home study. The DSA FFS also reached out to the ACG to discuss the results of his background check.

58. On September 4, 2026, the DSA FFS contacted the sponsor with the assistance of an ORR interpreter to establish contact with the ACG. M.J.P. reported he had left to go to the store and advised the DSA FFS to contact the ACG directly. The DSA FFS attempted to call the ACG with an ORR interpreter but there was no answer. The DSA FFS requested the sponsor have the ACG make himself available for a call.

59. On September 8, 2026, the home study provider completed their in-home visit with the sponsor and ACG.

60. On September 16, 2026, ORR received the results of the home study assessment, which returned with a positive recommendation.

61. On September 17, 2026, the DSA FFS contacted the sponsor and ACG via translated text messages requesting court documents from the ACG after his fingerprint-based background check showed past criminal history.

62. On September 18, 2026, the ACG texted the DSA FFS stating that he (the ACG) would not provide documentation from the court because it is an 18-hour drive for him, he refused to miss work, he did not have any leave time left, and the incident was so long ago.

63. On September 30, 2026, the DSA FFS contacted the sponsor with the assistance of an ORR interpreter. The DSA FFS explained the concerns with the case due to the ACG's refusal to provide documentation to mitigate ORR's concerns

over his criminal history. The sponsor was asked to provide information for another individual who is willing to serve as the ACG and for the sponsor to provide their identification, and social security number/individual taxpayer identification number. The DSA followed up with this request in writing and also requested the new ACG complete an ARI. The FFS attempted to complete the sponsor assessment interview, but M.J.P. reported that she was at work and would not be available until after 6:30pm that day.

64. On October 1, 2026, M.J.P. attended her in-person identification verification and DNA appointment.

65. On October 5, 2026, the DSA FFS completed the sponsor assessment interview. The sponsor was asked to provide the information for the newly assigned ACG. The sponsor was advised that once received, the Sponsor Application would need to be updated. The FFS advised the sponsor that vetting could not continue until the requested documents were provided.

66. On October 6, 2026, ORR received the results of the DNA test, which confirmed with a 99.99% probability that M.J.P. is S.C.N.'s mother.

67. On October 14, 2026, the DSA FFS contacted the sponsor and ACG after elevating the case to the supervisor for review. The DSA FFS encouraged the sponsor and ACG to provide court documents for the ACG's criminal charges as they would be needed to determine whether the child could be safely released to their

home. The DSA FFS reached out to the child advocate who had been assisting the sponsor in completing the application for assistance, but no response was received.

68. On October 20, 2026, the DSA FFS submitted their final sponsor suitability determination based on all available information.

69. The suitability determination will be reviewed and a release decision made.

70. At no time during the above events did M.J.P. ever state or indicate in any manner whatsoever that she was intimidated by any person from ORR.

71. During the process, two FFSs were assigned and worked with M.J.P.'s sponsorship application. This is done in the normal course of business and did not result in any delays in the process.

I hereby declare under the penalty of perjury that the above statements are true and correct to the best of my knowledge.

Executed this 22nd day of October 2026.

Biswas, Toby R M (ACF) Digitally signed by Biswas, Toby R M (ACF) Date: 2026.10.22 19:34:21 -04'00'

Toby Biswas
Assistant Deputy Director for Policy
Unaccompanied Alien Children Bureau
Office of Refugee Resettlement