

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

ANGELICA S., *et al.*,

Plaintiffs,

V.

U.S. DEPARTMENT OF HEALTH AND
HUMAN SERVICES, *et al.*,

Defendants.

Case No. 1:25-cv-01405-DLF

**DEFENDANTS' OPPOSITION TO PLAINTIFFS' SUPPLEMENTAL
MEMORANDUM IN SUPPORT OF PLAINTIFFS' MOTION
FOR SUMMARY JUDGMENT**

In Plaintiffs’ Supplemental Memorandum of Law in Support of Plaintiffs’ Motion for Summary Judgment, ECF No. 108, Plaintiffs do not show that they have standing to challenge the Interim Final Rule. Plaintiffs assert standing for those claims based on an attenuated chain of reasoning that Defendants have already refuted and this Court has already rejected. Plaintiffs also lack standing to bring their challenge under the Paperwork Reduction Act (“PRA”). In addition, Plaintiffs fail to establish that a mootness exception saves the claims of the released Plaintiffs. Next, even if Plaintiffs have standing to assert their PRA claim, Plaintiffs do not establish that they are entitled to relief based on it. Thus, the Court should grant summary judgment in Defendants’ favor. Finally, even if the Court were to rule in Plaintiffs’ favor, remand without vacatur would provide appropriate relief.

I. Background

Defendants explained the background relevant to the three new Plaintiffs and the Second Amended Complaint in Defendants’ supplemental memorandum, ECF No. 109, and the Declaration of Toby Biswas, dated June 15, 2026, ECF No. 109-1 (“June 15, 2026 Biswas Decl.”).

To clarify one point about Esmeralda C.’s case, Defendants attach to this memorandum a Supplemental Separate Concise Statement of Genuine Issues and an additional Declaration of Toby Biswas, dated June 25, 2026.

II. Argument

A. The new Plaintiffs lack standing to challenge the Interim Final Rule or to assert a claim under the Paperwork Reduction Act.

The previously named Plaintiffs and the newly named Plaintiffs lack standing to challenge the Interim Final Rule because their alleged injuries are not traceable to the Interim Final Rule or redressable by a Court-ordered vacatur of the Rule. ECF No. 71, at 30–32; ECF No. 109, at 5–7.¹

Attempting to establish standing for their Interim-Final-Rule claims, Plaintiffs incorrectly allege a link between the Interim Final Rule and the Office of Refugee Resettlement’s (“ORR”) requirements for proof-of-identity documents. ECF No. 108, at 13. As the Court has observed, the chronology does not support Plaintiffs’ argument because ORR updated the list of identification documents weeks before issuing the Interim Final Rule. ECF No. 35, at 9–10. Moreover, Plaintiffs conflate identification documents with immigration status. Plaintiffs’ examples show that ORR has informed potential sponsors that they lack required proof-of-identity documents. *See* ECF No. 108, at 13. But Plaintiffs are incorrect that those identification documents can be equated with immigration status. Many states issue proof-of-identity documents without requiring proof of lawful immigration status, and ORR also accepts Canadian driver’s licenses. *See* Defendants’ Separate Concise Statement of Genuine Issues (“DSCSGI”) ¶¶ 124, 173, ECF No. 71-1; Plaintiffs’ Separate Statement of Undisputed Material Facts ¶ 21, ECF No. 58-2. The record in this case shows that ORR has released named Plaintiffs to sponsors once the identification-document issues

¹ In this brief, citations to the page numbers of docket items refer to the CM-ECF-stamped page numbers.

were resolved or waived, even though Plaintiffs state or suggest that those sponsors or members of their household lacked lawful immigration status. *See* DSCSGI ¶¶ 172–75 (discussing Mateo N.’s sponsor); Second Amended Complaint ¶ 17, ECF No. 104 (Mateo N. released); DSCSGI ¶¶ 194–97 (discussing David D.’s sponsor); Second Amended Complaint ¶ 19 (David D. released). ORR does not require sponsors to prove lawful immigration status.

Plaintiffs also point to Esmeralda’s mother’s fear of potential information sharing and immigration enforcement. ECF No. 108, at 13. As explained in Defendants’ supplemental memorandum, Esmeralda’s mother’s generalized fear does not establish standing for Esmeralda to challenge the Interim Final Rule. ECF No. 109, at 6–7. That fear would not be redressable through a court order.

As to the PRA, Plaintiffs lack standing to assert a claim because they are not subject to an information collection. ECF No. 71, at 33; ECF No. 76, at 11–12. Plaintiffs argue that “the newly added Plaintiffs have standing to challenge the policies because, like existing child Plaintiffs, they cannot be released until their sponsors successfully fulfill the unauthorized information collection requirements.” ECF No. 108, at 12. But the alleged harm does not flow from the supposedly unauthorized information collection. The alleged harm is traceable to the substance of ORR’s Policy Guide updates, which set standards for sponsor vetting.

Because Plaintiffs lack standing, the Court should grant Defendants summary judgment on Plaintiffs’ Interim Final Rule and PRA claims.

B. No mootness exception applies to the released Plaintiffs’ claims.

The claims of eight of the eleven Plaintiffs in this case are moot because those eight Plaintiffs have been released from ORR custody. Second Amended Complaint ¶¶ 12–19. Under the mootness doctrine, “a federal court must refrain from deciding the dispute if events have so transpired that the decision will neither presently affect the parties’ rights nor have a more-than-

speculative chance of affecting them in the future.” *Pub. Citizen, Inc. v. FERC*, 92 F.4th 1124, 1127 (D.C. Cir. 2024) (citation modified). “The party seeking jurisdictional dismissal bears the initial heavy burden of establishing mootness, but the opposing party bears the burden of proving an exception applies.” *J.D. v. Azar*, 925 F.3d 1291, 1307 (D.C. Cir. 2019) (per curiam) (citation modified). Here, ORR has met its burden to establish mootness as to the eight released Plaintiffs because those Plaintiffs are “no longer subject to ORR’s policies.” *Id.*; see also *Weinstein v. Bradford*, 423 U.S. 147, 147–48 (1975) (per curiam) (holding that, after respondent was released from supervision, he “can have no interest whatever in the procedures followed by petitioners in granting parole”); *Scott v. District of Columbia*, 139 F.3d 940, 941 (D.C. Cir. 1998) (“As to Scott, his release from confinement surely moots his case.”). The Court lacks power to adjudicate those Plaintiffs’ claims even though mootness as to some Plaintiffs resulted from ORR’s compliance with the preliminary injunction. See *People for the Ethical Treatment of Animals, Inc. v. Gittens*, 396 F.3d 416, 421 (D.C. Cir. 2005); *Christian Knights of Ku Klux Klan Invisible Empire, Inc. v. District of Columbia*, 972 F.2d 365, 369 (D.C. Cir. 1992).

Plaintiffs do not establish that any exception to mootness applies. Plaintiffs first propose the inherently transitory exception to mootness. ECF No. 108, at 14. But, in Defendants’ Opposition to Plaintiffs’ Supplemental Brief in Support of Plaintiffs’ Motion for Class Certification and New Class Representatives and the earlier class-certification briefing, Defendants established that the Court should not certify Plaintiffs’ proposed class and that Plaintiffs are incorrect about the scope of the provisional class. See ECF No. 110. Without a properly certifiable class, “the inherently transitory exception to mootness *a fortiori* cannot apply.” *Hinton v. District of Columbia*, 567 F. Supp. 3d 30, 47 (D.D.C. 2021).

Plaintiffs next point to the voluntary-cessation doctrine. ECF No. 108, at 15–16. The voluntary-cessation doctrine does not apply because there is no evidence that ORR has attempted to manipulate this Court’s jurisdiction by releasing eight Plaintiffs. When the voluntary-cessation doctrine applies, “[a] defendant’s voluntary cessation of a challenged practice will moot a case only if the defendant can show that the practice cannot reasonably be expected to recur.” *Fed. Bureau of Investigation v. Fikre*, 601 U.S. 234, 241 (2024) (citation modified). The critical inquiry is “the potential for a defendant’s future conduct” to affect the plaintiff in the same way. *Id.* at 242–44. The doctrine’s purpose is to prevent gamesmanship: “Were the rule more forgiving, a defendant might suspend its challenged conduct after being sued, win dismissal, and later pick up where it left off.” *Id.* at 241. However, the doctrine “does not apply automatically whenever the prospect of mootness is raised by a party’s voluntary conduct.” *Pub. Citizen, Inc.*, 92 F.4th at 1128. “Instead, courts have declined to apply the doctrine when the facts do not suggest any arguable manipulation of our jurisdiction.” *Id.* (citation modified).

The voluntary-cessation doctrine is not applicable here. Nothing suggests that ORR’s actions were aimed at manipulating the Court’s jurisdiction. ORR has not *voluntarily* ceased any of the challenged policies. Six of the eight released Plaintiffs were released in the ordinary course after ORR applied its challenged policies or the child turned 18 years old. *See* Second Amended Complaint ¶ 13 (Eduardo M.); *id.* ¶ 15 (Leo B.); *id.* ¶ 16 (Xavier L.); *id.* ¶ 17 (Mateo N.); *id.* ¶ 18 (Yair G.); *id.* ¶ 19 (David D.). These releases do not implicate the voluntary-cessation doctrine at all when they did not occur “because of the litigation.” *Bailey v. Fed. Bureau of Prisons*, 780 F. Supp. 3d 96, 117 (D.D.C. 2025). The remaining two Plaintiffs were released after ORR complied with the preliminary injunction. Second Amended Complaint ¶ 12 (Angelica S.); *id.* ¶ 14 (Liam W.). Complying with the preliminary injunction was not voluntary and does not suggest any intent

to manipulate the Court’s jurisdiction. *See Am. Bar Ass’n v. F.T.C.*, 636 F.3d 641, 648 (D.C. Cir. 2011) (“The FTC’s abandonment of the Extended Enforcement Policy was not voluntary. . . . This scenario is not within the compass of the voluntary cessation exception to mootness.”). Plaintiffs identify no evidence of gamesmanship that would require invocation of the voluntary-cessation doctrine. Moreover, because the Defendants named in this lawsuit have no power to arrest unaccompanied alien children, ORR could not engage in a scheme to release children from its custody with the goal of ending litigation and re-imposing its policies on those same children. The Court should apply the ordinary mootness standard, not the voluntary-cessation doctrine.

Finally, despite Plaintiffs’ argument, the capable-of-repetition-yet-evading-review doctrine does not apply either. *See* ECF No. 108, at 16–18. This exception applies when two elements are met: “(1) the challenged action [is] in its duration too short to be fully litigated prior to its cessation or expiration, and (2) there [is] a reasonable expectation that the same complaining party [will] be subjected to the same action again.” *Weinstein*, 423 U.S. at 149.

Plaintiffs fail to meet the second prong. For Angelica S., Leo B., Xavier L., Mateo N., and Yair G., there can be no reasonable expectation that they will be subject to ORR’s policies again because those five Plaintiffs have turned 18 years old. *See* ECF No. 108, at 17 (acknowledging that five Plaintiffs have turned 18). The remaining three released Plaintiffs have at most a speculative possibility that they may re-enter ORR custody if the U.S. Department of Homeland Security chooses to arrest them before they turn 18. Unlike the Secretary in *Clark v. Martinez*, ORR has no unilateral discretionary authority to revoke Plaintiffs’ release and re-detain them. *See* 543 U.S. 371, 376 n.3 (2005). And Plaintiffs have not been subject to “several” past proceedings and detentions. *See Turner v. Rogers*, 564 U.S. 431, 440 (2011). Although ORR continues to apply its challenged policies to other unaccompanied alien children, there is no “reasonable expectation”

or “demonstrated probability” that the released Plaintiffs will be subject to those policies again. *Weinstein*, 423 U.S. at 149. In short, no mootness exception applies to the released Plaintiffs’ claims.

C. Even if Plaintiffs have standing, this Court should not grant Plaintiffs any relief on the PRA Claim.

Defendants previously explained that Plaintiffs’ real disagreement is with ORR’s Policy Guide updates, not with the version of the sponsor application form. ECF No. 109, at 9. Defendants showed that ORR collects only information approved by the Office of Management and Budget (“OMB”). *Id.* at 8. And Defendants established that Plaintiffs have not shown any entitlement to relief under the Administrative Procedure Act (“APA”). *Id.* at 8–9.

In their supplemental brief, Plaintiffs cite no case holding that an agency violates the PRA if the agency does not immediately collect the full range of potential documents that OMB approved. ECF No. 108, at 9–10. Plaintiffs argue that a more expansive list of proof-of-income documentation options will make it easier to complete the sponsorship application form and reduce the burden imposed by information collection. *Id.* As indicated previously, all the documents listed in Sponsor Application Version 18, currently used by ORR, are part of the longer list of documents that OMB approved on February 27, 2026. June 15, 2026 Biswas Decl. ¶¶ 6–8. ORR is not collecting any information or documents not approved for collection by OMB. *Id.* ¶ 8.

Plaintiffs also identify no case holding that the injunctive relief that they request is appropriate in an APA case like this one. *Id.* at 8–9. As Defendants previously noted, *Saco River Cellular, Inc. v. FCC*, 133 F.3d 25 (D.C. Cir. 1998), arose in a different procedural posture and provides no guidance here about available remedies. ECF No. 109, at 8–9. Because ORR has obtained OMB approval, an APA vacatur would serve no purpose, and the Court should not award Plaintiffs any relief under their PRA theory.

D. If the Court were to rule in Plaintiffs' favor, remand without vacatur would be appropriate relief.

As a final backstop to their numerous class-certification and mootness theories, Plaintiffs emphasize that the Court could vacate ORR's policies. ECF No. 108, at 18–19. Plaintiffs are not entitled to any relief. But, if the Court were to find that Plaintiffs can succeed on any of their claims, the Court should order remand without vacatur because ORR likely could readily address any procedural defects and vacatur would have disruptive consequences to sponsor vetting. *See* ECF No. 76, at 27–28.

III. Conclusion

The Court should deny Plaintiffs' motion of summary judgment and grant Defendants' cross-motion for summary judgment.

Dated: June 25, 2026

Respectfully submitted,

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Case No. 1:25-cv-01405-DLF

Defendants' Supplemental Separate Concise Statement of Genuine Issues

Defendants submit this Supplemental Separate Concise Statement of Genuine Issues in response to Plaintiffs' Supplemental Separate Statement of Undisputed Material Facts, ECF No. 108-1. Defendants respond only to the paragraph that is disputed.

Dated: June 25, 2026

Respectfully submitted,

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No.	Plaintiffs' Alleged Undisputed Material Fact	Plaintiffs' Support	Defendants' Response and Support
395	After Esmeralda's mother withdrew, Esmeralda's adult sister Elizabeth attempted to start the application process but was informed that she could not sponsor Esmeralda and Esmeralda's son because Elizabeth was too young.	Elizabeth Decl. ¶ 6, ECF 105-4; Esmeralda Decl. ¶ 6, ECF 105-3.	Immaterial. This allegation is immaterial because whether sponsors can be disqualified based on age is not at issue in this lawsuit. Disputed. ORR does not have a policy stipulation on the minimum age that an adult sponsor is required to be. Declaration of Toby Biswas ¶ 3, dated June 25, 2026 (attached to Defendants' Opposition to Plaintiffs' Supplemental Memorandum in Support of Plaintiffs' Motion for Summary Judgment). From a review of Esmeralda's case review information, ORR has no indication in its records supporting that Elizabeth was told that she was too young to sponsor Esmeralda. <i>Id.</i> ¶ 4. Elizabeth declined to proceed with the sponsorship on September 23, 2025. Declaration of Toby Biswas ¶ 4, dated June 15, 2026, ECF No. 109-1. It appears that Elizabeth assumed that she was too young without ORR actually saying anything to her along those lines. <i>See</i> Elizabeth Decl. ¶ 6, ECF 105-4 (“<i>I think</i> it was because they thought I was too young to take responsibility for my sister and my nephew by myself. . . . ORR did not explain much, but I understood that they did not think I could sponsor [Esmeralda].” (emphasis added)).

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Civil Action No. 25-1405 (DLF)

DECLARATION OF TOBY BISWAS

I, **Toby Biswas**, declare under penalty of perjury, pursuant to 28 U.S.C. § 1746, as follows:

1. This declaration also incorporates my previous declaration in this case.
2. I am submitting this declaration in the above-captioned matter in order to provide additional clarification to the Court concerning Esmeralda's case.
3. ORR does not have a policy stipulation on the minimum age that an adult sponsor is required to be.
4. From a review of Esmerald's case review information, ORR has no indication in its records supporting that Elizabeth was told that she was too young to sponsor Esmeralda.
5. I declare under penalty of perjury that the foregoing is true and correct.

Dated: Washington, D.C.

June 25, 2026

Toby Biswas

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