

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA**

DOĞUKAN GÜNAYDIN,

Petitioner,

v.

DONALD J. TRUMP, in his official capacity as President of the United States; JOEL BROTT, in his official capacity as the Sherburne County Sheriff; PETER BERG, in his official capacity as the St. Paul Field Office Director for U.S. Immigration and Customs Enforcement; JAMIE HOLT, in her official capacity as Homeland Security Investigations St. Paul Special Agent in Charge, U.S. Immigration and Customs Enforcement; TODD LYONS, in his official capacity as Acting Director, U.S. Immigration and Customs Enforcement; KRISTI NOEM, in her official capacity as Secretary of the United States Department of Homeland Security; and MARCO RUBIO, in his official capacity as Secretary of State,

Respondents.

Case No. 0:25-cv-01151-JMB-DLM

**PETITIONER'S
MEMORANDUM OF LAW IN
SUPPORT OF MOTION FOR
TEMPORARY RESTRAINING
ORDER AND PRELIMINARY
INJUNCTION**

**EMERGENCY HANDLING
REQUESTED**

I. INTRODUCTION

Mr. Günaydın brings the instant a motion for Temporary Restraining Order (“TRO”) and Preliminary Injunction (“Motion”) seeking injunctive relief and challenging Respondents’ actions in detaining Mr. Günaydın. He was arrested by Respondents on March 27, 2025, and remains in detention despite being granted bond by an immigration judge. There was no lawful basis for DHS to arrest and detain Mr. Günaydın, and Respondents cannot lawfully detain someone for weeks while they figure out the justification.

On March 30, 2025, Mr. Günaydın urgently filed a petition for writ of habeas corpus (“petition”) (ECF No. 1) challenging his detention as unlawful and seeking an order from this Court for his release. The petition lodged jurisdiction with this Court.¹ Following the issuance of an Order to Show Cause (“OSC”) on April 2 (ECF No. 5), Respondents filed a return on April 4 (ECF No. 10). Mr. Günaydın filed a reply on April 7 (ECF No. 12) and Respondents filed a supplemental return on April 9 (ECF No. 14). Mr. Günaydın filed an amended petition (“amended petition”) on April 11 (ECF No. 18) and Respondents filed a return to the amended petition on April 14 (ECF No. 20).

Following these filings, on April 14, Mr. Günaydın received a ruling from the immigration court granting him bond, and the Department of Homeland Security (“DHS”) appealed that decision, exercising an automatic stay of the bond grant. ECF Nos. 22-1, 22-

¹ The instant motion is respectfully submitted without prejudice to Petitioner’s ability to file a second amended petition seeking relief from his unlawful detention as needed.

2, 22-3. DHS continued to waver on the immigration charges brought against Mr. Günaydın, and it was not until April 22 that he knew with certainty what immigration laws he was accused of violating. ECF No. 22-6; *see* Declaration of Hannah Brown (“Brown Decl.”) at ¶ 4. Mr. Günaydın’s next immigration court hearing is set for May 6 (ECF No. 22-4), guaranteeing at least five weeks in detention before the immigration court addresses the various charges that have been brought against him.

Also since the filing of the amended petition, courts in this District have granted Temporary Restraining Orders to students like Mr. Günaydın who have had their nonimmigrant student status terminated through SEVIS;² one of those orders specifically directed that those students be protected from the detention that Mr. Günaydın faces on the basis of that SEVIS termination. Courts across the country have done the same. In light of these developments, emergency relief is necessary.

Mr. Günaydın seeks injunctive relief to prevent Respondents from continuing to unlawfully detain him. Mr. Günaydın also seeks reinstatement of his SEVIS Student Status during the pendency of his amended petition, which was terminated without statutory basis or authority. Mr. Günaydın seeks declaratory and injunctive relief to remedy violations of his constitutional and statutory rights. Finally, as explained in detail

² SEVIS is the online system maintained by DHS to monitor and track schools that accept international students and the statuses of those international students. *See* U.S. ICE, *Student and Exchange Visitor Information System*, <https://www.ice.gov/sevis/overview> (last accessed April 25, 2025). For clarity in this motion, use of the terms “SEVIS termination” or “SEVIS record termination” are references to nonimmigrant status termination in the SEVIS online system.

in the amended petition, Mr. Günaydın's motion and amended petition are properly before this Court. *See* ECF No. 18 at ¶¶ 93-106.

II. FACTUAL AND PROCEDURAL BACKGROUND

A. Mr. Günaydın was unlawfully taken into ICE custody and remains detained despite being granted bond.

Mr. Günaydın seeks leave of the Court to incorporate by reference the extensive factual and procedural background set forth in the amended petition. *See* ECF No. 18 at ¶¶ 17-59, 70-80, 85-92.

Since the filing of the amended petition, on April 14, 2025, Immigration Judge Sarah B. Mazzie ("IJ Mazzie") issued a written decision granting Mr. Günaydın bond. ECF No. 22-1. IJ Mazzie held that DHS is substantially unlikely to sustain the charge of removability against Mr. Günaydın pursuant to 8 U.S.C. § 1227(a)(4)(A)(ii). *Id.* She further held that he is not a danger to the community or a flight risk, and ordered that he be released on \$5,000.00 bond. *Id.* DHS appealed this decision, invoking an automatic stay of the bond grant pursuant to 8 C.F.R. § 1003.19(i)(2), forcing Mr. Günaydın to continue to be detained during the pendency of the bond appeal. ECF No. 22-2.

At Mr. Günaydın's removal hearing on April 15, DHS informed the Court that it could not identify what charges are being brought against Mr. Günaydın in immigration proceedings. ECF No. 22-6. IJ Mazzie granted Respondents until April 22 to brief the issue of removability, and finally identify the charges brought against Mr. Günaydın. *Id.* Mr. Günaydın may file a responsive brief by April 29 and proceedings will resume on May 6. *Id.*

On April 22, DHS filed a brief stating that the first two charges against Mr. Günaydın are withdrawn, and that he is only being charged with removability pursuant to 8 U.S.C. § 1227(a)(4)(A)(ii) for engaging in criminal activity that endangered public safety. Brown Decl. ¶ 4, Ex. H. IJ Mazzie has already held that DHS is substantially unlikely to sustain this charge of removability. ECF Nos. 22-1. Despite arresting Mr. Günaydın on March 27, it was not until April 22 that DHS stated with certainty the charge against him. This most recent and current charge under § 1227(a)(4)(A)(ii) was not the basis for his arrest and detention; DHS did not even present this charge until April 7.

B. Courts in this District and across the country are issuing orders protecting similarly situated students from the detention that Mr. Günaydın faces.

Mr. Günaydın’s detention cannot be viewed in a vacuum. Thousands of students across the country have had their SEVIS records terminated without legal basis and without notice, though the vast majority of these students have not been detained.³ Courts in this District and across the country are hearing from these non-detained students and granting them emergency protection from Mr. Günaydın’s fate—detention and removal proceedings.

Courts in this District—including this Court—considered and granted TROs filed by students whose SEVIS records were terminated by DHS without notice, opening those students up to removal proceedings and detention, and creating a situation wherein their immigration status is unclear. *See Ratsantiboon v. Noem, et al.* (“*Ratsantiboon*”), No. 25-

³ *See* Ashley Mowreader, *International Student Visas Revoked*, INSIDE HIGHER ED, <https://www.insidehighered.com/news/global/international-students-us/2025/04/07/where-students-have-had-their-visas-revoked> (last visited Apr. 25, 2025).

CV-01315-JMB-JFD, ECF No. 20 (D. Minn. Apr. 15, 2025); *Zilliang J. v. Noem, et al.* (“*Zilliang J.*”), No. 25-CV-1391-PJS-DLM, ECF No. 13 (D. Minn. Apr. 17, 2025). Courts across the country have done the same. *See, e.g., Isserdasani v. Noem*, No. 25-CV-283-WMC, 2025 WL 1118626 (W.D. Wis. Apr. 15, 2025) (granting TRO where SEVIS termination based on non-prosecuted arrest was found likely arbitrary and in violation of APA); *Doe v. Noem*, No. 25-CV-03140-JSW (N.D. Cal. Apr. 17, 2025) (granting TRO enjoining ICE from enforcement action arising from SEVIS termination for misdemeanor conviction not meeting 8 C.F.R. § 214.1(g) criteria); *Arizona Student Doe #2 v. Trump*, No. CV-25-00175-TUC-AMM (D. Ariz. Apr. 15, 2025) (granting ex parte TRO enjoining arrest, removal, and enforcement based on SEVIS revocation undertaken without notice or hearing); *Roe v. Noem*, No. CV 25–40–BU–DLC, 2025 WL 1114694 (D. Mont. Apr. 15, 2025) (finding likelihood of success on APA and Due Process claims where SEVIS terminations lacked valid regulatory basis); *Liu v. Noem*, No. 25-CV-133-SE (D.N.H. Apr. 10, 2025) (TRO granted to prevent loss of status and graduation due to unexplained SEVIS termination); *Doe v. DHS*, No. 25-CV-2149 (N.D. Ill. Apr. 15, 2025) (TRO granted where SEVIS termination followed mistaken arrest for trespassing, with no charges filed); *J. Smith v. Noem*, No. 25-CV-1702 at 6–7 (C.D. Cal. Apr. 14, 2025) (TRO issued to enjoin ICE from detaining student whose SEVIS record was terminated following a minor misdemeanor not meeting statutory removal criteria); *Yousefi v. Noem*, No. 25-CV-0625 (S.D. Tex. Apr. 13, 2025) (court granted TRO where SEVIS record was terminated without agency explanation, jeopardizing student’s graduation and STEM OPT eligibility); *Doe v.*

Noem, No. 2:25-CV-01103-DAD-AC, ECF No. 13 at pp. 12-15 (E.D. Cal. Apr. 17, 2025) (granting TRO and enjoining the government from detaining or removing the plaintiff where SEVIS record was terminated without legal basis); *Patel v. Bondi*, No. 1:25-CV-00101-SPB-WSH, ECF No. 16 at p. 6 (W.D. Pa. Apr. 17, 2025) (granting TRO reinstating SEVIS record and enjoining the government from taking any enforcement action as a result of SEVIS termination); *Doe v. Noem*, No. 2:25-CV-00633-DGE, ECF No. 16 at pp. 12, 21-22 (W.D. Wash. Apr. 17, 2025) (granting TRO and holding “termination of the SEVIS record because of the DUI arrest is inconsistent with agency regulations, which renders the decision invalid”); *Doe #1 v. Donald Trump, et al.*, No. 2:25-CV-02825-MCA-LDW, ECF No. 13 at pp. 5-7 (D.N.J. Apr. 18, 2025) (granting TRO and noting government would not stipulate to not take enforcement action against the plaintiff); *D.B. v. Trump, et al.*, No. 2:25-CV-00419-MHW-CMV, ECF No. 6 at pp. 4-5, 8 (D. Ohio Apr. 23, 2025) (granting TRO and noting loss of OPT and status creates irreparable harm, enjoining government from detaining plaintiff); *Alduaij v. Noem, et al.*, No. 2:25-CV-00538-MRH, ECF No. 10 at pp. 4-6 (W.D. Pa. Apr. 23, 2025) (granting TRO and holding disruption of education and accrual of time out of lawful status constitute immediate and irreparable harm); *Mehrdad v. Noem, et al.*, No. 3:25-CV-00337-DRL-SJF, ECF No. 12 at pp. 6-8 (N.D. Ind. Apr. 24, 2025) (granting TRO and enjoining the government from detaining or removing the plaintiff); *W.B. v. Noem, et al.*, No. 3:25-CV-03407-EMC, ECF No. 17 at pp. 8-9 (N.D. Cal. Apr. 23, 2025) (granting TRO and finding “at least a serious question whether [plaintiff’s] due process rights have been violated” by DHS terminating SEVIS); *Doe, et.*

al. v. Noem, et al., No. 3:25-CV-00042-RGE-WPK, ECF No. 10 at pp. 13-14 (S.D. Iowa Apr. 24, 2025) (granting TRO and enjoining the government from arresting or initiating removal proceedings against all plaintiffs).⁴

III. ARGUMENT

A. **Mr. Günaydın is entitled to a temporary restraining order and preliminary injunction.**

In determining whether to grant a Temporary Restraining Order, this Court must consider four factors:

- (1) the probability that the moving party will succeed on the merits;
- (2) the threat of irreparable harm to the moving party;
- (3) the balance between harm to the moving party and the potential injury inflicted on other party litigants by granting the injunction; and
- (4) whether the issuance of a TRO is in the public interest.

See Dataphase Sys., Inc. v. C.L. Sys., Inc., 640 F.2d 109, 114 (8th Cir. 1981); *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008). Consideration of these four factors does not require mathematical precision but rather should be flexible enough to encompass the particular circumstances of each case. *See id.* at 113. The basic question is whether the balance of equities so favors the moving party “that justice requires the court to intervene to preserve the status quo until the merits are determined.” *Id.* Although the probability of success on the merits is the predominant factor, the Eighth Circuit has “repeatedly emphasized the importance of a showing of irreparable harm.” *Caballo Coal Co. v. Ind. Mich. Power Co.*, 305 F.3d 796, 800 (8th Cir. 2002). Here, all four factors

⁴ This string citation is a non-exhaustive list of TROs that have been granted for students like Mr. Günaydın. Indeed, more are granted every day across the country.

weigh in favor of granting injunctive relief.

1. Mr. Günaydın is likely to succeed on the merits of his amended petition for writ of habeas corpus.

Writs of habeas corpus “may be granted by the Supreme Court, any justice thereof, the district courts and any circuit judge within their respective jurisdictions.” 28 U.S.C. § 2241(a). The writ of habeas corpus shall not extend to a prisoner unless...He is in custody in violation of the Constitution or laws or treaties of the United States. 8 U.S.C. § 2241(c).

a. Mr. Günaydın’s arrest and detention are in violation of Due Process.

i. Noncitizens like Mr. Günaydın are protected by the Fifth Amendment.

The federal courts have held that noncitizens are entitled to guarantees of the Fifth Amendment. *Sanchez-Velasco v. Holder*, 593 F.3d 733, 737 (8th Cir. 2010); *Rosales-Garcia v. Holland*, 322 F.3d 386 (6th Cir. 2003) (“all aliens[] are clearly protected by the Fifth and Fourteenth Amendments”). Courts treat Equal Protection and Due Process rights under the Fifth Amendment in the same manner as Equal Protection Claims under the Fourteenth Amendment. *Wienberger v. Wiesenfeld*, 420 U.S. 636 (1975).

Due process is only implicated when governmental decisions deprive an individual of “liberty” or “property” interests within the meaning of the Due Process Clause of the Fifth and Fourteenth Amendments to the United States Constitution. *Mathews v. Eldridge*, 424 U.S. 319, 332 (1976). All persons residing in the United States are protected by the Due Process Clause of the Fifth Amendment. *See Zadvydas v. Davis*, 533 U.S. 678, 693-94 (2001); *Plyler v. Doe*, 457 U.S. 202, 210 (1987); *Mathews v. Diaz*, 426 U.S. 67 (1976); *Yamataya v. Fisher*, 189 U.S. 86 (1903); *see also Rusu v. INS*, 296 F.3d 316, 321-22 (4th

Cir. 2002).

The Due Process Clause of the Fifth Amendment provides that “[n]o person shall be...deprived of life, liberty, or property, without due process of law.” U.S. Const. amend. V. “Freedom from bodily restraint has always been at the core of the liberty protected by the Due Process clause from arbitrary governmental action.” *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992); *Youngberg v. Romeo*, 457 U.S. 307 (1982). This vital liberty interest is at stake when an individual is subject to detention by ICE. *See Zadvydas*, 533 U.S. at 690 (“A statute permitting indefinite detention of an alien would raise a serious constitutional problem”); *Kiareldeen v. Reno*, 71 F.Supp.2d 402, 409-10, 413 (D.N.J. 1999) (holding that, in analyzing due process in the immigration context, the first factor in the procedural due process analysis, “the petitioner’s private interest in his physical liberty, must be accorded the utmost weight.”).

ii. Respondents arrested and detained Mr. Günaydın without a lawful or factual basis, in violation of due process.

Mr. Günaydın is likely to succeed in demonstrating that he is in custody in violation of the Constitution and laws of the United States. *See* 8 U.S.C. § 2241(c)(3). In addition to violating the Constitution, Respondents are also violating the Administrative Procedure Act (“APA”), 28 U.S.C. § 2241, 5 U.S.C. §§ 701 and 101 *et. seq.* and 8 U.S.C. §§ 1101 *et. seq.* by denying Mr. Günaydın his constitutional right to due process, arbitrarily and capriciously, thus exceeding their authority under the Immigration and Nationality Act (“INA”).

Mr. Günaydın was arrested before there was any basis for the immigration charges

against him. *See* ECF No. 18 at ¶¶ 22-31. First, it is clear from the record that Respondents did not know the basis for arresting Mr. Günaydın before taking him into custody. Over the last month, Mr. Günaydın has been given an evolving set of explanations for his arrest and detention. Each is unjustified and unjustifiable, and the result is that Mr. Günaydın has been in ICE custody for almost a month in violation of due process and the immigration laws of the United States.

Turning to the first purported justification for Mr. Günaydın’s arrest, he was told he was deportable under 8 U.S.C. § 1227(a)(1)(C)(i) as a noncitizen who failed to maintain his nonimmigrant status. *See* ECF No. 11-5. This is the first immigration law violation with which he was charged formally on a Notice to Appear (“NTA”).⁵ The NTA alleges: **“You have failed to maintain your status,** to wit:in 2025 the United States State Department retroactively revoked the F-1 student visa based on your criminal history.” ECF No. 11-5 (emphasis added). As explained at length in the amended petition, this allegation and charge under 8 U.S.C. § 1227(a)(1)(C)(i) were baseless and unsupportable. ECF No. 18 at ¶¶ 70-80.

This allegation is not grounded in fact or law. We now know that the Department of State did not retroactively revoke Mr. Günaydın’s F-1 student visa. *See* ECF No. 15-1; 22-5 at 0:11:16. Indeed, even if it had, such a revocation is not at all related to Mr. Günaydın’s nonimmigrant student status. *See* ECF No. 18 at ¶¶ 70-80. The law, and ICE

⁵ This was apparently charged on March 27, the day of Mr. Günaydın’s arrest, though he still has not been given a copy of this document. Günaydın Decl. at ¶ 12.

policy guidance, is clear that a revoked visa alone simply does not constitute failure to maintain student status. ICE Policy Guidance 1004-04 – Visa Revocations specifically and clearly states: “**Visa revocation is not, in itself, a cause for termination of the student’s SEVIS record.**” U.S. Department of Homeland Security, ICE Policy Guidance 1004-04 – Visa Revocations, at p. 3 (June 7, 2010) https://www.ice.gov/doclib/sevis/pdf/visa_revocations_1004_04.pdf (last visited Apr. 24, 2025) (emphasis added). As further detailed at length in the amended petition, there are specific events and circumstances that can lead to termination of a student’s SEVIS record. ECF No. 18 at ¶¶ 60-69. Mr. Günaydın has demonstrated that none of those circumstances are applicable to him. An arrest on the basis of having failed to maintain his nonimmigrant status was always baseless. Mr. Günaydın’s first charging document, the basis for his arrest, was not based in fact or law.

Turning to the next purported justification for Mr. Günaydın’s arrest: he was served with a second charging document on April 2, charging him as deportable under 8 U.S.C. § 1227(a)(1)(B) for having his nonimmigrant visa previously revoked, and alleging “On March 23, 2025, the United States Department of State revoked your F-1 student visa, effective immediately...”⁶ ECF No. 11-6. Again, the clear issue here, as stated above, is that this is simply not true. Mr. Günaydın’s second charging document, filed and served on his seventh day in detention, was not based in fact.

⁶ More troubling, this document indicates that DHS was intending to pursue removal of Mr. Günaydın before any of his visas was revoked and before his SEVIS record was terminated. ECF No. 11-3.

Mr. Günaydın did not receive any notice of his purported F-1 visa revocation, and in fact learned several days after his arrest that the revocation was “silent”. Mr. Günaydın has not received notice of his B1/B2 visa revocation, though he will note Respondents filed an email apparently sent to him by the Department of State on April 4 advising him of the visa revocation. ECF No. 15-1. Mr. Günaydın is in jail without access to his email, and has not received that notice.

On April 7, Mr. Günaydın’s ninth day in detention, DHS filed yet another charge against him, this time alleging he is deportable under 8 U.S.C. § 1227(a)(4)(A)(ii) for having “engaged in a criminal activity which endangers public safety.” ECF No. 16-1. This charge, which falls under the “Security and related grounds” subheading of the statute, was apparently based on a June 2023 arrest for driving while impaired. *Id.* As explained further, *infra* section III.A.1.a.iii., and in the amended petition (ECF No. 18 at ¶¶ 85-92) this charge was lodged only for the purpose of keeping Mr. Günaydın detained, and IJ Mazzie has already held that DHS is substantially unlikely to sustain this charge. ECF No. 22-1. There never was, and still is not, any lawful basis for Mr. Günaydın’s arrest and detention.

Importantly, Respondents have all but conceded there was no legal or factual basis for Mr. Günaydın’s arrest. At Mr. Günaydın’s custody hearing on April 11, 2025, the following exchange occurred between IJ Mazzie and DHS, demonstrating that DHS was aware that its basis for arresting and detaining Mr. Günaydın was erroneous.

IJ Mazzie: I’m not one hundred percent clear on the charges in this case, um, I know removability is an issue to address in the removal proceedings,

um, but um I think this will give me some clarity. I know you're charging Respondent under 237(a)(2)—sorry 237(a)(4)(A), subdivision ii, but there were some previous charges in an NTA and then the first I-261. It seems to me that the second I-261 is a superseding document and that you've lodged seven allegations, one through seven, um those seem to supersede all previous allegations, is that correct?

DHS: That is correct.

IJ Mazzie: Okay, but it also seems to supersede the other charges, the-the 237(a)(1)(C) and 237, I can't remember if it's (a)(1)(B), related to the F-1 revocation, and the other charge, I'm paraphrasing here, relates to violating conditions of the visa. Have you withdrawn those two?

DHS: Yes, your honor, we are withdrawing those two.

IJ Mazzie: Okay, I'm-I guess I'm perplexed as to why, when the F-1 has been revoked.

DHS: So, uh, the Respondent's B1/B2 visitor visa, it was a ten year visa, that was revoked.

IJ Mazzie: Your documents say it was the F-1.

DHS: That is the information we originally received from the Department of State.

IJ Mazzie: Okay.

DHS: But we were later informed that it was the B1/B2 visa.

IJ Mazzie: Okay. So that's an error in your documentation.

DHS: That is correct.

ECF No. 22-5 at 0:11:16-0:12:53.

Mr. Günaydın was not arrested for a legitimate purpose and continues to be held without a legitimate purpose. Respondents arrested Mr. Günaydın without knowing what immigration laws he violated, and continued to hold him—despite him being granted bond—while they figured out what they could try to charge him with. Apparently,

Respondents' position is that it may arrest and hold a noncitizen in detention while DHS takes its time to work out the basis for the detention. At bare minimum there must be a legitimate basis for detention, prior to the arrest. He therefore continues to be detained in violation of the Fifth Amendment and immigration laws of the United States.

iii. Respondents continue holding Mr. Günaydın in detention for punitive and deterrent purposes, not any legitimate basis.

Immigration detention is civil and must “bear a reasonable relation to the purpose for which the individual [is detained]” so that it is “nonpunitive in purpose and effect.” *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001) (cleaned up). There are only two legitimate purposes for immigration detention: mitigating flight risk and preventing danger to the community. *See id.*; *Hernandez v. Sessions*, 872 F.3d 976, 981 (9th Cir. 2017); *see also Chen v. Banieke*, No. 15-2188 (DSD/BRT), 2015 WL 4919889, at *1 (D. Minn. Aug. 11, 2015).

Civil detention cannot be a “mechanism for retribution,” *Kansas v. Crane*, 534 U.S. 407, 407 (2002) (internal quotation marks omitted), because “[r]etribution and deterrence are not legitimate nonpunitive governmental objectives,” *Bell v. Wolfish*, 441 U.S. 520, 539 n.20 (1979). And unlawful detention necessarily harms Mr. Günaydın. *See Barker v. Wingo*, 407 U.S. 514, 532 (1972) (detention has a “serious,” “detrimental impact on the individual”); *Hernandez*, 872 F.3d at 994 (unconstitutional detention for an indeterminate period is irreparable harm); *Doe v. Becerra*, 704 F. Supp. 3d 1006, 1017 (N.D. Cal. 2023), *abrogated on other grounds by Doe v. Garland*, 109 F.4th 1188 (9th Cir. 2024) (“Liberty is the norm; every moment of [detention] should be

justified.”) (alteration in original) (citation omitted).

Mr. Günaydın’s detention is being used for deterrence. As explained in the amended petition (ECF No. 18 at ¶ 99), Respondents are detaining Mr. Günaydın to compel other students with lawful status to self-deport out of fear for a similar fate (detention). Based on public reports, DHS has advised hundreds, if not thousands, of students in the last several weeks that they have lost their student status because their F-1 visas have been revoked and/or their visa records have been terminated.⁷ Such purported visa revocations do not, however, result in a loss of status. See section III.A.1.a.ii., *supra*. Thus, Respondents’ arrest and detention of international students such as Mr. Günaydın has the intent and effect of forcing students who are advised of revocations/termination (who may not have access to representation)—and who fear the same arrest and detention forced on noncitizens like Mr. Günaydın—to abandon their lawful status and “self-deport” without protesting or mounting legal challenges to their unlawful SEVIS terminations.⁸

The procedural history of Mr. Günaydın’s case further demonstrate that DHS is acting in a manner meant to keep him detained for as long as possible, despite knowing there is no legitimate basis for his detention. IJ Mazzie granted Mr. Günaydın immigration

⁷ Ashley Mowreader, *International Student Visas Revoked*, INSIDE HIGHER ED, <https://www.insidehighered.com/news/global/international-students-us/2025/04/07/where-students-have-had-their-visas-revoked> (last visited Apr. 25, 2025).

⁸ On March 14, 2025, Respondent Kristi Noem issued a post on X: “I’m glad to see one of the Columbia University terrorist sympathizers use the CBP Home app to self deport.” Kristi Noem (@KristiNoem), X (Mar. 14, 2025, 11:01 AM), https://x.com/Sec_Noem/status/1900562928849326488.

bond, finding that he is not a danger to the community or a flight risk, on April 14. ECF No. 22-1. Despite this, DHS appealed and exercised its automatic stay of IJ Mazzie's order under 8 C.F.R. § 1003.19(i)(2), such that Mr. Günaydın must remain detained while the bond appeal is pending. ECF No. 22-2, 22-3. Mr. Günaydın's detention came nearly two years after his criminal arrest, and after completion of his sentencing requirements.

Further to the fact that Mr. Günaydın's initial arrest and detention were baseless, he continues to be held in ICE custody while DHS has taken its time to figure out what immigration laws he has actually violated that make him subject to removal proceedings. He received three separate charging documents (ECF Nos. 11-5, 11-6, 16-1), and was informed on April 11 that charges under INA §§ 237(a)(1)(C)(i) and 237(a)(1)(B) had been dropped, and that DHS was pursuing only a single charge against him, 237(a)(4)(A)(ii). ECF No. 22-1 at p. 2, n.2.

However, at Mr. Günaydın's removal hearing on April 15, DHS changed its position once again, and the following exchanges occurred:

IJ Mazzie: It's my understanding that Exhibit 1B, the second I-261 dated April 7, 2025 is superseding, meaning any charge that was raised, um well I guess any charges or allegations raised in the NTA and the first I-261 are now withdrawn, is that correct?

DHS: Your honor respectfully we'd uh like to reserve on that issue, uh we are asking for additional time to brief removability if the court would give us that time, uh so at this time we would address that in any brief that we file.

...

Mr. Günaydın's counsel: If I can just confirm my understanding is, we're still not sure or confirmed on what the specific charges and allegations against Respondent are at this time, is that an accurate understanding?

IJ Mazzie: Sounds that way to me, yep.

ECF No. 22-6 at 0:02:07, 0:04:07. Respondents' representations to this Court offered no further clarity, as the response to the amended petition on April 14 stated only vaguely "Respondents acknowledge that the charges lodged against Doğukan have changed" but offered no explanation of what the changes were, or why they changed. ECF No. 20 at p. 1. On April 22, DHS filed a brief explaining once again that Mr. Günaydın was subject only to the single charge of removability under 8 U.S.C. § 1227(a)(4)(A)(ii). DHS's representations on April 15 served only to cause further confusion and delay; if DHS has known since April 11 that it was only pursuing a charge of removability under 8 U.S.C. § 1227(a)(4)(A)(ii) against Mr. Günaydın, there was no need for further continuances of eleven days just to confirm that fact. These were tactics used by DHS to delay Mr. Günaydın his day in court and continue to detain him without recourse.

Respondents cannot brush off the importance of changing the charges against Mr. Günaydın, when the charges themselves are meant to be the basis for the arrest and detention. *See* ECF No. 11-4. Mr. Günaydın will have been in detention for five weeks before his next immigration court hearing, where the charges should be addressed again. No facts or circumstances have changed from the time of Mr. Günaydın's arrest that would have any effect on DHS's charges. No new or newly discovered information has come to light; all facts and evidence were available before Mr. Günaydın's arrest. Simply: if DHS did not know prior to his arrest what exactly makes him removable, its agents should not have arrested him.

Respondents’ playing procedural games, seeking unnecessary continuances, and constantly changing their position on the basis for Mr. Günaydın’s detention are evidence that Respondents actually have no legitimate basis for detaining him or initiating removal proceedings and are using every possible legal mechanism to keep him detained in an effort to punish him and encourage other students to leave the country.

As a result, Mr. Günaydın’s detention is for an illegitimate, deterrent and punitive purposes—not in accordance with the lawful purposes of civil immigration detention—and should be enjoined. For the aforementioned reasons, it is likely that Mr. Günaydın will succeed on the merits of amended petition.

- iv. Mr. Günaydın has been and continues to be prejudiced by the government’s violating his due process rights.

In order to prevail on a claim asserting the deprivation of due process, a petitioner must also show “actual prejudice.” *Puc-Ruiz v. Holder*, 629 F.3d 771, 782 (8th Cir. 2010) (citation omitted). Actual prejudice occurs if “an alternate result may well have resulted without the violation.” *Id.* (citation omitted) (internal quotations omitted); *see also Lazaro v. Mukasey*, 527 F.3d 977, 981 (9th Cir. 2008) (explaining that prejudice is not necessary where agency action was *ultra vires*). “To show prejudice, [a petitioner] must present plausible scenarios in which the outcome of the proceedings would have been different if a more elaborate process were provided.” *Tamayo-Tamayo v. Holder*, 486 F.3d 484, 495 (9th Cir. 2007) (citation omitted) (internal quotations omitted). Mr. Günaydın is clearly prejudiced by his continued, unjustified detention. He has been detained for nearly a month—despite being granted bond by an immigration judge, and

despite that same immigration judge holding that DHS is substantially unlikely to sustain the single charge of removability lodged against him.

Courts across the country have granted emergency relief to students who had their SEVIS records terminated, protecting them from the exact fate that befell Mr. Günaydın. *See, supra*, section II.B. These students were alerted, often by their schools and not the government, that their SEVIS records had been terminated, and or received notice that their visas had been revoked. Based on those notices, the students were able to retain counsel, assert their due process rights and the APA had been violated, and seek emergency reinstatement of their student status as well as protection from detention or any ICE enforcement action resulting from their SEVIS terminations. Mr. Günaydın was given no such notice and therefore had no opportunity to seek the same protection before he was taken into custody; nor was he afforded the opportunity to take any other action that might have prevented his arrest and detention.

Respondents revoked Mr. Günaydın's nonimmigrant visa (though it is still unclear which) through a "silent" revocation (ECF No. 11-3), and terminated his SEVIS record hours after they arrested him (ECF No. 1-1). The warrant for his arrest indicates that the probable cause for his arrest is based on the NTA. ECF No. 11-4. The NTA states that removal proceedings were initiated because he failed to maintain or comply with the conditions of his nonimmigrant status. ECF No. 11-5. There was no possible way that Mr. Günaydın could have been on notice of either his visa revocation(s) or termination of his nonimmigrant status prior to his arrest. There was no possible way

for him to seek the emergency protection that so many students have been afforded in the weeks after his arrest. There was not even a chance for him to determine that he may wish to exit the United States and avoid this indefinite detention that DHS has forced upon him.

The Courts granting each of these TROs across the country are holding specifically that the students face irreparable injury and are enjoining the government from detaining them, as they did to Mr. Günaydın. To the extent Respondents try to explain away the multiple charges as mere error on the government's part, such error was plainly not harmless, as described above and further *infra*, section III.A.2.

b. *Mr. Günaydın's SEVIS termination, the basis for his arrest, was unlawful and must be reinstated.*

Mr. Günaydın is also likely to succeed on the merits of his claim that his SEVIS termination was unlawful and that it must be reinstated. Such a termination was invalid, unlawful, and was conducted seven hours after Mr. Günaydın's arrest. As explained in the amended petition and below, there was not a lawful basis for Respondent DHS's termination of Mr. Günaydın's Student Status. *See* ECF No. 18 at ¶¶ 60-80.

On March 27, 2025 at approximately 4:24 p.m., seven hours after Mr. Günaydın's arrest, a DHS official accessed SEVIS and terminated his Student Status, listing the termination reason as: "OTHERWISE FAILING TO MAINTAIN STATUS" and the explanation as "SEVIS record terminated pursuant to INA 237(a)(1)(C)(i) and/or 237(a)(4)(C)(i)." ECF No. 1-1.⁹ Similarly, the initial NTA. The Form I-200, Warrant for

⁹ Further to Mr. Günaydın's arguments in section III.A.1.a.ii., *supra*, DHS is not pursuing

Arrest of Alien, signed by Supervisory Special Agent Hyland states, “I have determined that there is probable cause to believe that GÜNAYDIN, DOGUKAN is removable from the United States. This determination is based upon: the execution of a charging document to initiate removal proceedings against the subject[.]” ECF No. 11-4. This charging document, the NTA, charges Mr. Günaydın as being removable only under 8 U.S.C. § 1227(a)(1)(C)(i), for failing to maintain his nonimmigrant status

First, as to Mr. Günaydın’s Student Status being terminated under INA § 237(a)(1)(C)(i), Mr. Günaydın was not out of status until it was terminated by DHS, seven hours after his arrest.¹⁰ At the time Mr. Günaydın was arrested, and for hours while he was held in ICE custody thereafter, he maintained his Student Status. This, therefore, cannot logically be a *reason* for terminating Mr. Günaydın’s Student Status—it is the *result* of DHS terminating his status. Next, as to INA § 237(a)(4)(C)(i), Mr. Günaydın has participated in no activities nor made any public comments or statements related to politics

charges against him under 8 U.S.C. §§ 1227(a)(1)(C)(i) or 1227(a)(4)(C)(i). DHS clearly did not have a factual or legal basis for terminating his SEVIS record.

¹⁰ Respondents assert that taking Respondent into custody and initiating removal proceedings creates a lawful basis for terminating his SEVIS record. *See* ECF No. 20 at pp. 3-4, n.3. This assertion, however, conflates the F-1 student visa with nonimmigrant student status. Respondents cite to 8 C.F.R. § 248.1(b), regulations concerning applications for change of nonimmigrant status. This is plainly inapposite: Mr. Günaydın is not attempting to change his nonimmigrant status from one classification to any other. The applicable regulation for Mr. Günaydın’s situation is 8 C.F.R. § 214.1 concerning maintenance of nonimmigrant status. Mr. Günaydın has explained at length the distinction between a nonimmigrant visa and nonimmigrant status (*see, e.g.*, ECF No. 18 at ¶¶ 60-69), though this continues to be a sticking point for Respondents. Should the Court require further briefing on this specific issue, Mr. Günaydın would happily provide further arguments.

or the United States foreign policy. The charging documents that were eventually provided to counsel also make no reference to foreign policy or INA § 237(a)(4)(C)(i). ECF Nos. 11-1, 11-5, 11-6, 16-1.

Again, the SEVIS termination lists the reason for termination as INA §§ 237(a)(1)(C)(i) “and/or” 237(a)(4)(C)(i). ECF No. 1-1. Even in the SEVIS record itself, DHS appears to be unclear about the *actual* basis for terminating Mr. Günaydın’s Student Status. Further, and more importantly, **neither INA § 237(a)(1)(C)(i) nor § 237(a)(4)(C)(i) is a proper statutory basis for terminating Student Status.** See ECF No. 18 at ¶¶ 60-80. Additionally, Respondents failed to follow ordinary procedures in terminating Mr. Günaydın’s Student Status and arresting him following the termination. See ECF No. 18 at ¶¶ 81-84.

Finally, Respondents’ final agency action in terminating Mr. Günaydın’s Student Status is also arbitrary and capricious under the APA. 5 U.S.C. § 706(2)(A). Agency action is arbitrary and capricious when the agency did not engage in “reasoned decisionmaking.” *DHS v. Regents of the Univ. of Cal.*, 591 U.S. 1, 16 (2020) (quoting *Michigan v. EPA*, 576 U.S. 743, 750 (2015)). “[T]he agency must examine the relevant data and articulate a satisfactory explanation for its action including a ‘rational connection between the facts found and the choice made.’” *Motor Vehicle Mfrs. Ass’n of U.S., Inc. v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983) (quoting *Burlington Truck Lines v. United States*, 371 U.S. 156, 168 (1962)). Far from reflecting fact-bound, rational decisionmaking, the decision to terminate Mr. Günaydın’s is without basis and ungrounded

in any authority.

2. Mr. Günaydın will continue to face irreparable harm if emergency relief is not granted.

a. Mr. Günaydın will face irreparable harm if he is not immediately released from detention.

It is well established that deprivation of constitutional rights constitutes “irreparable injury” and justifies issuance of a temporary restraining order. *See Elrod v. Burns*, 427 U.S. 347, 373-74 (1976). *See also Planned Parenthood of Minnesota, Inc. v. Citizens for Community Action*, 558 F.2d 861, 867 (8th Cir. 1977). When an alleged deprivation of constitutional rights is involved, no further showing of irreparable injury is necessary. *Planned Parenthood of Minnesota*, 558 F.2d at 867 (citing 11 C. Wright & A. Miller, *Federal Practice & Procedures: Civil* § 2948 at 439 (1973)); *Ng v. Bd. of Regents of the Univ. of Minn.*, 64 F.4th 992, 998 (8th Cir. 2023) (“[T]he denial of a constitutional right is a cognizable injury and an irreparable harm.”); *Hernandez*, 872 F.3d at 994–95; *Warsoldier v. Woodford*, 418 F.3d 989, 1001–02 (9th Cir. 2005) (“When an alleged deprivation of a constitutional right is involved, most courts hold that no further showing of irreparable injury is necessary.”). Further, Mr. Günaydın is irreparably harmed because indefinite detention bears no “reasonable relation” to its purpose. *Deqa M. Y.*, 2020 WL 4928321, at *3; *see Rosales-Mireles v. United States*, 585 U.S. 129, 139 (2018) (recognizing “[a]ny amount of actual jail time is significant and has exceptionally severe consequences for the incarcerated individual” (cleaned up) (internal quotation marks omitted) (citation omitted)).

In the present case, Mr. Günaydın’s Fifth Amendment rights are being violated

because ICE agents, at the direction of Respondents, continue to detain him despite the underlying basis for his detention being unlawful, and despite Respondents' continued inability to identify the charges against him. *See, supra*, section III.A.1.a.ii. Indeed, he was arrested and held for seven hours while he maintained lawful status. While he was detained, DHS retroactively created the supposed cause for his arrest, by terminating his Student Status. Indeed, courts across the country have held that DHS terminating SEVIS records creates irreparable injury, as does even the prospect of detention based on SEVIS record termination. *See* section II.B., *supra*. Mr. Günaydın faces the same irreparable harm, including loss of ability to attend classes that he has paid for and loss of work authorization. Günaydın Decl. Indeed, Mr. Günaydın has already been irreparably harmed by the loss of his liberty in having spent the last month in immigration detention. *Id.*

Following the rulings in *Elrod* and *Planned Parenthood of Minnesota*, these Fifth Amendment violations involving deprivations of due process constitute irreparable injury to Mr. Günaydın and justify issuance of a temporary restraining order. Mr. Günaydın's liberty has been and continues to be restricted in violation of his constitutional rights.

b. *Mr. Günaydın will face irreparable harm if he remains in detention and is transferred out of Minnesota.*

Mr. Günaydın will further be harmed if Respondents are not enjoined from transferring him to a detention facility in another state (in the event he is not ordered immediately released). Mr. Günaydın is aware of other detained student visa holders, similarly situated, who have been transferred around the country, causing loss of access to their counsel and support networks, and significantly delaying any proceedings and due

process they are owed. *See Khalil v. Joyce, et al.*, 1:25-cv-01935-JMF (S.D.N.Y. Mar. 8, 2025); *Ozturk v. Hyde, et al.*, 1:25-cv-10695 (D. Mass. Mar. 25, 2025).

In-person meetings between immigrants and their attorneys are necessary for all aspects of representation in immigration proceedings including: (1) conducting an assessment of clients' legal claims and eligibility for relief; (2) interviewing clients to obtain a lengthy personal declaration that often details traumatic facts about physical, sexual, and other violence; (3) counseling clients as to their legal options and developments in their case; (4) obtaining signatures on release forms when seeking client records from outside agencies; and (5) preparing clients to testify in court, including to face cross-examination by an experienced ICE attorney. A transfer further impedes these vital attorney-client exchanges by limiting the means by which Mr. Günaydın and his attorneys can communicate confidentially. Moving Mr. Günaydın out of this District, therefore, inhibits these crucial attorney-client communications.

The aforementioned issues establish irreparable harm and justify the prompt issuance of a TRO in this matter ordering Mr. Günaydın immediately released, or if not immediately released, ordering Respondents not to transfer Mr. Günaydın out of Minnesota. Thus, this Court should issue a TRO to prevent irreparable harm to Mr. Günaydın arising from deprivations of due process in violation of Mr. Günaydın's Fifth Amendment rights.

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3. Respondents will face no injury or harm if emergency relief is granted.

a. Respondents will face no injury or harm if Mr. Günaydın is released from detention.

The federal courts have routinely ruled that threatened or actual violations to a person's constitutional rights outweigh any harm to the government's interest in pursuing a government action. *See Morrison v. Heckler*, 602 F. Supp. 1482 (D. Minn. 1984); *see also Pacific Frontier v. Pleasant Grove City*, 414 F.3d 1221 (10th Cir. 2005).

Mr. Günaydın's harms, discussed above, are weighty; these harms are the direct result of Respondents' conduct in denying Mr. Günaydın due process as required under the Constitution. In fact, Mr. Günaydın's continued detention is actually a burden for Respondents in that his unnecessary and unexplained detention is costly to the U.S. government.

Possible injuries to the government, should the restraining order be granted, are minimal and possibly nonexistent. Mr. Günaydın is seeking to be released from custody back to his home in the United States so that he can continue his studies. To date, Respondents have offered no justification for Mr. Günaydın's arrest or his ongoing detention—particularly considering an immigration judge has already held that he is not a danger to the community or a flight risk. Without any justification being offered for Mr. Günaydın's detention, it is impossible to surmise the harm that might befall the government if he is released.

For the aforementioned reasons, the irreparable harm to Mr. Günaydın that will occur should ICE fail to release him clearly outweighs any burden to Respondents in

indefinitely keeping him detained. As this Court held in *Morrison*, 602 F. Supp. at 1484, the balance of harms supports the Mr. Günaydın even though the federal or state government may not be able to recover lost custodial time should Respondents' constitutional interpretation prevail. This insignificant harm is outweighed by the substantial harm facing Mr. Günaydın. Mr. Günaydın's harms include deprivations of due process and the wrongful extended detention by ICE depriving Mr. Günaydın of liberty. Because Mr. Günaydın is in Respondents' custody, he faces the extreme hardship of deprivation of his due process rights and liberty, and separation from his friends, school, and community unless this Motion is granted.

b. *Respondents will face no injury or harm if they are ordered not to move Mr. Günaydın out of Minnesota.*

Similarly, if the Court orders Respondents not to transfer Mr. Günaydın out of Minnesota, they will face no harm. In fact, such an order would conserve Respondents' time and resources that would be dedicated to flying Mr. Günaydın to another state, at the cost of the taxpayers. The balance of harms clearly weighs in favor of granting the Temporary Restraining Order and Preliminary Injunction on behalf of the Mr. Günaydın.

4. The issuance of a TRO is in the public interest.

The public—and therefore the government—has an interest in protecting the rights of people in detention and ensuring the rule of law. See *Torres v. U.S. Dep't of Homeland Sec.*, 2020 WL 3124216, at *9 (C.D. Cal. Apr. 11, 2020) (“[T]he public has an interest in the orderly administration of justice[.]”). “It is always in the public interest to prevent the violation of a party's constitutional rights.” *Melendres v. Arpaio*, 695 F.3d 990, 1002 (9th

Cir. 2012) (cleaned up) (quoting *G & V Lounge, Inc. v. Michigan Liquor Control Comm'n*, 23 F.3d 1071, 1079 (6th Cir. 1994)). Additionally, there is critical public interest in ensuring executive agencies act lawfully. Respondents “cannot reasonably assert that [the government] is harmed in any legally cognizable sense by being enjoined from constitutional violations.” *Zepeda v. I.N.S.*, 753 F.2d 719, 727 (9th Cir. 1983). An immigration judge has already considered Mr. Günaydın’s criminal and immigration history and determined that he is not a danger to the community or a flight risk and should be released on bond. ECF No. 22-1.

The protection of individuals’ constitutional rights against governmental interference is one of the overarching concerns of our system of American jurisprudence. The constitutional guarantee to due process is a fundamental limit on the government’s power to skew, alter, or improperly affect legal proceedings related to an individual’s property or liberty interest(s). To ensure the protection of Mr. Günaydın’s constitutional rights, and to protect against overzealous federal government intrusion of constitutional rights of others in similar situations, a TRO and preliminary injunction should be issued by this Court to enjoin Respondents from continuing to detain Mr. Günaydın.

The United States criminal justice system and Constitution represent the essential blending of individual rights and the efficient administration of justice and government. One of the principal reasons for the success of the United States has been trusted in our country’s legal system. If Respondents are entitled to violate the Constitution without censure, public trust in the judiciary will be harmed.

B. Mr. Günaydın has complied with the requirements of Rule 65.

Finally, as set forth *supra*, Mr. Günaydın asks this Court to find that he has complied with the requirements of Rule 65, Fed.R.Civ.P., for the purpose of granting a temporary restraining order. Respondents have been provided a copy of the instant motion and supporting documents and are on notice. *See* Brown Decl. at ¶ 13. Rule 65(c) states that the court may issue a preliminary injunction or temporary restraining order only if the movant gives security in an amount that the court considers proper to pay the costs and damages sustained by any party found to have been wrongfully enjoined or restrained. Under the circumstances of this case, however, Mr. Günaydın respectfully asks this Court to find that such a requirement is unnecessary, since an order requiring Respondents to refrain from arresting, detaining, or transferring Mr. Günaydın, and/or to refrain from giving Respondents' unlawful actions legal effect, should not result in any conceivable financial damages to Respondents. *See Richland/Wilkin Joint Powers Auth. v. U.S. Army Corps. Of Eng'rs*, 826 F.3d 1030, 1043 (8th Cir. 2016) (recognizing that the existence of an important public interest weighs in favor of dispensing with a bond).

IV. CONCLUSION

For all of the foregoing reasons, Petitioner asks this Court to grant his Motion for a Temporary Restraining Order and Preliminary Injunction to:

1. Declare that the actions of Respondents as set forth in Mr. Günaydın's Petition, Motion, and Memorandum of Law violated the Fifth Amendment of the United States Constitution, 28 U.S.C. § 2241, and the APA.

2. Enjoin Respondents from continuing to detain Petitioner in their custody during the pendency of his amended petition for writ of habeas corpus before this Court.
3. Reinstate Petitioner's SEVIS Student Status.
4. If Petitioner is not immediately released from Respondents' custody, enjoin Respondents from transferring Petitioner to a detention facility out of this District where he would lose access to his counsel and support network.
5. Grant Petitioner such other relief as the Court deems appropriate and just.

Respectfully submitted,

Dated: April 25, 2025

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CERTIFICATE OF COMPLIANCE

I hereby certify that the above memorandum complies with the limits in Local Rule 7.1(f) and with the type-size limit of Local Rule 7.1(h). This memorandum contains 8,104 words, not including the caption designation required by Local Rule 5.2, the signature-block text, or the certificates of compliance. This memorandum uses a proportionally spaced font. Microsoft Word for Microsoft 365's word-processing software was used to count words and the function was applied specifically to include all text, including headings, footnotes, and quotations. This memorandum, including footnotes, are all set in size 13 double-spaced font.

/s/ Hannah Brown
Hannah Brown