UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Case No. 0:25-cv-01576

MOHAMMED HOQUE,

Petitioner,

v.

DONALD J. TRUMP, in his official capacity as President of the United States; PAMELA BONDI, in her official capacity as Attorney General of the United States; PETER BERG, in his official capacity as Saint Paul Field Office Director, United States Immigration and Customs Enforcement; JAMIE HOLT, in her official capacity as the St. Paul Agent in Charge for Homeland Security Investigations for U.S. Immigration and Customs Enforcement; TODD LYONS, in his official capacity as Acting Director, United States Immigration and Customs Enforcement; KRISTI NOEM, in her official capacity as Secretary of the United States Department of Homeland Security; MARCO RUBIO, in his official capacity as Secretary of State; RYAN SHEA, in his official capacity as Freeborn County Sheriff; and MIKE STASKO, in his official capacity as Freeborn County Jail Administrator,

Respondents.

PETITION FOR
WRIT OF HABEAS CORPUS

INTRODUCTION

1. Petitioner Mohammed Hoque ("Petitioner" or "Mr. Hoque"), is a 20-year-old college student from Bangladesh majoring in Management Information Systems at Minnesota State University, Mankato ("MSU"). Mr. Hoque is lawfully present in the United States as an F-1 student and has complied with the regulatory requirements to maintain his international student status at all relevant times. On March 28, 2025, Department of Homeland Security ("DHS") officers arrested and detained Mr. Hoque as he returned home from class. Hours after his arrest, DHS unlawfully terminated his nonimmigrant student visa record. Respondents have detained him at the Freeborn County jail ever since. Mr. Hoque is charged with no crime and has no criminal history warranting revocation of his visa or termination of his legal status.

2. Upon information and belief, Respondents have arrested and are detaining Mr. Hoque for retaliatory and punitive purposes, which have no basis in the law governing immigration detention. Specifically, Respondents have arrested and detained Mr. Hoque pursuant to an established policy and practice of retaliation for his constitutionally-protected speech and association as a Muslim person who supports Palestinian human rights (the "Policy"). *See, e.g., Bridges v. Wixon*, 326 U.S. 135, 148 (1945) (affirming that noncitizens residing in the United States are entitled to free speech rights under the First Amendment); *Mt. Healthy City Bd. of Educ. v. Doyle*, 429 U.S. 274 (1977) (finding potential retaliation where government takes adverse action because of protected conduct); *Lamar v. Payne*, 111 F.4th 902, 907 (8th Cir. 2024) ("The First Amendment prohibits government officials from subjecting individuals to 'retaliatory actions' after the fact for

having engaged in protected speech." (internal citations omitted)); *Bello-Reyes v. Gaynor*, 985 F.3d 696, 698 (9th Cir. 2021) (arrest may evidence retaliatory intent in violation of the First Amendment). Respondents are also unconstitutionally detaining Mr. Hoque for another impermissible purpose: to improperly compel hundreds (if not thousands) of other lawfully-present international students to self-deport from the United States en masse for fear they would face a similar fate. *See Demore v. Kim*, 538 U.S. 510, 532–33 (2003) (noting that the "permissibility of continued detention pending deportation proceedings turns solely upon the alien's ability to satisfy the ordinary bond procedures—namely, whether if released the alien would post a risk of flight or a danger to the community") (Kennedy, J., concurring); *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001) (noting that the Fifth Amendment prohibits immigration detention that is punitive in purpose or effect).

3. Only this Court can stop Respondents' egregious violations of Mr. Hoque's rights to protected speech and association under the First Amendment, liberty and due process under the Fifth Amendment, and his rights under federal statutes. Accordingly, Mr. Hoque respectfully requests that the Court issue an order providing Respondents three days or less to show cause why this Court should not order Mr. Hoque's immediate release.

JURISDICTION AND VENUE

4. This Court has subject matter jurisdiction under 28 U.S.C. § 1331 (federal question); 28 U.S.C. § 2241 (habeas corpus); U.S. Const. art. I, § 9, cl. 2 (the Suspension Clause); the Administrative Procedure Act, 5 U.S.C. § 701 et seq.; and 28 U.S.C. § 2201 (declaratory judgment).

5. Further, an actual and justiciable controversy exists between the parties under 28 U.S.C. § 2201, and this Court has authority to grant declaratory and injunctive relief. *Id.* §§ 2201, 2202. The Court has additional remedial authority under the All Writs Act, 28 U.S.C. § 1651.

6. Venue is proper in this district and division pursuant to 28 U.S.C. § 2241(a) and 28 U.S.C. § 1391(b)(2) and (e)(1) because: 1) a substantial part of the events or omissions giving rise to this action occurred and continue to occur in this District; 2) U.S. Immigration and Customs Enforcement's ("ICE") St. Paul Field Office at Fort Snelling, Minnesota, located in this District, is the office enforcing the Policy against Petitioner, including by directing Petitioner's detention; 3) ICE is holding Petitioner in this District, at the Freeborn County Jail in Albert Lea, Minnesota; 4) Freeborn County Sheriff, Ryan Shea, and Jail Administrator, Mike Stasko, have day-to-day control over the facility, and are therefore Petitioner's immediate custodians; and 5) Petitioner resides in this District.

PARTIES

7. Petitioner, Mohammed Hoque, is a resident of Mankato, Minnesota, detained by ICE at the Freeborn County Jail in Albert Lea, Minnesota since March 28, 2025. He is a citizen of Bangladesh, living and attending college in Mankato, Minnesota in valid F-1 student status. He is a practicing Muslim.

8. Respondent Donald J. Trump is named in his official capacity as the President of the United States. In this capacity, he is responsible for the policies and actions of the executive branch, including the Department of State ("DOS") and DHS.

9. Respondent Peter Berg is named in his official capacity as the St. Paul Field Office Director of ICE, a subagency within DHS. In this capacity, he is responsible for the administration of the Immigration and Naturalization Act ("INA"), including the execution of detention and removal determinations.

10. Respondent Pamela Bondi is named in her official capacity as Attorney General of the United States. In her capacity as Attorney General, she is the head of the United States Department of Justice and is the chief law enforcement officer of the United States.

11. Respondent Jamie Holt is named in her official capacity as St. Paul Agent in Charge for Homeland Security Investigations for ICE. In her capacity as Agent in Charge, she is responsible for investigations undertaken by ICE.

12. Respondent Todd Lyons is named in his official capacity as the Acting Director of ICE. In this capacity, he is responsible for the administration and enforcement of the immigration laws of the United States, routinely transacts business in Minnesota, is legally responsible for pursuing any effort to detain and remove the Petitioner, and, as such, is a custodian of Petitioner.

13. Respondent Kristi Noem is named in her official capacity as the Secretary of DHS. In this capacity, she is responsible for the administration of the immigration laws pursuant to Section 103(a) of the INA, 8 U.S.C. § 1103(a) (2007), routinely transacts business in Minnesota, is legally responsible for pursuing any effort to detain and remove Petitioner, and, as such, is a custodian of Petitioner. Upon information and belief, DHS is

responsible for the termination of Mr. Hoque's Student and Exchange Visitor Information System ("SEVIS") record.[1]

14. Respondent Marco Rubio is named in his official capacity as the Secretary of State and has ultimate authority over the operations of DOS. In this capacity and through his agents, he is responsible for determinations made pursuant to certain provisions of the immigration laws. Among other things, he has the authority to determine, based on "reasonable" grounds, that the "presence or activities" of a noncitizen "would have potentially serious adverse foreign policy consequences for the United States," or to "personally" determine that a noncitizen's protected expressive activity "would compromise a compelling United States foreign policy interest." 8 U.S.C. § 1182(a)(3)(C)(iii)–(iv). Such a determination renders an individuals subject to removal proceedings under 8 U.S.C. § 1227(a)(4)(C)(i), INA 237(a)(4)(C); 8 U.S.C. § 1182(a)(3)(C)(iii), INA 212(a)(3)(C)(iii). Respondent Rubio regularly transacts business in this district.

15. Respondent Ryan Shea is the Freeborn County Sheriff, and Respondent Mike Stasko is the Freeborn County Jail Administrator. They are detaining Petitioner at the Freeborn County Jail pursuant to a contract with ICE. Respondents Shea and Stasko are immediate custodians of Petitioner and are sued in their official capacities.

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[1] International students' compliance with their F-1 student status is tracked by a centralized government database known as the Student and Exchange Visitor Information Systems ("SEVIS").

EXHAUSTION

16. There is no requirement to exhaust administrative remedies because no other forum exists in which Petitioner can raise his claims. *Matter of C-*, A-27265741, 20 I. & N. Dec. 529, 532 (BIA, 1992) (holding that immigration judges and the BIA cannot decide constitutional questions). Further, there is no statutory requirement to exhaust, and any further exhaustion requirements would be unreasonable. Exhaustion is also not required because Petitioner will experience irreparable harm if he is unable to secure immediate judicial consideration. *See McCarthy v. Madigan*, 503 U.S. 140, 147 (1992) (recognizing that exhaustion is not required where a plaintiff "may suffer irreparable harm if unable to secure immediate judicial consideration of her claim").

FACTUAL ALLEGATIONS

I. RESPONDENTS ARE ARRESTING AND DETAINING INTERNATIONAL STUDENTS PURSUANT TO A RETALIATORY POLICY AND FOR PUNITIVE PURPOSES.

A. Respondents Developed and Implemented a Policy Using the Immigration System to Retaliate Against International Students' Protected Speech and Association.

17. After taking office in January 2025, President Trump issued two Executive Orders intended to use the immigration system against lawfully present noncitizens who have engaged in constitutionally-protected political speech and association, including speech supporting the human rights of Palestinians.

18. Executive Order 14161 instructs agency heads to develop policies that would identify lawfully present noncitizens deemed to "bear hostile attitudes" to the "culture, government, institutions, or founding principles" of the United States—potentially

encompassing *any* form of political dissent, including speech and advocacy in support of Palestinian rights.[2]

19. Executive Order 14188 states that the administration will target for investigation "post-October 7, 2023, campus anti-Semitism."[3] This order "reaffirms" an executive order from President Trump's first administration, which adopts a definition of anti-Semitism that encompasses constitutionally-protected speech, including criticism of the government and policies of Israel.[4]

20. Executive Order 14188 also instructs the Secretaries of State, Education, and Homeland Security to develop policies to involve institutions of higher education in reporting "activities by [noncitizen] students" that could trigger those students' removal under 8 U.S.C. § 1182(a)(3), which describes "[s]ecurity and related grounds" of inadmissibility.[5] The White House described the measure as "forceful and unprecedented," specifically targeting "leftist, anti-American colleges and universities."[6]

21. On or around March 5, 2025, Respondents began implementing the Policy.

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[2] Exec. Order No. 14161, 90 Fed. Reg. 8451 (Jan. 30, 2025).

[3] Exec. Order No. 14188, 90 Fed. Reg. 8847 (Jan. 29, 2025).

[4] *See* Exec. Order No. 13899, 84 Fed. Reg. 68779 (Dec. 11, 2019) (referencing the International Holocaust Remembrance Alliance's contemporary examples of antisemitism).

[5] Exec. Order No. 14188, 90 Fed. Reg. 8847 (Jan. 29, 2025).

[6] THE WHITE HOUSE, *Fact Sheet: President Donald J. Trump Takes Forceful and Unprecedented Steps to Combat Anti-Semitism* (Jan. 30, 2025), https://bit.ly/4j3YNny.

22. Under the Policy, Respondents across multiple agencies of the executive branch coordinate to retaliate against and detain noncitizen students for their actual or perceived advocacy for Palestinian rights.

23. Central to the Policy is the federal agencies' abuse of federal law, including but not limited to the rarely invoked "Foreign Policy Ground" of the INA, Section 237(a)(4)(C), to retaliate against protected speech.

24. The Foreign Policy Ground gives the Secretary of State *constrained* authority to render deportable certain noncitizens upon a determination that their "presence or activities in the United States . . . would have potentially serious adverse foreign policy consequences for the United States." 8 U.S.C. § 1227(a)(4)(C)(i), INA § 237(a)(4)(C). The authority is constrained, in that the Constitution and federal law prohibit use of the Foreign Policy Ground to justify the arrest and detention of noncitizens either in retaliation or as punishment for their constitutionally protected expressive and associational activities, such as lawful political protest or dissent. *See* U.S. Const. amend. I; 8 U.S.C. § 1182(a)(3)(C)(ii), (iii) (stating that the Secretary of State may not apply the Foreign Policy Ground "because of the [noncitizen]'s past, current, or expected beliefs, statements, or associations, if such beliefs, statements, or associations would be lawful within the United States"). The sole exception is if "the Secretary of State personally determines that the [noncitizen]'s admission would compromise a compelling United States foreign policy interest" and notifies the chairs of the House Foreign Affairs, Senate Foreign Relations, and House and Senate Judiciary Committees of the person's identity and the reason for the

determination. 8 U.S.C. § 1182(a)(3)(C)(iii)–(iv); *see also* 8 U.S.C. § 1227(a)(4)(C)(ii) (incorporating exception by reference).

25. Congress intended for the Foreign Policy Ground to "be used sparingly"—for example, when an individual's continued presence would result in "imminent harm to the lives or property of United States persons abroad"—"and not merely because there is a likelihood that an alien will make critical remarks about the United States or its policies." H.R. Conf. Rep. No. 101-955, at 6794–95 (1990).

26. DHS policies also caution against abuse of immigration laws to chill protected speech. A memorandum issued during the first Trump administration states: "DHS does not profile, target, or discriminate against any individual for exercising his or her First Amendment rights."[7] Further, DHS personnel "shall not," except in limited circumstances, collect or use information about how a citizen or a legal permanent resident exercises their First Amendment rights, including information about an individual's political beliefs, journalistic activities, or participation in non-violent protests against government policy or actions.[8] Upon information and belief, this memorandum remains in effect.

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[7] HOMELAND SECURITY, *Information Regarding First Amendment Protected Activities* (May 17, 2019), https://www.dhs.gov/sites/default/files/publications/info_regarding_first_amendment_protected_activities_as1_signed_05.17.2019.pdf.

[8] *Id.*

27. Despite this, Respondents have invoked the Policy to retaliate against protected speech and association under the First Amendment.

28. An early and prominent example is the arrest and detention of Mahmoud Khalil, a 30-year-old legal permanent resident and recent graduate of Columbia University's School of International and Public Affairs. Although Mr. Khalil was not charged with any crime, officials claimed that his protected speech was "anti-Semitic" or "pro-terrorist" action.[9] President Trump claimed that Mr. Khalil's arrest was "the first arrest of many to come," declared that his administration would not "tolerate" university students "who have engaged in pro-terrorist, anti-Semitic, [and] anti-American activity," and promised to "find, apprehend, and deport these terrorist sympathizers from our country."[10]

29. Statements by federal officials made clear that Mr. Khalil was being targeted solely for political speech, namely, his involvement in pro-Palestinian protests, not purported support for Hamas. For example, when asked if criticism of Israel or the United States is a "deportable offense," Deputy Secretary of Homeland Security Troy Edgar stated on NPR's *Morning Edition*:

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[9] For example, on March 9, 2025, DHS posted from its official X account that Mr. Khalil had led activities "aligned to" Hamas, and that ICE had arrested Mr. Khalil "in support of President Trump's executive orders prohibiting anti-Semitism, and in coordination with the Department of State." Homeland Security (@DHSgov), X (Mar. 9, 2025, 6:29 PM), https://bit.ly/4ikGauI. (Ex. I.) Exhibit I contains copies of the social media posts cited in this Petition.

[10] Donald Trump (@realDonaldTrump), TRUTH SOCIAL (Mar. 10, 2025, 12:05 PM), https://bit.ly/3DTqiRL. (Ex. I.)

> [L]et me put it this way, . . . imagine if he came in and filled out the form and said, 'I want a student visa.' They ask him, 'What are you going to do here?' [A]nd he sa[ys], 'I'm going . . . [t]o go and protest.'. . . We would never have let him in the country."[11]

Deputy Secretary Edgar further stated Mr. Khalil was "a terrorist," but when asked what "terrorist activity" Mr. Khalil had engaged in, Edgar replied only, "I mean, . . . have you watched it on TV? It's pretty clear," and, when pressed, failed to say anything more specific.[12]

30. Pursuant to the Policy, and in violation of the First Amendment, Fifth Amendment, federal law, and DHS policies, Respondent Rubio has also been unlawfully invoking the Foreign Policy Ground and related laws to revoke the *visas* of international students in retaliation for their speech—including and especially speech supportive of Palestinians in Gaza that is protected under the First Amendment, but that Respondents oppose for political or ideological reasons.[13]

31. Rumeysa Ozturk is an example of the Policy's use of visa revocation in retaliation against protected speech. Ms. Ozturk, a Muslim woman from Turkey with a

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[11] Michel Martin (Host), *DHS Official Defends Mahmoud Khalil Arrest, but Offers Few Details on Why It Happened*, NPR MORNING EDITION (Mar. 13, 2025, 4:18 AM), https://bit.ly/3Ych75C (Transcript).

[12] *Id.*

[13] The Policy was in effect as early as March 6, 2025. Secretary Marco Rubio (@secrubio), X (Mar. 6, 2025, 4:30 PM), https://bit.ly/3EjdFzn. (Ex. I.) By March 27, 2025, when asked how many revocations have been executed, Respondent Rubio responded: "It might be more than 300 at this point. We do it every day. Every time I find one of these lunatics, I take away their visas." Humeyra Pamuk, *Rubio Says US May Have Revoked More Than 300 Visas*, REUTERS (Mar. 27, 2025, 10:15 PM), https://bit.ly/3EgLtgA.

valid international student visa and a doctoral student at Tufts University, was arrested by six plain-clothed DHS agents outside her apartment, an event captured on video and widely circulated in the media.[14] Memos between DHS and DOS reviewed by the Washington Post show that Ms. Ozturk was arrested and detained for co-writing an op-ed in the Tufts student newspaper criticizing the university's response to the Israel-Gaza war. These documents also reflect that contrary to public statements, Respondents were not aware of *any* evidence that she supported violence or terrorist groups such as Hamas.[15]

32. Several other students and faculty have since been arrested and detained pursuant to the Policy based on their protected speech, including a post-doctoral fellow at Georgetown University and an assistant professor at Brown University Medical School.[16]

33. Upon information and belief, to identify targets of the Policy, Respondents, led by DHS, have used the internet and social media to monitor for expressions of support for Palestinians by international students. As reported in the New York Times, by the end of March 2025, "[i]nvestigators from a branch of ICE that typically focuses on human

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[14] Jack Healy, Zolan Kanno-Youngs, and Mike Baker, *A Video From Tufts Captures the Fear and Aggression in Trump's Crackdown*, N.Y. Times, (Mar. 27, 2025), https://www.nytimes.com/2025/03/27/us/politics/tufts-ice-crackdown.html.

[15] John Hudson, *No Evidence Linking Tufts Student to Antisemitism or Terrorism, State Department Office Found*, WASH. POST (Apr. 13, 2025), https://www.washingtonpost.com/national-security/2025/04/13/tufts-student-rumeysa-ozturk-rubio-trump/.

[16] Karina Tsui, *What We Know About the Federal Detention of Activists, Students and Scholars Connected to Universities*, CNN (Apr. 2, 2025, updated 8:48 PM), https://www.cnn.com/2025/03/31/us/what-we-know-college-activists-immigration-hnk/index.html.

traffickers and drug smugglers . . . [had] for weeks scoured the internet for social media posts and videos that the administration could argue showed sympathy toward Hamas" and "handed over reports on multiple protesters to the State Department."[17] This is consistent with DHS's April 2025 announcement that it is screening social media activity in reviewing applications for immigration benefits pursuant to President Trump's Executive Orders.[18]

34. Once arrested and detained pursuant to the Policy, international students are held in local jails or federal detention centers while they await administrative removal proceedings before an immigration judge. DHS transfers some students to detention centers hundreds of miles away, to further separate them from schools, communities, families, and legal representation.[19]

35. In some cases, Respondents later produce documents purporting to have revoked student visas not on Foreign Policy Grounds, but purportedly under a related revocation provision, Section 221(i) of the INA, 8 U.S.C. 1201(i). However, the purported basis for revocation, including minor criminal offenses, do not support a loss of status. *See, e.g.,* 8 C.F.R. § 214.1(g) (explaining that to result in a loss of student status, criminal

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[17] Healy, et al., *supra* n. 13.

[18] U.S. CITIZENSHIP AND IMMIGR. SERVS., *DHS to Begin Screening Aliens' Social Media Activity for Antisemitism* (Apr. 9, 2025), https://www.uscis.gov/newsroom/news-releases/dhs-to-begin-screening-aliens-social-media-activity-for-antisemitism.

[19] For example, Ms. Ozturk was moved to a detention center in Louisiana, more than 1500 miles from Massachusetts. Jaclyn Diaz & Adrian Florido, *Why Is Trump Sending Immigrant University Scholars to Louisiana and Texas?*, NPR (Apr. 8, 2025, 5:00 AM), https://www.npr.org/2025/04/08/nx-s1-5351645/ice-detention-louisiana-university-scholars.

activity must be a crime of violence for which a sentence of more than one year imprisonment may be imposed).

36. Further, after detained students have been granted bond in immigration court based on findings that the student is not dangerous or a flight risk, *see* 8 U.S.C. § 1226(c)(4), DHS has been categorically invoking a rarely-used automatic stay regulation—which requires certification by a senior DHS legal officer—to block the immigration judge's order while DHS appeals the decision to the Board of Immigration Appeals. *See* 8 C.F.R. § 1003.19(i)(2). Using this automatic stay regulation, DHS prevents the release of detained students by a period of up to 90 days, which can be further extended. *See Review of Custody Determinations,* 71 Fed. Reg. 57873-01, 2006 WL 2811410 (Oct, 2, 2006).

37. Thus, under the Policy, targeted noncitizens are forced to remain in detention for prolonged periods, even though the grounds for their detention violate the U.S. Constitution and federal law.

B. Respondents Are Arresting and Detaining Some International Students to Compel Hundreds—if not Thousands—of Others to Self-Deport, Even Though They Are Still in Lawful Student Status.

38. Under the Fifth Amendment, immigration detention is permissible for specific statutory purposes, including public safety and flight risk, but not to retaliate against or punish people. *See Demore*, 538 U.S. at 532–33 (noting that the "permissibility of continued detention pending deportation proceedings turns solely upon the alien's ability to satisfy the ordinary bond procedures—namely, whether if released the alien would post a risk of flight or a danger to the community") (Kennedy, J., concurring); *Zadvydas*, 533

U.S. at 690 (noting that the Fifth Amendment prohibits immigration detention that is punitive in purpose or effect).

39. In recent weeks, however, DHS has been unconstitutionally detaining some international students—predominantly from majority-Muslim countries—for a different and impermissible purpose: coercing other students with lawful status to self-deport out of fear for a similar fate. Respondents intend to use the arrest and detention of international students to create an atmosphere of fear (if not terror) among international students at college campuses. The arrests and detentions have, in fact, had their intended outcome of furthering DHS's project of mass self-deportations as described below.

40. In the last several weeks, DHS has advised hundreds, if not thousands, of students that they have lost their student status because their F-1 visas have been revoked and/or their visa records have been terminated. One source estimates that as of April 16, 2025, more than 210 colleges and universities have identified 1,300-plus international students and recent graduates who have been affected.[20]

41. Under immigration law, if a student's visa has been properly revoked, such revocation does *not* mean that a student has lost their student status. A student's F-1 visa controls admission into the United States, but not the student's continued stay. Once a student enters the United States on an F-1 visa, that student is granted permission to remain

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[20] 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. 17, 2025).

for the duration of status, as long as the individual continues to meet the requirements established by the regulations governing their F-1 classification, such as maintaining a full course load. *See* 8 C.F.R. § 214.2(f). If a student visa is revoked, a student may, therefore, remain in the United States lawfully as long as the individual continues to meet the regulatory requirements.

42. Further, revocation of a visa is not grounds to terminate student visa records within SEVIS, the government database used to track international students' compliance with F-1 visa status.[21] If an F-1 visa is revoked, DHS is *not* authorized to terminate the student's SEVIS record. DHS's own guidance confirms this: "Visa revocation is not, in itself, a cause for termination of the student's SEVIS record."[22]

43. Nevertheless, Respondents are using the unlawful termination of SEVIS records and/or purported revocation of F-1 visas to mislead students into believing that they have lost their status and must leave the country.

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[21] ICE, *Policy Guidance 1004-04—Visa Revocations* 3 (June 7, 2010), https://bit.ly/3Etrxae.

[22] *Id.* While SEVIS records can be terminated if a student fails to meet regulatory requirements to maintain their status, in the absence of a student's conduct causing a status violation, ICE may only terminate SEVIS records in three circumstances: (1) a previously-granted waiver under 8 U.S.C. § 1182(d)(3) or (4) is revoked; (2) a private bill to confer lawful permanent residence is introduced in Congress; or (3) DHS publishes a notification in the Federal Register identifying national security, diplomatic, or public safety reasons for termination. 8 C.F.R. § 214.1(d). DHS cannot otherwise unilaterally terminate nonimmigrant status. *See Jie Fang v. Dir. U.S. Immigr. & Customs Enf't*, 935 F.3d 172, 185 n.100 (3d Cir. 2019).

44. For example, on March 5, 2025, DOS informed a graduate student at Columbia University, Ranjani Srinivasan, that her F-1 student visa had been cancelled, with her SEVIS record terminated.[23] On March 14, 2025, DHS Secretary Kristi Noem issued a post on X, accompanied by a video of Ranjani Srinivasan: "I'm glad to see one of the Columbia University terrorist sympathizers use the CBP Home app to self deport."[24] Again, however, DHS did not, however, provide any evidence for its allegations that she was supporting any terrorist organization.[25]

45. Respondents' arrest and detention of international students based on purported visa revocation and/or SEVIS record is punitive, because it is intended to—and actually does—frighten, if not terrify, students who have been told their visas were revoked or SEVIS records terminated regarding the consequences of continuing to stay in the United States, despite the fact that they have lawful status.

46. Some students have filed lawsuits seeking to enjoin and/or declare that these status terminations are illegal. *See, e.g., Isserdasani v. Noem et al.*, No. 25-CV-283-wmc, Dkt. 7, Opinion and Order (W.D. Wis. Apr. 15, 2025) (granting request to temporarily enjoin termination of the plaintiffs student visa records and taking action or imposing legal

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[23] Luis Ferré-Sadurní & Hamed Aleaziz, *How a Columbia Student Fled to Canada After ICE Came Looking for Her*, N.Y. TIMES (Mar. 15, 2025), https://www.nytimes.com/2025/03/15/nyregion/columbia-student-kristi-noem-video.html.

[24] Kristi Noem (@KristiNoem), X (Mar. 14, 2025, 11:01 AM), https://x.com/Sec_Noem/status/1900562928849326488. (Ex. I.)

[25] Luis Ferré-Sadurní & Hamed Aleaziz, *How a Columbia Student Fled to Canada After ICE Came Looking for Her*, N.Y. TIMES (Mar. 15, 2025), https://www.nytimes.com/2025/03/15/nyregion/columbia-student-kristi-noem-video.html.

consequences, including detention, based on the purported termination). Two Courts of this District have already temporarily enjoined this practice. *See* Dkt. 20, April 15, 2025 Order, *Ratsantiboon v. Noem, et al.*, No. 25-cv-01315 (JMB-JFD) (D. Minn.); Dkt. 13, April 17, 2025 Order, *Ziliang J. v. Noem, et al.*, No. 25-cv-01391 (PJS-DLM) (D. Minn.).

47. Respondents' arrest and detention of international students has the intent and effect of forcing other students (who may not have access to representation)—and fearing the same arrest and detention forced on noncitizens targeted under the Policy—to abandon their lawful status and "self-deport" without protesting or mounting legal challenges to their unlawful SEVIS terminations.

II. MR. HOQUE WAS ARRESTED AND DETAINED PURSUANT TO RESPONDENTS' RETALIATORY POLICY AND FOR PUNITIVE PURPOSES.

A. Mr. Hoque is in the United States With Lawful Nonimmigrant Status ad Engaged in Protected Political Speech.

48. Petitioner Mohammed Hoque is 20 years old. (*See* Ex. A, Declaration of Mohammed Hoque ¶ 2.) He is a citizen of Bangladesh and an observant Muslim. (*Id.* ¶¶ 2, 4.)

49. Mr. Hoque began college studies at MSU in a valid F-1 student status in 2021. (*Id.* ¶¶ 5–7.) Prior to his unlawful arrest and detention by DHS on March 28, 2025, Hoque was on track to graduate from MSU in 2026 with a major in Management Information Systems. (*Id.* ¶¶ 8-9.)

50. Mr. Hoque met all of the requirements necessary to maintain his student status up to and through his unlawful arrest and detention by DHS on March 28, 2025,

including by being enrolled in the minimum required number of credits at MSU. (*Id.*; *see also* Ex. B at 4, 5.)

51. Mr. Hoque has committed no crime that is cause for lawful termination of his student status or that renders him deportable. Approximately two years before his unlawful arrest, and just months after turning eighteen, Mr. Hoque was charged with disorderly conduct and fifth degree assault for pushing his brother's friend after a disagreement. (Ex. A ¶¶ 26–32; Ex. B at 3.) Mr. Hoque accepted a plea agreement regarding the disorderly conduct charge, and a 90-day sentence was stayed for one year while he completed probation. (Ex. A ¶ 30; *see also* Ex. B at 4.) Mr. Hoque's minor misdemeanor offense has no impact on his immigration status. *See* 8 C.F.R. § 214.1(g) ("[A] crime of violence for which a sentence of more than one year imprisonment may be imposed (regardless of whether such sentence is in fact imposed) constitutes a failure to maintain status"); Minn. Stat. § 609.72 (misdemeanor disorderly conduct); Minn. Stat. § 609.224 (misdemeanor assault in the fifth degree); Minn. Stat. § 609.02 subd. 3 (defining misdemeanor as "a crime for which a sentence of not more than 90 days or a fine of not more than $1,000, or both, may be imposed").

52. Moreover, Mr. Hoque travelled to Bangladesh to visit family in summer 2023 while his criminal case was pending. (Ex. A at ¶ 33.) After openly discussing the pending case with airport immigration inspectors upon his return to the United States, he was admitted back into the country to continue his studies. (*Id.* ¶ 34.) Had the criminal charges been grounds for visa revocation or termination, Mr. Hoque would not have been permitted to reenter the United States.

53. Mr. Hoque believes all people have human rights and that no person should be attacked or killed because of their religion. (Ex. A ¶ 11.) For this reason, he opposes and has been deeply disturbed by violence against people living in Gaza. (*Id.*)

54. Mr. Hoque has engaged in speech on matters of public concern, including his support of Palestinians in Gaza. (*Id.* ¶ 12.) Mr. Hoque has expressed his political views, including on social media, where he has shared posts and media coverage documenting incidents of violence against Palestinians in Gaza that he considers to be violations of human rights. (*Id.*) His Instagram account biography includes the hashtag "#Free Palestine." (*Id.*)

55. Mr. Hoque does not support violence and has never supported political violence. (*Id.* ¶¶ 11–12.) Protests about Gaza on the MSU campus have been peaceful. (*Id.* ¶ 12.)

56. Mr. Hoque's speech concerning violence in Gaza and the human rights of Palestinians is speech protected by the First Amendment, in particular because it is speech on matters of public concern and is political speech at the core of First Amendment protection.

B. DHS Officers Arrested and Detained Mr. Hoque on the Morning of March 28, 2025.

57. On March 28, 2025, Mr. Hoque attended class, helped a friend with a speech for his class, and attended his coding class at MSU. (*Id.* ¶ 39.) After class, Mr. Hoque noticed a truck parked next to his car. (*Id.* ¶¶ 39–41.)

58. As he began the drive home, Mr. Hoque was aggressively followed by the truck, which cut in front of other traffic to stay behind him. (*Id.* ¶ 41.) When he arrived at his house, additional vehicles surrounded him. (*Id.* ¶ 42.)

59. Two men in plain clothes approached him, said they were with DHS, and told him that his visa had been revoked. (*Id.*)

60. The officers did not provide copies of any visa revocation papers, or show him any warrant or badge. (*Id.* ¶ 43.) Mr. Hoque told them that he had not been informed about any visa revocation. (*Id.*)

61. Mr. Hoque was instructed to put his hands behind his back. (*Id.*) He was handcuffed and chained around the waist. (*Id.*)

62. Mr. Hoque was arrested at approximately 12:00 p.m. (Ex. C.)

C. After his Arrest and Detention, Mr. Hoque's Visa Was Revoked and/or His SEVIS Record Was Terminated.

63. Mr. Hoque was driven by DHS officers to Fort Snelling. (Ex. C; Ex. A ¶¶ 45–47.)

64. That same day, at 2:57 pm—after his arrest and while Mr. Hoque was being processed at Fort Snelling—his SEVIS visa record was terminated by "DHS Official." (Ex. D.)

65. The termination reason listed in the SEVIS record was "Otherwise Failure to Maintain Status." (*Id.*) In the explanation section, it states: "The student is terminated pursuant to 237(a)(1)(C)(i) and 237(a)(4)(C)." (*Id.*)

66. The first ground, Section 237(a)(1)(C)(i) of the INA, allows for the deportation of any alien who violated nonimmigrant status or a condition of entry. As described above, Mr. Hoque was at all relevant times an enrolled student at MSU, taking the required number of credits to maintain his status. (Ex. A ¶ 9.) Further, as noted above, Mr. Hoque has no criminal history and has engaged in no criminal activity that would legally result in a loss of status. There was, and is, no lawful basis for Mr. Hoque to have lost his student status.

67. The second ground, Section 237(a)(4)(C) is the Foreign Policy Ground. Upon information and belief, as with prior examples, Respondents used the Foreign Policy Ground pursuant to the Policy as purported grounds for Mr. Hoque's detention in retaliation for exercising his First Amendment rights of free speech and association in support of Palestinians.

68. Later on March 28, DHS transported Mr. Hoque to Freeborn County Jail, where he remains in DHS custody as of today. (Ex. A ¶ 48.)

69. Days after his arrest, on April 1, 2025, Mr. Hoque received a letter with no official letterhead, date, named author, or signature. (Ex. A ¶ 49; Ex. E.) The letter purported to notify him that his F-1 visa had been revoked. (*Id.*)

70. Because he remained in detention, Mr. Hoque missed an April 2, 2025 appointment with his surgeon to discuss a needed hernia repair operation. (*See* Ex. A ¶ 25.)

71. On or around April 8, 2025, Mr. Hoque's SEVIS record was modified to state that the reason for his termination was "Individual identified in criminal records check and/or has had their VISA revoked." (Ex. F.)

D. Respondents Continue to Detain Mr. Hoque.

72. After being detained for almost two weeks, Mr. Hoque had a bond hearing before an immigration judge on April 9, 2025. The Immigration Judge ruled that Mr. Hoque was "not a danger to the persons or property" and ordered that he be released on bond in the amount of $7,500. (Ex. B.)

73. Following this decision, DHS imposed an automatic stay of the bond order, denying Mr. Hoque the opportunity to pay the bond and forcing him to remain in detention for at least 90 days. (Ex. B.)

74. On April 16, 2025, Mr. Hoque returned to the immigration court for his initial hearing on his removal proceedings. The sole charge of removability cited by DHS in Mr. Hoque's removal proceedings is INA Section 237(a)(1)(C) for failure to maintain lawful status. (Ex. C.)

75. At the hearing, DHS presented no additional evidence in support of its charge of removability. (Ex. G ¶¶ 6-9.) Instead, DHS sought a continuance, which was granted for one week. (*Id.* ¶¶ 10-16.)

76. Later that day, DHS submitted to the immigration court a memorandum purportedly dated March 23, 2025, from DOS Senior Bureau Official, John Armstrong, to DHS Official Andre Watson, Assistant Director, National Security Division. It reads:

> On March 23, 2025, in response to a request from DHS/ICE and the information from DHS/ICE that Mohammed Monjurul HOQUE has been charged by U.S. law enforcement officials with Assault-5th Degree Misdemeanor, Disorderly Conduct and now poses a threat to U.S. public safety, the Bureau of Consular Affairs approved revocation, effective immediately, of the F-1 visa of HOQUE . . . Bangladesh, Visa Foil . . ., pursuant to authority in section 221(i) of the Immigration and Nationality Act, 8 U.S.C. 1201(i). We understand that DHS/ICE intends to immediately pursue removal of HOQUE, and due to ongoing ICE operational security, this revocation will therefore be silent; the Department of State will not notify the subject of the revocation.

(Ex. H.)

77. DHS provided no explanation for the assertion that Mr. Hoque "now poses a threat to U.S. public safety." Nor can it, when Mr. Hoque's only disorderly conduct conviction is based on conduct from more than two years ago, and he successfully completed a 1-year term of probation in August 2024. (Ex. A ¶¶ 26–32; Ex. B at 4–5.) Moreover, as discussed above, Mr. Hoque's disorderly conduct conviction, or dropped charge of fifth degree assault, has no impact on his immigration status. Further, Mr. Hoque reentered the United States in June 2023 after a trip to Bangladesh while the criminal case was pending, was asked about the incident, and was admitted through inspection. (Ex. A ¶¶ 33–34.)

78. Upon information and belief, Mr. Hoque's detention, which serves no legitimate purpose under immigration laws, is being used punitively to compel other foreign students notified of a purported visa revocation or SEVIS record termination to self-deport out of fear that they too will be detained unlawfully like Mr. Hoque.

79. While in detention, Mr. Hoque continues to experience the effects of an ongoing and painful medical crisis caused by complications of a prior abdominal surgery and partial removal of his pancreas. Because he is not able to have hernia surgery while in detention, his symptoms continue and condition may worsen. (Ex. A ¶¶ 13–25, 50–53.)

E. Mr. Hoque's Detention is Unlawful and This Court Should Order Him Released.

80. Respondent's detention of Mr. Hoque is unlawful and unconstitutional because it is both in retaliation for his protected speech in support of Palestinians in Gaza pursuant to the Policy and because it is for the improper purpose of forcing other international students whose visas have been purportedly revoked and/or SEVIS records terminated to self-deport.

81. Mr. Hoque's detention is, therefore, in violation of the First and Fifth Amendments, as well as other federal laws.

82. Mr. Hoque does not contest DHS' authority to conduct removal proceedings or its authority to detain noncitizens prior to removal when: 1) there is cause to show that detention is necessary to ensure participation in the removal proceeding; 2) the respondent is a danger to the community, or 3) respondent represents a flight risk. However, as the Immigration Judge held, none of those factors apply here. Instead, DHS's use of detention in this case is unconstitutional and therefore grounds to grant the relief requested herein.

CLAIMS FOR RELIEF

FIRST CLAIM
Violation of the First Amendment to the United States Constitution

83. Mr. Hoque repeats and re-alleges the allegations contained in the preceding paragraphs of this Petition as if fully set forth herein.

84. The First Amendment protects past, present, and future speech, including speech by noncitizens.

85. The Policy violates the First Amendment by retaliating against protected speech, attempting to chill or prevent future speech, and chilling other individuals from expressing views regarding Palestinians in Gaza.

86. These speech-related consequences are not side effects of an action with some other purpose; they are, instead, the point of the Policy. Respondents' actions are substantially motivated by their disagreement with Mr. Hoque's: 1) protected speech supportive of Palestinians (and the viewpoint it expresses); and/or 2) associational activity.

87. Mr. Hoque is being detained in retaliation for his protected expression, viewpoints, and/or associations, in violation of the First Amendment, which protects noncitizens from detention on the basis of their protected speech. *See Bello-Reyes*, 985 F.3d at 698.

88. Mr. Hoque's detention prevents him from freely expressing himself and associating with his academic community. Respondents also are using Mr. Hoque's detention to chill others from speaking in favor of Palestinian rights or against their unlawful treatment by Respondents.

SECOND CLAIM
Violation of the Fifth Amendment to the United States Constitution

89. Mr. Hoque repeats and re-alleges the allegations contained in the preceding paragraphs of this Petition as if fully set forth herein.

90. The Constitution establishes due process rights for "all 'persons' within the United States, including [noncitizens], whether their presence here is lawful, unlawful, temporary, or permanent." *Zadvydas*, 533 U.S. at 693.

91. The Policy violates Mr. Hoque's right to due process. It is impermissibly vague, invites arbitrary and discriminatory enforcement, and does not give noncitizens like Mr. Hoque, living lawfully and peacefully in the country and who engage in speech advocating for Palestinian rights, fair warning as to what the government believes to be grounds for adverse action under the immigration laws. Respondents' due process violations further infringe upon and chill Mr. Hoque's constitutionally protected rights to free speech and association.

92. In addition, Mr. Hoque has a constitutionally protected property interest in his SEVIS record. *See ASSE Int'l, Inc. v. Kerry*, 803 F.3d 1059 (9th Cir. 2015) (assuming a protected property interest in participating in exchange visitor program). DHS terminated Mr. Hoque's SEVIS record based on improper grounds without prior notice of the facts forming the basis for the termination and without an opportunity for Mr. Hoque to respond, violating due process.

93. Respondents' detention of Mr. Hoque is unjustified. *See Zadvydas*, 533 U.S. at 690 (finding immigration detention is justified in two scenarios: (1) ensuring the

noncitizen's appearance during removal proceedings and (2) preventing danger to the community). It is evident these are not the reasons Respondents are detaining Mr. Hoque. Indeed, as the Immigration Judge found, there is no credible argument that Mr. Hoque cannot be safely released. (Ex. B.)

94. Moreover, Mr. Hoque's detention is punitive as it bears no "reasonable relation" to any legitimate government purpose. *Zadvydas*, 533 U.S. at 690 (finding immigration detention is civil and thus ostensibly "nonpunitive in purpose and effect"). Here, there is every indication that Mr. Hoque's detention is not to facilitate deportation, or to protect against risk of flight or dangerousness, but to incarcerate for other reasons. Specifically, his detention is for the purpose of —punishing Mr. Hoque for his protected speech and compelling other lawfully-present international students to self-deport. and

95. Due process demands, at a minimum, some lawful basis for detaining any person. Here, the facts and circumstances of Mr. Hoque's arrest and detention make clear that Respondents did not have a lawful basis for his arrest and detention on March 28 and do not have a lawful basis for his continued detention now.

96. For these reasons, the Policy and Mr. Hoque's detention based on that Policy violate the Due Process Clause of the Fifth Amendment.

THIRD CLAIM
Violation of the Administrative Procedure Act

97. Mr. Hoque repeats and re-alleges the allegations contained in the preceding paragraphs of this Complaint-Petition as if fully set forth herein.

98. DHS arrested Mr. Hoque before terminating his student status, and terminated his student status unlawfully and in the absence of any statutory authority. These actions, and the Policy purportedly serving as the basis for these actions, are arbitrary and capricious, an abuse of discretion, contrary to constitutional right, contrary to law, and in excess of statutory authority, 5 U.S.C. § 706 (2)(A), (B), (C). They also violate the federal agencies' own rules.

99. In addition, to issue a statutorily-permissible designation of deportability under the Foreign Policy Ground based on a person's "past, current, or expected beliefs, statements, or associations," the Secretary of State must "personally determine[]," and notify Congress of their determination, that the person's presence "would compromise a compelling United States foreign policy interest." *See* 8 U.S.C. §§ 1182(a)(3)(C)(iii)–(iv), 1227(a)(4)(C)(ii). Here, there is no indication that any such determination and notice occurred. Upon information and belief, DOS has a policy of not complying with this statute in its implementation of the Policy. Accordingly, the Policy is in excess of statutory authority and without observance of procedure required by law. 5 U.S.C. § 706 (2)(A), (B), (C), (D).

100. Further, DHS has no statutory or regulatory authority to terminate Mr. Hoque's SEVIS record based simply on the revocation of a visa. Nothing in Mr. Hoque's history provides a basis for termination, and DHS did not articulate the facts that formed a basis for their termination to terminate Mr. Hoque's SEVIS record. Therefore, DHS's termination of Mr. Hoque's SEVIS record was arbitrary and capricious, in excess of

statutory authority, and without observance of procedure required by law; as well as contrary to due process. 5 U.S.C. § 706 (2)(A), (B), (C), (D).

101. For these reasons, DHS cannot justify Mr. Hoque's detention on this basis, and the detention is unlawful.

FOURTH CLAIM
Release on Bail Pending Adjudication

102. Mr. Hoque repeats and re-alleges the allegations contained in the preceding paragraphs of this Complaint-Petition as if fully set forth herein.

103. Federal district courts have "inherent authority" to grant bail to habeas petitioners when warranted. *See Zepeda Rivas v. Jennings*, 445 F.Supp.3d 36, 41 n.17 (N.D. Cal. 2020) (collecting cases); *Mapp v. Reno*, 241 F.3d 221, 229 (2d Cir. 2001); *see also Martin v. Solem*, 801 F.2d 324, 329, n.3 (8th Cir. 1986)

104. Federal district courts also have broad equitable power to restrain unlawful executive action. *See, e.g., Armstrong v. Exceptional Child Ctr., Inc.*, 575 U.S. 320, 326–27 (2015).

105. This Petition raises numerous substantial constitutional and statutory claims challenging Mr. Hoque's retaliatory detention. Respondents' continued detention of Mr. Hoque further perpetuates the harms to Mr. Hoque's First Amendment rights and chills Mr. Hoque's free speech. These extraordinary circumstances make Mr. Hoque's release essential for any remedy in this litigation to be effective.

PRAYER FOR RELIEF

Accordingly, Mr. Hoque respectfully requests that this Court:

1) Assume jurisdiction over this matter;

2) Enjoin Respondents from transferring Mr. Hoque from the jurisdiction of this District pending these proceedings;

3) Order Respondents to release Mr. Hoque on bail pending these proceedings, under reasonable conditions;

4) Grant a writ of habeas corpus ordering Respondents to immediately release Mr. Hoque from custody;

5) Enjoin Respondents from transferring or removing Mr. Hoque pending these proceedings;

6) Enjoin Respondents from removing Mr. Hoque on the basis of a determination made under the Policy;

7) Award Mr. Hoque his costs and reasonable attorneys' fees in this action as provided for by the Equal Access to Justice Act, 5 U.S.C. § 504 and 28 U.S.C. § 2412; and

8) Grant such further relief as the Court deems just and proper.

Respectfully submitted,

Dated: April 18, 2025

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