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UNITED STATES DISTRICT COURT
DISTRICT OF COLORADO

Tariq Mubarak H. Al Qais,

Petitioner,

V.

Johnny Choate, Warden,
GEO Group ICE Processing Center

Ernesto Santacruz, Acting Field Office Director,
U.S. Immigration and Customs Enforcement,

Kristi Noem, Secretary,
U.S. Department of Homeland Security, and

Pamela Bondi, U.S. Attorney General,

in their official capacities,

Respondents.

Case 25-cv-1641

Petition for Writ of Habeas Corpus

**Oral Argument
Requested**

INTRODUCTION

1. Petitioner Tariq Mubarak H. Al Qais is an F-1 student at the Colorado School of Mines who has been caught up in a massive new enforcement scheme arising between the U.S. Department of Homeland Security and the U.S. Department of State that was internally termed the “Student Criminal Alien Initiative.” This initiative saw thousands of students lose their visas and their status in the United States, contrary to law, and resulted in hundreds of lawsuits throughout the country.
2. Mr. Al Qais’s situation is more serious than many other students caught up in this initiative. Not only was he subject to the unlawful termination of his student records, but he was also arrested and placed in removal proceedings with a facially defective “Notice to Appear” (NTA), which was premised on the improper interpretation of law, echoed throughout the Student Criminal Alien Initiative, that a mere arrest is sufficient for someone to fail to maintain their status in the United States.
3. Mr. Al Qais is not removable as charged, and has been arrested contrary to the Immigration and Nationality Act. Accordingly, to vindicate Mr. Al Qais’s constitutional, statutory, and regulatory rights, this Court should grant the instant petition for a writ of habeas corpus.

JURISDICTION

1. This action arises under the Constitution of the United States and the Immigration and Nationality Act (INA), 8 U.S.C. § 1101 *et seq.*

2. This Court has subject matter jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, § 9, cl. 2 of the United States Constitution (Suspension Clause).
3. This Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241 *et seq.*, the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28 U.S.C. § 1651.

VENUE

4. Venue is proper because Mr. Al Qais is detained at the GEO Group's ICE Processing Center in Aurora, Colorado, which is within the jurisdiction of this District. In addition, venue is proper in this District because a substantial parts of the events giving rise to Mr. Al Qais's claims occurred in this District, he resides in this District, and no real property is involved in this action. 28 U.S.C. § 1391(e).

REQUIREMENTS OF 28 U.S.C. § 2243

5. The Court must grant the petition for writ of habeas corpus or issue an order to show cause (OSC) to the Respondents "forthwith," unless the Petitioner is not entitled to relief. 28 U.S.C. § 2243. If an OSC is issued, the Court must require Respondents to file a return "within *three days* unless for good cause additional time, not exceeding twenty days, is allowed." *Id.* (emphasis added).
6. Courts have long recognized the significance of the habeas statute in protecting individuals from unlawful detention. The Great Writ has been referred to as "perhaps the most important writ known to the constitutional law of England,

affording as it does a *swift* and imperative remedy in all cases of illegal restraint or confinement.” *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis added).

PARTIES

7. Mr. Al Qais is a native and citizen of Saudi Arabia. He is currently in the United States in valid F-1 student status. Prior to his current detention he resided in Jefferson County, Colorado. He is being detained at the GEO Group’s ICE Processing Center in Aurora, Colorado. He is in the custody, and under the direct control, or Respondents and their agents.
8. Respondent Choate is sued in his official capacity as the Warden of the GEO Group’s ICE Processing Center in Aurora, Colorado. He has immediate physical custody of Mr. Al Qais pursuant to the facility’s contract with U.S. Immigration and Customs Enforcement to detain non-citizens. Respondent Choate is a legal custodian of Mr. Al Qais.
9. Respondent Santacruz is sued in his official capacity as Acting Field Office Director of the Denver Office of U.S. Immigration and Customs Enforcement (ICE). Respondent Santacruz is a legal custodian of Mr. Al Qais.
10. Respondent Noem is sued in her official capacity as the Secretary of the U.S. Department of Homeland Security (DHS). In this capacity, Respondent Noem is responsible for the implementation and enforcement of the Immigration and Nationality Act, and oversees U.S. Immigration and Customs Enforcement,

the component agency responsible for Mr. Al Qais's detention. Respondent Noem is a legal custodian of Mr. Al Qais.

11. Respondent Bondi is sued in her official capacity as the Attorney General of the United States and the senior official of the U.S. Department of Justice (DOJ). In that capacity, she has the authority to adjudicate removal cases and oversee the Executive Office for Immigration Review (EOIR), which administers the immigration courts and the Board of Immigration Appeals. Respondent Bondi is a legal custodian of Mr. Al Qais.

LEGAL FRAMEWORK

12. An F-1 visa is a nonimmigrant visa issued to foreign students to allow them to enter the United States to pursue a full course of study at an approved academic institution. While an F-1 *visa* is the 'entry ticket' permitting a student to enter the U.S. from abroad, F-1 *status* is conferred on the student when (1) they are admitted to the U.S. in that classification or (2) their F-1 "change of status" or "extension of status" application is approved by U.S. Citizenship and Immigration Services ("USCIS"). Thus, students can (and often do) have F-1 status without an unexpired F-1 visa.
13. F-1 students are typically admitted for "duration of status" ("D/S"), which is a term of art defined as "the time during which an F-1 student is pursuing a full course of study at an educational institution certified by SEVP for attendance by foreign students, or engaging in authorized practical training following completion of studies." 8 CFR § 214.2(f)(5)(i).

14. In practical terms, as long as the student remains enrolled full-time (or is otherwise in a valid post-completion training period) and does not violate the conditions of their immigration status, that status continues, potentially for years, without the need for extension applications.
15. To maintain status, an F-1 student is obligated to comply with the applicable regulations, whose key requirements include: (1) enrolling in a full course of study each term; (2) refraining from unauthorized unemployment; (3) avoiding absences from the U.S. exceeding five months; (4) reporting name or address changes; and (5) refraining from being convicted of a “crime of violence” “for which a sentence of more than one year imprisonment may be imposed.” 8 C.F.R. §§ 214.2(f)(6), (f)(9), (f)(4), (f)(17), 8 C.F.R. § 214.1(g).
16. Failure to maintain status through, for example, an individual’s conviction for a crime of violence for which a sentence of more than one year imprisonment may be imposed may trigger a ground of removability, and permit ICE to initiate removal proceedings under section 237(a)(1)(C)(i) of the Immigration and Nationality Act, 8 U.S.C. § 1227(a)(1)(C)(i).
17. Beyond this, DHS’s authority to terminate a nonimmigrant’s status is circumscribed by regulation, which specifies only a few extraordinary bases for midstream status termination: “Within the period of initial admission or extension of stay, the nonimmigrant status of an alien shall be terminated by (1) the revocation of a waiver authorized on his or her behalf under section 212(d)(3) or (4) of the Act; (2) the introduction of a private bill to confer

permanent resident status on such alien; or (3) pursuant to notification in the Federal Register, on the basis of national security, diplomatic, or public safety reasons.” 8 C.F.R. § 214.1(d). The Third Circuit observed that DHS’s ability to terminate F-1 status is indeed “limited by § 214.1(d).” *See Jie Fang v. Dir. U.S. Immigr. & Customs Enf’t*, 935 F.3d 172, 185 n.100 (3d Cir. 2019).

STATEMENT OF FACTS

18. Mr. Al Qais is a 35-year-old citizen of Saudi Arabia.
19. On December 30, 2024, U.S. Customs and Border Protection admitted Mr. Al Qais into the U.S. in F-1 student nonimmigrant status.
20. On May 5, 2025, Mr. Al Qais was arrested by the Jefferson County’s Sheriff’s Office. As of this writing, Mr. Al Qais has not been convicted of any crime.
21. On May 7, 2025, the Department of Homeland Security served Mr. Al Qais with a “notice to appear” alleging that (1) he is “not a citizen and national of the United States”; (2) he is a “citizen of Saudi Arabia and national of Saudi Arabia”; (3) he was admitted to the “United States at Houston, TX on or about December 30, 2024 as an F1 Student nonimmigrant”; and (4) he “failed to maintain” “status, to wit: On 05/05/2025 you were arrested by the Jefferson County Sheriff’s Office in Jefferson County Colorado and charged” with several criminal offenses. (emphasis added).
22. The Notice to Appear does not allege that Mr. Al Qais was *convicted* of a crime.
23. The Notice to Appear charges that Mr. Al Qais is removable under Section 237(a)(1)(C)(i) of the Immigration and Nationality Act for “fail[ing] to maintain

or comply with the conditions of the nonimmigrant status under which you were admitted.”

24. Concurrent with serving this Notice to Appear on Mr. Al Qais, ICE arrested Mr. Al Qais and detained him at the GEO Group’s ICE Processing Center in Aurora, Colorado, where he currently remains detained.

25. There are only two possible sources of the Respondents’ detention authority. The first is 8 U.S.C. § 1226, which authorizes the detention of non-citizens removable from the United States during the pendency of their removal proceedings. However, Petitioner is not removable as charged. Any warrant for his arrest and the issued Notice to Appear are facially deficient.

26. The second is 8 U.S.C. § 1231, which authorizes the detention of non-citizens following the issuance of an administratively final order. No such order exists in this case.

27. In short, Petitioner has been arrested on false charges, and has been forced to endure weeks of detention in the GEO ICE Processing Center based on a facially deficient Notice to Appear and on charges that do not render Petitioner removable from the United States.

**CLAIMS FOR RELIEF
COUNT ONE
Violation of Fifth Amendment Right to Due Process**

28. Petitioner hereby incorporates by reference the above paragraphs this petition.

29. Under the Fifth Amendment to the United States Constitution, those threatened with the loss of liberty or property due to actions by the federal government are entitled to due process of law.
30. The sole basis for Defendants' detention of Mr. Al Qais' is an alleged failure to maintain F-1 student status because Mr. Al Qais was "arrested" and "charged" with various crimes.
31. Mere arrests or charges cannot legally substantiate the sole basis for Defendant's detention. The sole criminal activity justifying a finding that one failed to maintain F-1 student status is found at 8 C.F.R. § 214.1(g), which provides that a "nonimmigrant's conviction in a jurisdiction in the United States for 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" (emphasis added).
32. The implementing regulations for maintenance of F-1 student status—8 C.F.R. § 214.1 and 8 C.F.R. § 214.2—provide no authorization for finding a status violating based on merely being "arrested" or "charged" with various crimes.
33. Nonetheless, on May 7, 2025, ICE initiated removal proceedings against Mr. Al Qais on the basis that he had failed to maintain his nonimmigrant status—a charge plainly contrary to the law. As discussed above, absent detention authority under either § 236 or § 241 of the Immigration and Nationality Act, the Respondents' decision to detain Mr. Al Qais violates the Due Process Clause of the Fifth Amendment. Mr. Al Qais's arrest was premised on a

charging document which, by its own allegations and charge, cannot sustain a finding of deportability. Any warrant for his arrest and the facially deficient charging document do not provide legal basis for his current detention.

COUNT TWO
Violation of the Immigration and Nationality Act and Implementing Regulations

34. Petitioner hereby incorporates by reference the above paragraphs this petition.

35. The Immigration and Nationality Act requires that a Notice to Appear specify conduct alleged to be in violation of the law and the charges of deportability triggered by such conduct. 8 U.S.C. § 1229(a)(1). A warrant for arrest and detention can be issued by immigration officers at the time of or after the issuance of a Notice to Appear. 8 C.F.R. § 236.1(a)(b).

36. The Notice to Appear in this case is legally deficient because it does not charge a ground of deportability that can be supported by the allegations. The charge of deportability, under 8 U.S.C. § 1227(a)(C)(1) for failure to maintain status, cannot be supported based on allegations of charges without conviction. The implementing regulations for maintenance of F-1 student status—8 C.F.R. § 214.1 and 8 C.F.R. § 214.2—provide no authorization for finding a status violating based on merely being “arrested” or “charged” with various crimes.

37. Without a legally sufficient charging document, there is no basis for detaining Petitioner under the Immigration and Nationality Act or its implementing regulations.

PRAYER FOR RELIEF

Wherefore, Petitioner respectfully requests this Court grant the following:

- (1) Assume jurisdiction over the matter;
- (2) Issue an order barring transfer of petitioner out of this Court's jurisdiction during the pendency of this case;
- (3) Pursuant to 28 U.S.C. § 2243, forthwith award the writ or issue an order directing respondents to show cause why the writ should not be granted within three days;
- (4) Declare that Petitioner's detention violates the Due Process Clause of the Fifth Amendment;
- (5) Declare that Petitioner's detention violates the Immigration and Nationality Act and its implementing regulations;
- (6) Issue a Writ of Habeas Corpus ordering Respondents to immediately release Petitioner;
- (7) Award Petitioner attorney's fees and costs under the Equal Access to Justice Act, and on any other basis justified under law; and
- (8) Grant any further relief this Court deems just and proper.

Respectfully submitted this 23rd day of May, 2025,

/s/ Aaron C. Hall

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