

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

U.H.A., K.A, H.D., D. Doe, M. Doe, on behalf of themselves and others similarly situated, *and* **THE ADVOCATES FOR HUMAN RIGHTS**,

Plaintiff-Petitioner and Plaintiffs,

v.

PAMELA BONDI, in her official capacity as Attorney General of the United States;
KRISTI NOEM, in her capacity as Secretary of the United States Department of Homeland Security;

TODD M. LYONS, in his official capacity as Acting Director of the United States Immigration and Customs Enforcement;

DAVID EASTERWOOD in his official capacity as Acting Director, St. Paul Field Office, U.S. Immigration and Customs Enforcement; *and*

JOSEPH B. EDLOW, in his official capacity as Director, U.S. Citizenship and Immigration Services,

Defendants-Respondents.

**PLAINTIFFS' SUPPLEMENTAL
MEMORANDUM OF LAW IN
SUPPORT OF MOTION FOR
TEMPORARY RESTRAINING
ORDER AND PROTECTIVE
ORDER**

Case No. 0:26-cv-417-JRT-DLM

I. INTRODUCTION

Events that have transpired as to Plaintiff-Petitioner U.H.A. during the last 36 hours underscore the urgency of the need for immediate action by this Court, and highlight the nefarious purposes for which Defendant-Respondents (“Defendants”) are engaged in a campaign to detain refugees *en masse*. Defendants’ actions confirm not only the accuracy of U.H.A.’s factual allegations regarding Defendants’ unlawful actions, but also his legal arguments that Defendants are engaging in activity not sanctioned by Congress and that immediate release is the only way to protect him from further irreparable injury.

II. ARGUMENT

Defendants’ conduct over the course of the last 48 hours provides additional support for Plaintiffs’ request for a Temporary Restraining Order and postponement of agency action pursuant to 5 U.S.C. § 705, and highlights the urgency of the need for individual and class-wide relief. *See* Mot. for TRO and APA 705 Postponement, ECF No. 16. U.H.A.’s experience underscores that refugee detentions are *not* being undertaken for the purpose of facilitating “inspection and examination for admission to the United States as an immigrant,” as Defendants have portrayed to the Court in their filings but to railroad refugees through a process explicitly designed to deprive them of their refugee status in the quickest way possible, and to deprive them of the assistance of counsel in their efforts to resist this railroading.

A. Defendants' attempts to interview U.H.A. without access to counsel.

On January 25, 2025, USCIS Officer Ferrell called and informed Petitioner's counsel E. Michelle Drake that USCIS wanted to interview U.H.A. but that he was insisting on having counsel present. (Declaration of E. Michelle Drake ("Drake Decl.") ¶¶ 2-5). Officer Ferrell stated that the purpose of the examination in detention was to "verify [Petitioner U.A.H.] was classified correctly as a refugee when he entered the United States." *Id.* ¶ 6. Officer Ferrell stated that counsel could not attend the interview because there was not a G-28 on file and that USCIS could not reschedule the interview. *Id.* ¶¶ 7, 11-12. Counsel's office was informed by USCIS only on Saturday, January 24 that USCIS would not accept a previously submitted G-28 because it was not hand-signed, but because the facility where U.H.A. is incarcerated does not allow in-person attorney visits on the weekend, counsel could not complete a hand-signed G-28. *Id.* ¶¶ 7-9. *See also Drake Decl. Exhibit 1.*

B. Section 1159 only allows "inspection and examination for admission to the United States as an immigrant." It does not allow inspection and examination for the purpose of refugee status termination or investigation.

These events confirm the unlawful arrests and detentions Defendants are carrying out under the auspices of Operation PARRIS are beyond the scope authorized by 8 U.S.C. §1159(a). *See* Mem. of Law ISO Mot. for TRO and APA 705 Postponement, ECF No. 16-2 at 34-36. Officer Ferrell's statement that the purpose of U.H.A.'s examination in detention was to "verify he was classified correctly as a refugee when he entered the United States," Drake Decl ¶ 6, confirms the purpose of the interview is to screen him for *termination of refugee status*. Refugee status termination is *not* the "inspection and

examination *for admission to the United States as an immigrant*” discussed in 8 U.S.C. § 1159(a) (emphasis added). Instead, refugee status termination is governed by other procedures which require DHS to provide 30 days for a refugee to present evidence, and which DHS has not argued provides them with any authority to detain.

Notably, Section 1159 is titled “Adjustment of Status.” *See id.* Adjustment of Status to lawful permanent resident, colloquially known as “green card status,” is the legal process by which a noncitizen is considered for eligibility for legal permanent residence. *Compare id.* (“examination for admission to the United States *as an immigrant*”) (emphasis added); *with* 8 U.S.C. § 1255(a) (Discussing the Attorney General’s discretion to adjust to LPR status an “alien [who] is eligible to receive an *immigrant* visa and is admissible to the United States for permanent residence, and [when] an *immigrant* visa is immediately available to him a...”); 8 C.F.R. § 245 (regulations for adjustment of status adjudications); *see id.* at (d)(i)(iii) (acknowledging a refugee whose “status ha[s] not been revoked” is in “lawful immigration status” for the purpose of adjustment).

The INA and implementing regulations set forth a procedure for seeking *terminate* a refugee’s status that is entirely separate from the process for *adjusting status* to that of a lawful permanent resident under 8 U.S.C. § 1159(a). Refugee status can be terminated only upon a finding that the individual “was not in fact a refugee within the meaning of” the refugee definition, section 1101(a)(42) “at the time of the [individual’s] admission.” *id.* § 1157(c)(4). The status termination process is governed by a binding agency regulation that mandates 30-day written notice, and, critically for this case, *does not authorize detention.*

See 8 C.F.R. § 207.9. Specifically, 8 C.F.R. § 207.9 requires DHS to "notify the alien in writing of its intent to terminate the alien's refugee status" and provide "30 days from the date notice is served upon him or herto present written or oral evidence to show why the alien's refugee status should not be terminated." Given the stakes of these examinations, and even regulations aside, due process also demands that interviews that could result in the termination of refugee status not take place under the types of circumstances Defendants have created here—namely incarceration, followed by transportation around the country, all surrounded by Kafkaesque written signature requirements imposed as a prerequisite to the participation of counsel.

Officer Ferrell's call makes crystal clear that consistent with DHS's own public announcements,¹—after detaining and terrifying refugees—DHS is engaging in a fishing expedition that is beyond the scope authorized by §1159(a) and untethered to the stated purpose of the non-detention "custody" referred to in that provision. DHS's purpose is not to conduct "inspection and examination for *admission to the United States as an immigrant*" as allowed by §1159. Instead, it is to re-examine refugee status, while using § 1159 and "written signature only" requirements as a fig leaf to hide Defendants' true goal—to detain and terrify immigrants while evading the notice requirements of 8 C.F.R. § 207.9 and depriving refugees of counsel during a life-changing investigation. And all of this, as President Trump has unabashedly stated, is driven by racial animus against

¹ <https://www.uscis.gov/newsroom/news-releases/dhs-launches-landmark-uscis-fraud-investigation-in-minnesota>

Somalis and others who he considers “garbage” and against whom he seeks “retribution.” While detention is not allowed under §1159 in any event, detention is also not allowed for purposes of status termination under 8 CFR §207.9.

C. Respondents’ detention of U.H.A. and class members is designed to deprive them of counsel during refugee termination proceedings.

Today’s development underscores that Plaintiff-Petitioner’s detention is not being used merely to facilitate a routine “inspection and examination for the purpose of admission to the United States an immigrant,” but rather to impede his access to counsel during those proceedings intended to terminate his status. It is profoundly troubling for the government to detain individuals, schedule high--stakes interviews, and then manufacture a logistical barrier to legal representation by insisting on a hand-written signature that the individuals’ detention itself makes impossible to obtain. The correspondence Petitioner’s counsel received from USCIS reads like something in a Kafka novel, as did Officer Ferrell’s decision to contact Petitioner’s Counsel regarding an immediate interview on a Sunday, only to inform Petitioner’s Counsel that Agent Ferrell was limited in her ability to have a substantive conversation with Counsel because Counsel did not have a G-28 hand-signed by UHA on file.

Plaintiff has a right to counsel under the APA during an interview for adjustment, termination of status or any other immigration-related benefit or detriment. *See* 5 U.S.C. § 555(b) (“A person compelled to appear in person before an agency or representative thereof is entitled to be accompanied, represented, and advised by counsel”); *cf. Doe v. McAleenan*, 415 F. Supp. 3d 971, 978 (S.D. Cal. 2019), *modified*, No. 19CV2119 DMS

AGS, 2019 WL 6605882 (S.D. Cal. Dec. 3, 2019) (holding access to counsel provision applied to non-refoulement interviews); *see also* 8 C.F.R. § 292.5(b) (stating that “[w]henver an examination is provided for in this chapter, the person involved shall have the right to be represented by an attorney or representative”); 8 C.F.R. § 103.2(a)(3) (any applicant or petitioner submitting a form to DHS prescribed by Chapter One of C.F.R. Title 8 may be represented by an attorney); 8 C.F.R. § 208.9 (an asylum applicant interviewed by an asylum officer may have counsel or a representative present); 8 C.F.R. § 244.8 (an applicant for Temporary Protected Status may have a representative who may “consult with and provide advice to the applicant”). And the denial of access to counsel during consequential proceedings that may determine Plaintiff’s liberty, safety, and future raises serious due process concerns. *Cf. Nativi-Gomez v. Ashcroft*, 344 F.3d 805, 807 (8th Cir. 2003) (right to counsel in removal proceedings is “an integral part of the procedural due process to which the [noncitizen] is entitled” (quoting *Iavorski v. U.S. I.N.S.*, 232 F.3d 124, 128 (2d Cir. 2000))).

Indeed, recognizing Plaintiff-Petitioner’s fundamental right to counsel, this Court has already enjoined Respondents from removing Plaintiff-Petitioner from Minnesota so that Plaintiff-Petitioner “may consult with counsel.” *See* ECF No. 3 (requiring Plaintiff-Petitioner to be returned to Minnesota in order to facilitate his consultation with counsel). Respondents’ new tactic effectively nullifies the Court’s injunction: although Plaintiff-Petitioner remains in Minnesota, Respondents are still denying him access to counsel by insisting on a hand-signed- form that Respondents’ own detention conditions make

impossible to obtain—undermining the very right to counsel that the Court expressly recognized and sought to protect.

The government's insistence on proceeding without counsel is evidence that the structure and timing of Plaintiff-Petitioner's detention function to deprive him of meaningful access to his attorney at the very moment he needs representation most.

D. Respondents' Detention of U.H.A. and Class Members is designed to deprive them of due process.

Notice and an opportunity to be heard are hallmarks of procedural due process. The United States is not, and has never been (until perhaps, now), a place where people are kidnapped off the street by masked men, thrown in jail, and told to appear for "interviews" while being simultaneously informed that their counsel cannot participate because the paperwork is not in order—an "issue" USCIS waited until the weekend to bring the issue to counsel's attention, at which point it was too late to correct. To determine whether a process is sufficient, courts consider (1) "the private interest that will be affected by the official action," (2) "the risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional or substitute procedural safeguards," and (3) "the Government's interest . . . that the additional or substitute procedural requirement would entail." *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976). Here, the interests at stake are high, and the process is non-existent. No advance notice. No opportunity to prepare (indeed any preparation would be impaired by Petitioner and the Class's detention). No counsel. Indeed, the only procedures the government has designed

(insistence on hand signed forms, refusal to reschedule, attempting to conduct interviews with zero notice) are transparently designed to *avoid* due process, not to facilitate it.

CONCLUSION

Refugees, including U.H.A., are in desperate need of this Court's assistance. In light of the arguments and circumstances presented herein, Plaintiffs respectfully request that, in addition to ordering that all detained refugees be released and other relief requested in ECF 16, this Court also:

1. Enjoin or stay under 5 U.S.C. § 705 Defendants' policy of conducting the "inspection and examination for admission to the United States as an immigrant" of Detained Subclass members, including U.H.A., without permitting the meaningful assistance of counsel;
2. Enjoin or stay under 5 U.S.C. § 705 Defendants' policy of conducting proceedings to terminate refugee status any Class Member, including U.H.A., without the 30 days' notice required by 8 C.F.R. §207.9; and
3. Enjoin or stay under 5 U.S.C. § 705 Defendants' policy of detaining any Class Member, including U.H.A. for the purpose of terminating refugee status.

Dated: January 25, 2026

Respectfully submitted,

/s/E. Michelle Drake

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** Pro hac vice applications forthcoming*

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