

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
Civil No. 26-cv-01426-SRB-JFD

JAMES GBOLAHAN OMOTOYINBO,

Petitioner,

v.

KRISTI NOEM, *et al.*,

Respondents.

**FEDERAL RESPONDENTS'
EMERGENCY REQUEST FOR
PERMISSION TO TRANSFER
PETITIONER**

The Federal Respondents are filing this emergency request for permission to transfer Petitioner James Gbolahan Omotoyinbo. On February 13, 2026, the Court entered an order prohibiting the Federal Respondents from moving Petitioner outside of Minnesota until further order of the Court. Dkt. 5. But as explained in the accompanying declaration (filed under seal to protect Petitioner's sensitive health information), the Department of Homeland Security cannot house Petitioner in Minnesota due to his serious medical needs. *See* Declaration of James L. Van Der Vaart ("Van Der Vaart Decl.") ¶¶ 4-6. He requires placement at a facility that can provide a higher level of care than any facility in Minnesota is willing to provide to Petitioner. Van Der Vaart Decl. ¶¶ 4-5. The Department of Homeland Security searched for appropriate facilities and identified the Montgomery Processing Center in Houston, Texas, as one that can administer the proper level of care to Petitioner. Van Der Vaart Decl. ¶ 6. This facility has accepted Petitioner for placement. Van Der Vaart Decl. ¶ 6.

The Federal Respondents' undersigned counsel contacted Petitioner's attorney regarding this issue and the urgent need to transfer Petitioner. When that outreach went unanswered, the Federal Respondents' undersigned counsel tried again—emphasizing the need for quick action. As of the time of this filing, no response has been received. Thus, the Federal Respondents do not know whether their request is opposed.

One additional point requires emphasizing. The Federal Respondents would be making this request regardless of their position on the merits of Petitioner's habeas petition because the need to provide appropriate treatment to him is paramount. But in this case, the merits will likely be resolved in the Federal Respondents' favor. ***This case is different from petitions challenging detention under 8 U.S.C. § 1225.*** The U.S. Immigration and Customs Enforcement ("ICE") does not assert authority to detain Petitioner under § 1225. He was admitted on a student visa, is now removable under the Immigration and Nationality Act, and has been placed in removal proceedings. *See* Dkt. 2-6, at 1. Because Petitioner is not "seeking admission" or an "arriving alien" for purposes of § 1225, he is detained pursuant to § 1226. That means Petitioner is eligible for a bond hearing and eligible to be released on bond. And Petitioner knows as much because he has already requested and received a bond hearing. An immigration judge set this matter for a hearing on February 21, 2026, at which time the immigration judge will presumably issue a decision on Petitioner's request for release on bond. But the immigration judge did ***not*** refuse to hold a bond hearing due to lack of jurisdiction under *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025).

Given these circumstances, the Federal Respondents respectfully request permission to transfer Petitioner to the Montgomery Processing Center in Houston, Texas, for the remainder of these proceedings. Because time is of the essence, the Federal Respondents respectfully suggest that emergency handling of this request is appropriate.

Dated: February 15, 2026

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s/ Trevor Brown

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