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

Petitioner James Gbolahan Omotoyinbo filed this habeas petition because he thinks the U.S. Immigration and Customs Enforcement ("ICE") is classifying his detention as arising under 8 U.S.C. § 1225(b) and refusing to afford him a bond hearing. On its face, this petition reads like just another one of the now-familiar cases challenging detention under § 1225 instead of § 1226. But this case is different. ICE is not asserting authority to detain Petitioner under § 1225. The agency instead agrees that Petitioner's detention arises under § 1226 and that he is entitled to a bond hearing. What makes this petition surprising is that Petitioner ***already asked*** the immigration court for a bond hearing, and an immigration judge ***already agreed*** to give him one. The only reason a bond hearing has not happened yet is that Petitioner's attorney—who also represents him in this case—stated during a hearing on January 21, 2026, that she was "not prepared to argue bond." The immigration judge therefore scheduled a follow-up hearing. Because Petitioner's pursuit of habeas relief is premised on the incorrect assertion that he is being detained under §1225, the Court should deny this petition outright. In the alternative, the Court should stay this case pending completion of a bond hearing in immigration court.

As a separate matter, the Court should grant the Federal Respondents' emergency request to transfer Petitioner to a facility that can provide him with the care he needs. *See* Dkt. 6. Petitioner's counsel indicated to the Court by email that any response to this request would be filed by the end of the day tomorrow. That is not quick enough. For the reasons described in the Federal Respondents' request, there is an urgent need to transfer Petitioner to an appropriate facility.

BACKGROUND

The Federal Respondents draw the following background from the petition and from the accompanying Declaration of Deportation Officer Angela Minner ("Minner Decl.").

Petitioner is a citizen of Nigeria. Pet. ¶ 35; Minner Decl. ¶ 4. He is not a United States citizen or lawful permanent resident. Minner Decl. ¶ 4. Petitioner was admitted into the country in August 2021 on an F-1 student visa, Pet. ¶ 35; Minner Decl. ¶ 5, and he attended an academic program in Texas before receiving authorization to engage in Optional[1] Practical Training ("OPT"), Pet. ¶ 36. But the University of North Dakota terminated Petitioner from OPT on December 8, 2025, citing his "verified threats against a colleague." Minner Decl. ¶ 6; *see also* Pet. ¶ 40. A few weeks later, University of North Dakota Police arrested Petitioner for violating a restraining order. Minner Decl. ¶ 8. The day after his arrest, Petitioner was convicted in North Dakota state court for violating the restraining order and sentenced to time served with 360 days of probation. Minner Decl. ¶ 8, Ex. A.

1 The petition incorrectly refers to this program as "Occupational" Practical Training. Pet. ¶ 36. That is not the right name. *See* 8 C.F.R. § 214.2(f)(10)(ii).

On December 31, 2025, ICE officers arrested Petitioner and issued a Notice to Appear that initiated removal proceedings against him. Minner Decl. ¶ 9, Ex. B. The Department of Homeland Security served additional charges of inadmissibility about a month later. Minner Decl. ¶ 10, Ex. C. As the Notice to Appear and additional charges explain, Petitioner's pursuit of OPT following his termination in early December 2025 was suspect. Petitioner told ICE officers that he was the CEO and majority-owner of a business named Dollar Knights, which had 5-6 employees and was a suitable employer for individuals with OPT. Minner Decl. Ex. B, at 6. Petitioner also submitted OPT documents purportedly signed by someone named "Matthew Ayodele." Minner Decl. Ex. C, at 1. But further investigation confirmed that "DollarKnight" was an inactive trade name registered in North Dakota with "James Omotoyinbo" listed as the owner. Minner Decl. Ex. C, at 1. ICE also determined that Petitioner's statements about being employed by "Matthew Ayodele" were false because that person had no legal or employment relationship with DollarKnight and did not actually review or sign any of Petitioner's OPT paperwork. Minner Decl. Ex. C, at 1. In other words, Petitioner was not in valid OPT or F-1 status following his termination from the University of North Dakota.

Petitioner is represented in his removal proceedings by the same lawyer representing him in this habeas action. Minner Decl. ¶ 12. There have already been two hearings in those proceedings, both of which were recorded. Minner Decl. ¶ 12. As the recording from the hearing on January 21, 2026, confirms, an immigration judge noted Petitioner's request for a bond redetermination and offered to proceed with a bond hearing. Minner Decl. ¶ 13. But Petitioner's lawyer deferred, stating that she was "not prepared to argue bond." Minner

Decl. ¶ 13. The immigration judge therefore scheduled a follow-up hearing, during which ICE anticipates Petitioner will be allowed and prepared to argue the issue of whether he should be released on bond. Minner Decl. ¶ 13. That makes sense because the Department of Homeland Security is not arguing in Petitioner's removal proceedings that he is subject to mandatory detention under § 1225. Minner Decl. ¶ 13.

Petitioner filed this habeas petition on February 13, 2026. Dkt. 1. That was three weeks ***after*** an immigration judge acknowledged Petitioner's request for a bond hearing and offered to proceed. Minner Decl. ¶ 13. And yet the petition makes no mention of the proceedings in immigration court. Nor does the petition acknowledge that an immigration judge offered Petitioner a bond hearing. Instead, the petition tries to piggyback off the recent litigation concerning detention under § 1225:

- Department of Homeland Security "policy asserts that all undocumented noncitizens deemed 'applicants for admission' are subject to mandatory detention under § 1225(b)(2)(A)." Pet. ¶ 57.
- Section "1226(a), not § 1225(b), applies to noncitizens who are not apprehended upon arrival to the United States." Pet. ¶ 58.
- "Petitioner's mandatory detention pursuant to § 1225(b) is unlawful and improper." Pet. ¶ 59.
- "8 U.S.C. § 1225(b)(2), which governs the detention of certain noncitizens seeking admission at the border, does not apply to [Petitioner's] circumstances. Nevertheless, Respondents improperly rely on that provision to justify his detention." Pet. ¶ 60.

The enumerated counts in the petition repeat these tactics. Count I alleges that "Respondents' purported basis for detaining Petitioner under 8 U.S.C. 1225(b)(2) has been

"Respondents' detention of Petitioner pursuant to 8 U.S.C. § 1231(a)(6) is arbitrary, capricious, and not in accordance with law," Pet. ¶ 75. Count II's invocation of § 1231 is particularly odd because the statute governs post-order detention and nobody is suggesting Petitioner is subject to a final order of removal.

ARGUMENT

The Court should deny this petition outright. Petitioner either misunderstands the nature of his current detention, or he is misconstruing it to take advantage of a favorable trend in recent habeas decisions in this District. The only other possibility is that Petitioner is inviting this Court to review whether he should be in removal proceedings at all because he thinks he still has valid F-1 status and OPT. But that invitation runs headlong into the jurisdiction-stripping provisions of § 1252(g). No matter the reasons why Petitioner initiated this case, the result is that he is not entitled to habeas relief.

I. Detention Under § 1226

Petitioner is not subject to mandatory detention under § 1225. ICE has not advanced that position in immigration court, and the agency has disavowed that position in this case. *See* Minner Decl. ¶ 13. The immigration judge presiding over Petitioner's removal proceedings does not seem to think this is a mandatory-detention case, either. The only reason a bond hearing was not held last month is that Petitioner's attorney was not ready to argue for a bond. Minner Decl. ¶ 13. Neither count in the petition challenges Petitioner's detention under § 1226, and he has failed to establish any basis for habeas relief.

Under §1226(a), noncitizens like Petitioner "may be arrested and detained pending a decision on whether [they are] to be removed from the United States." *See also Jennings* *v. Rodriguez*, 583 U.S. 281, 288 (2018) ("Section 1226 generally governs the process of arresting and detaining that group of aliens pending their removal."). And federal regulations provide authority for an immigration judge to make a custody determination and set a bond after an initial determination by an ICE official. *See, e.g.*, 8 C.F.R. §§ 236.1(d)(1) and 1236.1(d)(1). All of this is happening in Petitioner's removal proceedings. His argument about detention under § 1225 therefore lacks merit. So does his out-of-place argument about detention under § 1231. Because Petitioner does not raise any grounds for habeas relief that are specific to his detention under §1226, the Court should deny this petition in its entirety. In the alternative, the Court should stay any further proceedings until the immigration judge rules on Petitioner's already-pending request for release on bond.

II. Section 1252(g).

An undertone in the petition is that Petitioner thinks he is still in valid F-1 status by virtue of various OPT extensions he filed. *See* Pet. ¶¶ 9-11, 36-45. The implication is that Petitioner should not be in removal proceedings at all because he has lawful status. *See, e.g.*, Pet. ¶ 54 ("[H]e is not subject to a final removal order and is actively seeking protection through a pending STEM OPT extension application."). But that argument is foreclosed by the jurisdiction-stripping provisions in § 1252(g) because it asks the Court to review the government's decision to commence and continue removal proceedings.

Section 1252(g), as amended by the REAL ID Act, specifically deprives courts of jurisdiction (including habeas jurisdiction) to review "any cause or claim by or on behalf of any alien arising from the decision or action by the Attorney General to commence proceedings, adjudicate cases, or execute removal orders against any alien under this chapter."[2] *See also Reno v. Am.-Arab Anti-Discrimination Comm.*, 525 U.S. 471, 483 (1999) (noting the "good reason for Congress to focus special attention upon, and make special provision for, judicial review of the Attorney General's discrete acts of commencing proceedings, adjudicating cases, and executing removal orders -- which represent the initiation or prosecution of various stages in the deportation process" (cleaned up)). That bar applies in this case. Petitioner's arguments about his current status and OPT extensions take aim at the wisdom of the decision to commence removal proceedings against him. Those arguments need to be resolved in immigration court, then by the Board of Immigration Appeals, and finally by the Eighth Circuit. This Court lacks jurisdiction to entertain Petitioner's request for habeas relief on the grounds that he should not be in removal proceedings to begin with.

CONCLUSION

For the reasons explained above, the Court should deny this habeas petition on the merits. In the alternative, the Federal Respondents respectfully request that the Court stay

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[2] Congress initially passed § 1252(g) in the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, Pub. L. 104-208, 110 Stat. 3009. In 2005, Congress amended § 1252(g) by adding "(statutory or nonstatutory), including section 2241 of title 28, United States Code, or any other habeas corpus provision, and sections 1361 and 1651 of such title" after "notwithstanding any other provision of law." REAL ID Act of 2005, Pub. L. 109-13, § 106(a), 119 Stat. 231, 311. After Congress enacted the Homeland Security Act of 2002, § 1252(g)'s reference to the "Attorney General" includes the Secretary of Homeland Security. 6 U.S.C. § 202(3); *see also Enriquez-Perdomo v. Newman*, 54 F.4th 855, 863 & nn.3–4 (6th Cir. 2022) (explaining the historical development of § 1252(g)).

further proceedings in this case until an immigration judge rules on Petitioner's request for a bond. Regardless of which approach the Court takes, the Federal Respondents also request an order granting them permission to move Petitioner to a facility that can provide him with the appropriate level of care for his particular needs.

Dated: February 17, 2026

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