
UNITED STATES DISTRICT COURT

DISTRICT OF MINNESOTA

James Gbolahan Omotoyinbo

**PETITIONER'S RESPONSE TO
RESPONDENT'S EMERGENCY
REQUEST TO TRANSFER
PETITIONER**

Plaintiff(s)

Case No: 0:26-cv-01426-SRB-JFD

v.

Kristi Noem et al.

Defendant(s)

Respondents submitted emergency request for permission to transfer petitioner outside of the District of Minnesota submitted in response to the emergency temporary restraining order granted by this Court on February 13, 2026. Petitioner submits this response to Respondents' emergency request. The Court should dismiss the Respondents' emergency request to transfer Petitioner outside of the District of Minnesota.

Respondents' purport to require Petitioner's transfer outside of the District of Minnesota "to a facility that can provide him with the care he needs." Petitioner is currently receiving mental health treatment at Kandiyohi County Jail, including medical management, and there are several suitable mental health care facilities within the District of Minnesota where Respondents could ensure Petitioner receives additional mental health treatment, if necessary, without transferring him out of the District of

Minnesota. Petitioner is currently detained at the Kandiyohi County Jail in Willmar, Minnesota. Petitioner's continued detention is a violation of his Due Process rights under the Fifth Amendment. Further, Petitioner respectfully requests that the Court grant Petitioner's request for habeas relief.

BACKGROUND

Petitioner is a citizen and national of Nigeria who entered the United States on or about August 7, 2021, on an F-1 student visa pursuant to Section 101(a)(15)(F) of the Immigration and Nationality Act (INA). Petitioner timely filed Form I-983 to apply for extension of his STEM OPT prior to the expiration of his initial 12-month OPT period on October 4, 2025, entitling him to an automatic 180-day extension of his employment authorization pending USCIS' decision. Petitioner's employment with the University of North Dakota was terminated on December 8, 2025; on December 16, 2025, Petitioner commenced employment pursuant to his timely filed STEM OPT extension application. Despite his timely filed STEM OPT extension application, on December 31, 2025, Petitioner was taken into ICE custody, for allegedly failing to maintain his non-immigrant status. Petitioner is currently detained at the Kandiyohi County Jail in Willmar, Minnesota.

Petitioner has continuously maintained his non-immigrant status pursuant to the regulations and, critically, Petitioner timely filed his STEM OPT extension application prior to the expiration of his STEM OPT based on his employment for DollarKnight. Regardless of Respondents' claims as to Petitioner's eligibility for extension of his STEM OPT based on this employer-employer relationship, Petitioner is nonetheless entitled to an automatic 180-day extension of his employment authorization and remains

in valid F-1 status up and until the date that the petition is adjudicated by USCIS. Respondents' unlawfully detained Petitioner prior to any decision being made by USCIS regarding the STEM OPT extension application and continuing to detain Petitioner is a violation of his due process rights.

Respondents' improperly claim that Petitioner committed fraud in his STEM OPT extension application without providing evidence to support that claim. Further, Petitioner maintains that at the time of filing his STEM OPT extension application, Matthew Ayodele was employed by DollarKnight and both reviewed and signed Petitioner's OPT paperwork. Several months after filing, Matthew Ayodele was fired by DollarKnight and, at present, is no longer employed by the company. Moreover, Petitioner maintains that following the timely filed STEM OPT extension application, DollarKnight began the process of transitioning from unregistered tradename to limited liability company (LLC).

Respondents argue that Petitioner is eligible for a bond hearing under Section 1226(a), however, exhaustion of remedies is not required in order for Petitioner to submit his petition for a Writ of Habeas Corpus to this Court. No statutory requirement of administrative exhaustion applies to Petitioner's challenge to the unlawfulness of his detention. Moreover, the judicially created "general rule that parties exhaust prescribed administrative remedies before seeking relief from the federal courts" does not apply to Petitioner's present challenge, as there are no prescribed administrative remedies to which he could resort. *McCarthy v. Madigan*, 503 U.S. 140, 144–45 (1992), superseded by statute on other grounds as recognized in *Woodford v. Ngo*, 548 U.S. 81 (2006).

Further, neither an immigration judge nor the Board of Immigration Appeals can rule on a petitioner's constitutional claims. See *Matter of R-A-V-P-*, 27 I. & N. Dec. 803, 804 n.2 (B.I.A. 2020) (holding that IJs and the BIA lack any authority to consider the constitutionality of the statutes or regulations governing immigration detention that they administer and are bound to follow); *Matter of C--*, 20 I. & N. Dec. 529, 532 (B.I.A. 1992) (“[I]t is settled that the immigration judge and this Board lack jurisdiction to rule upon the constitutionality of the Act and the regulations.”); see also *Gonzalez v. O’Connell*, 355 F.3d 1010, 1017 (7th Cir. 2004) (noting that “the BIA has no jurisdiction to adjudicate constitutional issues”).

Petitioner is unlawfully detained by Respondents and respectfully requests that the Court finds his continued detention a violation of his due process rights and grants his request for habeas relief. Petitioner is entitled to habeas relief as he is detained in violation of the Constitution and laws of the United States.

ARGUMENT

I. Respondents’ Emergency Motion to Transfer Petitioner Out of the District Should Be Dismissed.

The Court should dismiss Respondents’ emergency motion to transfer Petitioner out of the District of Minnesota. Respondents’ purport to require Petitioner’s transfer out of the District “to a facility that can provide him with the care he needs.” On February 15, 2026, Respondents filed emergency request for permission to transfer Petitioner to the Montgomery Processing Center in Houston, Texas, alleging that this facility “can provide a higher level of care than any facility in Minnesota is willing to provide to Petitioner.”

Critically, numerous detainees have reportedly died at the Montgomery Processing Center, including a recent death on January 5, 2026, at the facility. A 2020

Congressional Report found that the average length of time ICE detainees were kept in solitary confinement at the Montgomery Processing Center was 14.5 days. A September 2025 Report published by Physicians for Human Rights found that Montgomery was among the top five facilities with the highest number of people reported in solitary confinement nationwide (1,075 people). Solitary confinement has been shown to cause severe, lasting psychological harm and is associated with increased risk of suicide.

Numerous mental health care facilities exist within the District of Minnesota where Petitioner could receive a higher level of care than currently available to him at the Kandiyohi County Jail, if necessary. Review of the Minnesota Aging & Disability Resources website shows at least twelve psychiatric hospitals in the State of Minnesota, including the CentraCare Rice Memorial Hospital in Willmar, Minnesota, located in close proximity to the facility where Petitioner is currently detained. Should Petitioner require a higher level of care than available to him at the Kandiyohi County Jail, Respondents can ensure that level of care be provided to Petitioner without transferring him out of the District of Minnesota.

Further, Petitioner has conveyed to Counsel that he has received mental health treatment since having initially being detained. Petitioner was able to have a remote consultation with a psychiatric provider at the Grand Forks County Correctional Center in Grand Forks, North Dakota, where he was previously detained, and received a prescription for mental health medication. Petitioner has also conveyed to Counsel that his prescription was transferred with him to the Kandiyohi County Jail and that he remains stable and on medication to date at the facility where he is currently detained.

Notably, the Department of Homeland Security (DHS) published a Mental Health Infographic on its' website in 2021 which states that "ICE currently has two detention locations with dedicated mental health units to accommodate unique mental health needs of noncitizen detainees: the Krome Behavioral Health Unit (KBHU) [in Miami, Florida] and the Adelanto ICE Processing Center [in Adelanto, California]." Respondents fail to provide explanation for why the Montgomery Processing Center in Houston, Texas, can provide a higher level of care to Petitioner than currently available to him in the District of Minnesota, nor do Respondents intend to transfer Petitioner to one of the only two specialized ERO facilities in the United States with dedicated mental health units.

Petitioner has retained counsel in the District of Minnesota to challenge his arrest and detention; furthermore, Petitioner's transfer could prolong his detention and adjudication of his claims unnecessarily. Accordingly, Respondents' emergency request for permission to transfer Petitioner lacks sufficient basis and Petitioner respectfully requests that this Court dismiss the emergency request.

II. Petitioner's Continued Detention Under § 1226(a) is Unlawful.

Since late March 2025, hundreds – if not thousands – of students and recent graduates with F-1 visas have had their Student Exchange and Visitor Information System ("SEVIS") records abruptly terminated, effectively stripping them of their F-1 status. Upon information and belief, ICE terminated these SEVIS records – and effectively terminated F-1 student status, considering the benefits and privileges that depend upon having an active SEVIS record – in violation of the relevant regulations, and without notice, adequate explanation, or an opportunity to be heard.

The termination of a student's SEVIS record, and the termination of F-1 student status that is communicated as a result, causes irreparable harm, including immediately terminating the student's employment authorization, foreclosing future F-1 based employment applications like Curricular Practical Training ("CPT") and Optional Practical Training ("OPT"), precluding the student from continuing and completing their course of study, preventing the student from reentering the United States on his or her F-1 visa should they depart, and immediately rendering the student vulnerable to ICE arrest, detention, and deportation.

Petitioner is a recent graduate of Collins College who has been living and working in the United States under OPT. OPT permits recent graduates on F-1 visas to accept temporary employment "directly related to the student's major area of study," including after they have completed their course of study. 8 CFR § 214.2(f)(10)(ii). Petitioner is an accomplished cybersecurity professional and worked very hard to achieve what he has in his academic career, in which he recently obtained his undergraduate degree. Petitioner has invested significant time and money in his education. In choosing to come to the United States to study, Petitioner relied on existing laws, regulations, and policies.

The grounds cited by Respondents do not provide legal authority to terminate Petitioner's SEVIS records or F-1 student status. Prior to his arrest, Petitioner was "maintaining status," in that he was participating in OPT as his F-1 visa allowed. Respondents allege that Petitioner is no longer in valid F-1 status, however, Petitioner has received no documentation of the termination of his SEVIS record to date, and

Respondents have failed to provide any substantive documentation supporting their claims in their response to Petitioner's habeas petition.

Notably, Respondents have recently detained other students whose F-1 visas and/or SEVIS status have been revoked. For example, after ICE terminated the SEVIS record of Tufts child development PhD student Rümeysa Öztürk, Ms. Öztürk was suddenly and without notice arrested on the street by plainclothes ICE officers. ICE officers drove her around to multiple locations in New England before finally detaining her in an ICE detention center in Louisiana and placing her in removal proceedings, where she has now been denied release on bond though there is no evidence of flight risk or danger to the community. The only removal charge against her is based upon her F-1 student status having been terminated. Likewise, Aditya Harsono, a 33-year-old father living in Minnesota, while completing OPT employment at a healthcare company and applying for status through his U.S. citizen wife and caring for his young daughter, was arrested without prior notice by plainclothes ICE officers. Although an immigration judge granted Mr. Harsono bond, ICE appealed that decision, leaving him detained in a county jail that contracts with ICE.

Petitioner's continued detention is a violation of his Fifth Amendment right to Due Process. Due Process, which is guaranteed by the Fifth Amendment to the Constitution of the United States, requires notice and a meaningful opportunity to be heard. No such process was provided here. Upon information and belief, Respondents policy of unconstitutionally terminating SEVIS records is designed to coerce international students, including Petitioner, into abandoning their studies and leaving the country, despite their ongoing academic progress and their contributions to the United

States. By unilaterally terminating students' SEVIS records on grounds that fall outside the regulatory limits, and providing only vague explanatory notations without any notice to students or opportunity to contest the grounds for these terminations, Respondents are misusing SEVIS to circumvent the law and the Constitution, and to drive international students out of the country without due process and in violation of DHS regulations.

SEVIS status termination is governed by SEVP policy and regulations. The regulations distinguish between two separate ways a student may lose status: either (1) a student fails to maintain status, or (2) through an agency-initiated termination of status. *See* 8 C.F.R. §§ 214.1(d), 214.2(f). Although proof that a student has maintained status can be grounds for dismissing removal proceedings when a student visa has been revoked, 8 C.F.R. § 1003.18(d)(ii)(B), the Immigration Judge has no ability to review the F-1 student status termination itself. *See Jie Fang*, 935 F.3d at 183.

Students fail to maintain F-1 student status under the SEVIS system when they do not comply with the regulatory requirements, such as by failing to maintain a full course of study, engaging in unauthorized employment, or violating other requirements under 8 C.F.R. § 214.2(f). In addition, 8 C.F.R. §§ 214.1(e)-(g) outlines specific circumstances where certain conduct by a nonimmigrant visa holder "constitute[s] a failure to maintain status," including engaging in unauthorized employment, providing false information to DHS, or being convicted (not merely charged) of a crime of violence with a potential sentence of more than a year.

Agency-initiated termination of F-1 student status via the SEVIS system "is limited by [8 C.F.R.] § 214.1(d)." *Jie Fang*, 935 F.3d at 185 n.100. Under this regulation, DHS can only terminate F-1 student status in three scenarios: (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).

Students who have lost their F-1 status – either through a failure to maintain their status or through agency-initiated revocation – may seek reinstatement through an administrative process. Under regulations, United States Citizenship and Immigration Services (“USCIS”) “may consider” reinstating a student who demonstrates that he or she: (1) “[h]as not been out of [valid F-1] status for more than 5 months at the time of filing the request for reinstatement (or demonstrates that the failure to file within the 5 month period was the result of exceptional circumstances and that the student filed the request for reinstatement as promptly as possible under these exceptional circumstances)”; (2) “[d]oes not have a record of repeated or willful violations of Service regulations”; (3) “[i]s currently pursuing, or intending to pursue, a full course of study”; (4) “[h]as not engaged in unauthorized employment”; (5) “[i]s not deportable on any ground other than 8 U.S.C. § 1227(a)(1)(B) and (C)(i) of the Act”; and (6) establishes “to the satisfaction of USCIS” either that “[t]he violation of status resulted from circumstances beyond the student’s control,” or that “[t]he violation relates to a reduction in the student’s course load that would have been within a DSO’s power to authorize, and that failure to approve reinstatement would result in extreme hardship to the student.” 8 C.F.R. § 214.2(f)(16)(i)(A)-(F); see also *Jie Fang*, 935 F.3d at 176.

While individuals whose F-1 status or SEVIS records have been terminated can apply for reinstatement, there is no opportunity to seek review of the status termination

itself, *Jie Fang*, 935 F.3d at 183, and it does not prevent ICE enforcement actions as a result of those terminations. In fact, a student must already be out of status to be considered for reinstatement. See 8 C.F.R. § 214.2(f)(7)(iii), (8)(i). Moreover, reinstatement is entirely at the discretion of USCIS, and no appeal is available to the student. *Jie Fang*, 935 F.3d 172, 176 (3d Cir. 2019) (citation omitted).

If DHS believes that a student is deportable for any reason, such as a revoked visa or criminal convictions, the agency may initiate removal proceedings in Immigration Court. The agency cannot lawfully do what the Respondents have purportedly done in this case: namely, strip students of their F-1 status by terminating SEVIS records without alleging any of the three, limited grounds upon which the agency can initiate a status termination, see 8 C.F.R. § 214.1(d), in an attempt to revoke their ability to lawfully remain in the United States.

Notably, Petitioner does not challenge revocation of his F-1 visa through this action; indeed, Petitioner has not received any notice that his F-1 visa was revoked, which would trigger notice and an opportunity to be heard. Rather, Petitioner brings this action, in part, to challenge the unlawful purported termination of his SEVIS record and F-1 student status, which is by contrast effectively unreviewable.

The unlawful terminations of Plaintiffs' SEVIS records are part of a large-scale pattern, practice, and/or policy being pursued by Respondents, whether written or not, to cancel the status of hundreds – if not thousands – of international students nationwide who have not engaged in conduct that would warrant the termination of their F-1 status. Respondents have done so without having any lawful basis for the terminations and without complying with the process required for status termination. Under the normal

process, a failure to maintain status would be reported by the student or the DSO, then the DSO would upload documentation to support to termination in SEVIS. Here, however, Respondents' purpose is to compel students to leave the United States by leveling vague, boilerplate accusations of failure to maintain status against them with no clear forum for redress.

The unlawful SEVIS terminations have also been the subject of lawsuits filed in federal district courts across the country. Recently, several district courts have issued temporary restraining orders similar to the one sought here, and on similar legal theories, including this Court. *See, e.g., Doe #1 v. Trump*, No. 2:25-cv-02825-MCA-LDW, ECF 13 (D.N.J., Apr. 18, 2025); *C.S. v. Noem*, No. 2:25-cv-00477-WSS, ECF 22 (W.D. Pa. Apr. 15, 2024); *Doe v. Noem*, No. 2:25-cv-00040-DLC, ECF 11 (D. Mont. Apr. 15, 2025); *Doe v. Trump*, No. 4:25-cv-00175-AMM, ECF 7 (D. Ariz. Apr. 15, 2025); *Hinge v. Lyons*, No. 1:25-cv-01097-RBW, ECF 11 (D.D.C. Apr. 15, 2025); *Rantsantiboom v. Noem*, No. 0:25-cv-01315-JMB-JFD, , ECF 20 (D. Minn. Apr. 15, 2025); *Wu v. Lyons*, No. 1:25-cv-01979-NCM, ECF 9 (E.D.N.Y. Apr. 11, 2025); *Zheng v. Lyons*, No. 1:25-cv-10893-FDS, ECF 8 (D. Mass. Apr. 11, 2025); *Liu v. Noem*, No. 25-cv-133-SE, ECF 13 (D.N.H. April 10, 2025); *Bejugam v. Lyons*, 2:23-cv-0057, ECF No. 17, (N.D. Ala. April 17, 2025).

Respondents' purported termination of Petitioner's F-1 student status under the SEVIS system is a final agency action. *See Jie Fang*, 935 F.3d at 182 ("The order terminating these students' F-1 visas marked the consummation of the agency's Decision making process, and is therefore a final order[.]"). Respondents' termination of Petitioner's SEVIS record violates the Administrative Procedure Act ("APA") and should

be set aside pursuant to 5 U.S.C. § 706(2)(A)-(D) because it was arbitrary and capricious, an abuse of discretion, contrary to constitutional right, contrary to law, and in excess of authority, including the regulatory regime at 8 C.F.R. § 214.1(d).

Respondents did not follow DHS's own regulations in deciding to terminate Petitioner's student status, if such an action has indeed been taken. Respondents have no statutory or regulatory authority under 8 C.F.R. § 214.1(d) to terminate Petitioner's SEVIS record – effectively terminating their F-1 student status. Nothing in Petitioner's records provides a substantive statutory or regulatory basis for termination or even for determining that Petitioner has failed to maintain his F-1 status. Defendants further failed to consider Petitioner's individual circumstances, and did not provide any explanation – let alone reasoned explanation – justifying their determinations, and thereby did not comport with the regulatory regime at 8 C.F.R. § 214.1(d).

Respondents' unlawful F-1 student status termination on behalf of Petitioner is a violation of the Due Process Clause of the Fifth Amendment. The United States Constitution requires notice and a meaningful opportunity to be heard. See *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976) (“The fundamental requirement of due process is the opportunity to be heard at a meaningful time and in a meaningful manner.”).

Respondents terminated Petitioner's F-1 student status and associated SEVIS record without (i) notifying him about this termination decision, (ii) providing specific grounds for this decision, (iii) providing Petitioner with an individualized hearing before an impartial adjudicator, and (iv) providing Petitioner with adverse evidence and an opportunity to confront and respond to such evidence. Respondents' disregard for, and failure to comply with, these fundamental well-established due process principles

violated Petitioner's rights under the Due Process Clause of the Fifth Amendment to the Constitution of the United States.

Respondents' purported termination of Petitioner's SEVIS record was also a violation of the *Accardi* doctrine because in terminating the records, ICE failed to follow the federal agency's own rules, including 8 C.F.R. § 214.1(d), which specifies the lawful mechanisms through which F-1 status can be terminated. *See Accardi v. Shaughnessy*, 347 U.S. 260 (1954); *Leslie v. Attorney General of U.S.*, 611 F.3d 171 (3d Cir. 2010) (describing "the long-settled principle" applied in *Accardi* "that rules promulgated by a federal agency that regulate the rights and interests of others are controlling upon the agency").

Respondents have adopted a policy, or have engaged in a pattern and practice, of unilaterally terminating students' SEVIS records for reasons that are not legitimate grounds for terminating status under 8 C.F.R. § 214.1(d). As a part of this policy and/or practice, Respondents failed to provide notice to students or DSOs concerning the terminations, and did not clarify the reasoning for their individual status terminations. This policy and/or pattern and practice constitutes a final agency action and violates the Administrative Procedure Act (APA) and should be set aside pursuant to 5 U.S.C. § 706(2) as arbitrary, capricious, an abuse of discretion, contrary to constitutional right, contrary to law, and in excess of statutory jurisdiction, and a violation of the *Accardi* doctrine and federal agencies' own rules, *see Accardi*, 347 U.S. 260.

Finally, Petitioner's unlawful detention is a violation of the Due Process Clause of the Fifth Amendment to the United States Constitution. The Fifth Amendment requires fair, pre-deprivation process when a person's liberty hangs in the balance. No such

process was provided here with respect to the termination of SEVIS records. In light of this unlawful termination of Petitioner's SEVIS record and F-1 student status, Petitioner is now detained without prior notice or an opportunity to be heard, the very fundamentals of Due Process.

There is no credible argument for permitting Petitioner's detention by immigration authorities. Petitioner is a recent graduate who has maintained status by complying with all conditions necessary to maintain F-1 student status; Petitioner has taken no action that would justify a termination of status. Nor can his detention be justified. See *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001) (finding immigration detention must further twin goals of (1) ensuring noncitizen's appearance during removal proceedings and (2) preventing danger to the community).

III. Petitioner Qualifies for Remaining Independent Grounds for Relief.

a. Respondents Failed to Obtain a Warrant as a Prerequisite of Petitioner's Detention Pursuant to Section 1226(a).

Respondents concede that Petitioner is detained pursuant to Section 1226(a), however, Respondents did not make any argument concerning their failure to comply with a statutory requirement that they obtain a warrant prior to arresting Petitioner as a prerequisite to detention. See *Ahmed M. v. Bondi*, No. 25-CV-4711 (ECT/SGE), 2026 WL 25627, at *3 (D. Minn. Jan. 5, 2026); *Juan S.R. v. Bondi*, No. 26-CV-5 (PJS/LIB), Doc. No. 8 at 3–4 (D. Minn. Jan. 1, 2026). See also 8 U.S.C. § 1226(a) (“On a warrant issued by the Attorney General, [a noncitizen] may be arrested and detained pending a decision on whether the [noncitizen] is to be removed from the United States.” (emphasis added)). The Petition alleges that Petitioner's arrest was warrantless, and Respondents have not presented evidence to the contrary. Respondents do not present any argument

concerning their failure to comply with a statutory requirement that they obtain a warrant prior to arresting Petitioner. Consequently, on this independent basis, the Court should grant the Petition and orders Petitioner's immediate release.

Accordingly, in light of Respondents' unlawful detention of Petitioner, their failure to comply with statutory and procedural requirements, and their lack of any substantive response to critical aspects of Petitioner's claims, Petitioner respectfully requests that the Court grant the Petition and order Petitioner's immediate release.

Dated: February 18, 2026

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