

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
SEATTLE DIVISION

Arthur Xing a/k/a Youyuan Xing,)
)
Plaintiff,)
)
v.)
)
Todd M. Lyons, Acting Director, U.S.)
Immigration and Customs Enforcement,)
)
Defendant.)
_____)

DECLARATION OF ARTHUR XING

Pursuant to I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct:

1. I am over eighteen years old, and I am competent to make this declaration.
2. I am a citizen and national of the People's Republic of China.
3. In the United States, I go by the name Arthur Xing because it is easier for my friends, colleagues, and professors to pronounce than my legal name, Youyuan Xing. This is common among Chinese students and professionals living in the United States.
4. I first came to the United States to attend Skagit Valley College to get an Associate in Arts and Sciences degree in 2015.
5. After I told Skagit Valley College I intended on attending, they sent me a Form I-20.
6. Based on the Form I-20, I applied for an F-1 visa, attended a consular interview, at the U.S. Consulate in Beijing, and the U.S. Department of State issued me an F-1 visa on 02/06/2015. The F-1 visa was good from 06/02/2015 to 05/28/2020.

YX

1 7. I then used my F-1 visa to travel to the United States where I sought admission on my F-1
2 visa at a lawful port of entry.

3 8. U.S. Customs and Border Protection admitted me in F-1 status for a duration of status or
4 “d/s” on 09/11/2015.

5 9. I then pursued my associate’s degree at Skagit Valley College.

7 10. During my time there, however, I got into a fight with a partner and someone called the
3 police on us. I was arrested, but I was immediately released and all charges dropped when my
9 partner explained to the police that I was not violent towards her at all. They dismissed all
1 charges.

2 11. After my release from prison, I transferred to Whatcom Community College, where I
3 graduated with honors with an Associate in Arts and Sciences degree. I then pursued a
4 Bachelor's degree in Computer Science at UC Davis, followed by a Master’s degree in
5 Information Systems from Northeastern University.

5 12. I completed my degree at Northeastern, and I applied for an optional practical training
7 program that would let me work with a private company to get the necessary experience.

3 13. I moved to Redmond, Washington, to attend my practical training program. Because I am
9 a STEM major, I can get up to 3 years of practical training in my field.

1 14. However, on April 8, 2025, U.S. Immigration and Customs Enforcement (“ICE”)
2 terminated my SEVIS record.

3 15. Because Northeastern still retains control over my F-1 visa, I received an email from their
4 international student office letting me know that my SEVIS Record was terminated with the
5 following notation: “Individual identified in criminal records check and/or has had their visa
6 revoked. SEVIS record has been terminated.”

28 YX

16. If the government had given me an opportunity to respond to their charge of termination, I would have provided documents to show that I never failed to maintain status because all charges were dismissed immediately.

17. But they gave me no chance to respond.

18. This termination immediately causes me a lot of harm.

19. First, I lost my F-1 immigration status. I cannot continue my optional practical training program in Seattle, even though I am eligible for one year of practical training.

20. When I looked at their website, ICE instructs students to “leave immediately” after such a termination or apply for reinstatement. But as a student on optional practical training, I cannot apply for reinstatement. So, ICE is telling me to leave the country immediately.

21. Second, it is my understanding I am now accruing unlawful presence in the United States. This will hurt my chances at seeking re-admission in the future for work, pleasure, or investment.

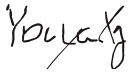
22. Third, the government’s claim that a dismissed charge is a “crime” hurts me. This will hurt my chances because it impugns my integrity and stigmatizes me.

23. Finally, this is causing me serious mental anguish. I am working very hard during my training program and I will lose the benefits of my work to date, if I am forced to abruptly leave the United States. The thought of losing all of the work is very hard to deal with and it is causing me serious mental anguish and harm.

24. I plead with the Court to stop this termination so I can continue to work and leave the United States without any adverse impact on my ability to return lawfully in the future.

Pursuant to 28 U.S.C. § 1746(2), I declare under penalty of perjury that the foregoing is true and correct.

Executed on 04 / 23 / 2025



Arthur Xing



Audit trail

Title	Declaration
File name	Ex_A_-_Xing_Declaration_FINAL.pdf
Document ID	e4c7610a4241db9e8e1732be8adf4feaa95b8e31
Audit trail date format	MM / DD / YYYY
Status	● Signed

Document History



SENT

04 / 23 / 2025

11:08:30 UTC-4

Sent for signature to Arthur Xing (yyx5599@gmail.com) from
brad@baniaslaw.com
IP: 73.131.78.236



VIEWED

04 / 23 / 2025

13:23:47 UTC-4

Viewed by Arthur Xing (yyx5599@gmail.com)
IP: 172.92.174.145



SIGNED

04 / 23 / 2025

13:49:12 UTC-4

Signed by Arthur Xing (yyx5599@gmail.com)
IP: 174.224.205.80



COMPLETED

04 / 23 / 2025

13:49:12 UTC-4

The document has been completed.

Skagit County District and Municipal Courts

☐ State of Washington
☒ City of Mount Vernon
 Plaintiff,
 vs.
Yuyan Xing
 Defendant.

No: MCD0032356
 MOTION TO DISMISS AND/ OR AMEND, AND
 ORDER ON MOTION

FILED
 JUN 27 2017
 MOUNT VERNON
 MUNICIPAL COURT

COMES NOW the ☒ Plaintiff ☐ Defendant and moves the Court to grant the following relief:

☒ Dismiss the charge of Assault + 4 - DV

☐ Amend the charge of _____ to _____

☐ Quash warrant ☒ Waive warrant fees

☐ _____

**NO CASE WILL BE DISMISSED OR CLOSED UNLESS
 ALL OUTSTANDING WARRANT FEES ARE PAID**

THIS MOTION is made for the following reason(s):

☐ Part of disposition of Case # _____ ☐ Not able to obtain sufficient evidence to convict.

☒ Interest of Justice _____ ☒ Other: Compliance with SC

DATED this 27 day of June, 2017.

Counsel for Plaintiff:

☒ Moving Party ☐ Consents ☐ Opposes

WSBA # 28414

Certified to be a true copy
 of the original on file in
 Mount Vernon Municipal Court

L. Owen 3.14.2019
 Clerk Date

Counsel for Defendant:

☐ Moving Party ☒ Consents ☐ Opposes

WSBA # 51450

Defendant:

Yuyan Xing

☒ The above motion is ☒ GRANTED ☐ DENIED ☐ DEFENDANT FTC/FTA ☐ ISSUE WARRANT

☐ RESET to _____ 20____ at _____ M for _____

DATED 6/27/17

[Signature]
 JUDGE/COMMISSIONER

April 18, 2025

U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
California Service Center
2642 Michelle Drive
Tustin, CA 92780



U.S. Citizenship
and Immigration
Services

Form I-129,
Petition for a Nonimmigrant Worker

PREMIUM PROCESSING

NOTICE OF INTENT TO DENY

On March 6, 2025, your organization, [REDACTED], filed a Form I-129, Petition for a Nonimmigrant Worker (Form I-129), with U.S. Citizenship and Immigration Services (USCIS), seeking to classify [REDACTED] (beneficiary) as a temporary worker in a specialty occupation (H-1B) under section 101(a)(15)(H)(i)(b) of the Immigration and Nationality Act (INA).

Section 101(a)(15)(H)(i)(b) of the INA relates to an alien:

...who is coming temporarily to the United States to perform services...in a specialty occupation described in section 214(i)(1)..., who meets the requirements for the occupation specified in section 214(i)(2)..., and with respect to whom the Secretary of Labor determines and certifies to the Attorney General that the intending employer has filed with the Secretary an application under 212(n)(1).

You seek new employment for the beneficiary and requested that USCIS change the beneficiary's status.

You stated on the petition that you are a public school district with 583 employees. You seek to employ the beneficiary as an Elementary Teacher.

In visa petition proceedings, the petitioner bears the burden of establishing eligibility for the benefits sought. *Matter of Brantigan*, 11 I&N Dec. 493 (BIA 1966).

USCIS reviewed the initial record of evidence for eligibility in accordance with the INA; Title 8, Code of Federal Regulations (8 CFR); and any other applicable statutes and regulations, and could not determine whether you had established eligibility for the benefit sought.

In accordance with *Matter of Chawathe*, 25 I&N Dec. 369 (AAO 2010), USCIS has examined the evidence of record for relevance, probative value, and credibility, both individually and within the context of the totality of the evidence, and determined that you have not established eligibility for the requested classification by a preponderance of the evidence.

Accordingly, USCIS intends to deny the petition and any change of status for reasons discussed below. In accordance with 8 CFR 103.2(b)(16)(i), when USCIS intends to make a decision that will be adverse to you and it is based on information of which you are unaware, USCIS must notify you and allow a period of time for rebuttal.

We have encountered potentially adverse information related to the beneficiary. In order to continue processing your application or petition, we require an updated address for the beneficiary so that we may collect biometric data.

Maintenance of Status

The first issue to be discussed is whether the beneficiary maintained the beneficiary's nonimmigrant status.

INA 248(a) states, in part:

The Secretary of Homeland Security may, under such conditions as he may prescribe, authorize a change from any nonimmigrant classification to any other nonimmigrant classification in the case of any alien lawfully admitted to the United States as a nonimmigrant who is continuing to maintain that status...

8 CFR 248.1(b) states:

Except in the case of an alien applying to obtain V nonimmigrant status in the United States under §214.15(f) of this chapter, a change of status may not be approved for an alien who failed to maintain the previously accorded status or whose status expired before the application or petition was filed, except that failure to file before the period of previously authorized status expired may be excused in the discretion of USCIS, and without separate application, where it is demonstrated at the time of filing that:

- (1) The failure to file a timely application was due to extraordinary circumstances beyond the control of the applicant or petitioner, and USCIS finds the delay commensurate with the circumstances;
- (2) The alien has not otherwise violated his or her nonimmigrant status;
- (3) The alien remains a bona fide nonimmigrant; and
- (4) The alien is not the subject of removal proceedings under 8 CFR part 240.

USCIS records show that the beneficiary attended [REDACTED] University as an F-1 nonimmigrant from August 7, 2022 to May 11, 2024 ([REDACTED]). The beneficiary was approved for post-completion Optional Practical Training (OPT) from July 10, 2024 to July 9, 2025 ([REDACTED]). However, records show that the Department of State revoked the beneficiary's F-1 visa on March 20, 2025. According to the beneficiary's SEVIS record ([REDACTED]) their F-1 nonimmigrant status was terminated on April 10, 2025 because of the criminal records check and the revocation of their F-1 visa.

You filed the current petition on March 6, 2025. It appears that the beneficiary is not in valid F-1 nonimmigrant status, as such, the request for a change of nonimmigrant status may not be approved. If the petition is approved, it will be forwarded to a U.S. consulate abroad for visa processing. Therefore, identify a location abroad for visa notification.

As such, the beneficiary failed to maintain the beneficiary's nonimmigrant status.

CRIMINAL OFFENSES

Records show the beneficiary has been arrested. You provided no evidence to account for, and explain, the circumstances surrounding the beneficiary's arrest.

USCIS records currently indicate that the beneficiary's criminal history as follows:

- The beneficiary's arrest and charges on February 22, 2025.

You must provide documentation about the beneficiary's arrest, the associated charges, and the subsequent dispositions for each charge, whether dropped, suspended, or resulting in a conviction.

Please submit certified copies of all court and police records showing the charges and dispositions for every arrest listed above. This evidence is requested even if the beneficiary's criminal records were sealed, expunged, cleared, or otherwise closed. Certified court dispositions should be issued from the court that held jurisdiction over the beneficiary's criminal proceedings.

The documents you provide should address each of the following:

- a) The final disposition or outcome (sentence, probation, dismissal, etc.) of all charges since the beneficiary's admission as a F-1 nonimmigrant. The charges and dispositions must be specifically identified, listing only numeric citations or legal codes is not sufficient unless provided with clarifying documentation.
- b) If the beneficiary was convicted of any charges, you should also provide evidence showing whether the charge for which the beneficiary was convicted was classified as a felony or misdemeanor. You may submit a copy of the pertinent statute, sentencing guideline, or statement from the court clerk or police department for this purpose.

If the beneficiary's conviction resulted in an alternative sentencing program, suspended sentence, or the participation in a rehabilitative program (such as a drug treatment or community service program), you should submit an original or court certified copy of the beneficiary's sentencing record for each incident, and evidence that the beneficiary completed their sentence. Specifically, you should submit:

- a) An original or certified copy of the beneficiary's probation or parole record, or
- b) Evidence that the beneficiary completed an alternative sentencing program, suspended sentence or rehabilitative program.

If a final disposition is not available, the beneficiary should obtain a certified letter from the court confirming the lack of court records. All submitted documentation should be original or a certified copy. Certified copies must include a court seal stamp on the document.

Please note, USCIS will consider all credible evidence submitted in support of your Form I-129, but will determine, in its sole discretion, the evidentiary value of all documentation submitted.

You are afforded 30 days from the date of this notice to submit additional information, evidence or arguments to support the petition. Additionally, when USCIS serves a notice by mail, three days are added to the prescribed period in which to respond. Any such evidence or arguments will be carefully reviewed prior to a final determination in this matter. Failure to respond, however, will result in adjudication of the petition on the basis of the record, as it is now constituted, including the information referred to above.

Your response must be received in this office by May 21, 2025.

PLACE THE ATTACHED COVERSHEET AND THIS ENTIRE LETTER ON TOP OF YOUR RESPONSE.

Sincerely,

[REDACTED]

SCOPS Deputy Associate Director of Adjudications

**PREMIUM PROCESSING
COVERSHEET
SCANNING REQUIRED**

**PLEASE RETURN THE REQUESTED INFORMATION AND
ALL SUPPORTING DOCUMENTS WITH
THIS PAGE ON TOP TO:**

USCIS TSC

Attn: RFE/NOIT/NOIR/NOID RESPONSE

6046 N Belt Line Rd. STE 111

Irving, TX 75038-0011

If your response is 25 pages or less, you have the option to reply by fax at **(802) 860-6932**.

If you have any questions, you may contact the Premium Processing Team via e-mail

at: **CSC-PREMIUM.PROCESSING@USCIS.DHS.GOV**

or call our toll-free number **(866) 315-5718**.

Please check the appropriate box regarding if there is a new Form G-28, Notice of Entry of Appearance as Attorney or Accredited Representative, additional fees, additional forms, etc. Please place the new Form G-28, additional fees, additional forms directly under this sheet.

Yes, there is:

☐

A New G-28

☐

Additional Fees

☐

Additional Forms

☐

Other:

If you have moved, write your current address in the blank area below. Please be sure to write clearly.

(Select appropriate check box)

☐

Applicant/Beneficiary

☐

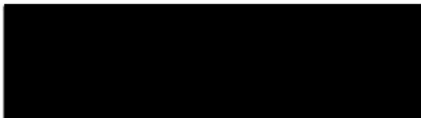
Petitioner

New Address:

As required by Title 8, Code of Federal Regulations (8 CFR) section 265.1, *Reporting change of address*: Except for those exempted by section 263(b) of the Act, all aliens in the United States required to register under section 262 of the Act must report each change of address and new address within 10 days of such change in accordance with instructions provided by USCIS.

NOTICE OF INTENT TO DENY

Form I-129, Petition for a Nonimmigrant Worker



California Service Center
P.O. Box 30113
Tustin CA 92781



U.S. Citizenship
and Immigration
Services

NO POSTAGE
NECESSARY
IF MAILED
IN THE
UNITED STATES



quadrant

FIRST-CLASS MAIL
IMI

\$000.69⁰

04/15/2025 21 [REDACTED]
(43/122/100/30)

US POSTAGE

6650812095 0012



U.S. Citizenship
and Immigration
Services

Date: MAY 05 2017

Refer to file no. : 

NOTICE OF DECISION

This notice is in reference to the Form I-539, Application to Extend/Change Nonimmigrant Status, which you filed with U.S. Citizenship and Immigration Services (USCIS) on October 17, 2016, requesting reinstatement to F-1 student status under 101(a)(15)(F) of the Immigration and Nationality Act (INA).

In order to be reinstated to F-1 student status, an applicant must prove that he or she meets the following requirements:

Title 8 of the Code of Federal Regulations (8 C.F.R.) 214.2 (f)(16)(i) states:

Reinstatement to student status.

General. The district director may consider reinstating a student who makes a request for reinstatement on Form I-539, Application to Extend/Change Nonimmigrant Status, accompanied by a properly completed SEVIS Form I-20 indicating the DSO's recommendation for reinstatement (or a properly completed Form I-20A-B issued prior to January 30, 2003, from the school the student is attending or intends to attend prior to August 1, 2003). The district director may consider granting the request if the student:

- (A) Has not been out of 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);
- (B) Does not have a record of repeated or willful violations of Service regulations;
- (C) Is currently pursuing, or intending to pursue, a full course of study in the immediate future at the school which issued the Form I-20;
- (D) Has not engaged in unauthorized employment;
- (E) Is not deportable on any ground other than section 237(a)(1)(B) or (C)(i) of the Act; and
- (F) Establishes to the satisfaction of the Service, by a detailed showing, either that:

(1) The violation of status resulted from circumstances beyond the student's control. Such circumstances might include serious injury or illness, closure of the institution, a natural

Page 2

disaster, or inadvertence, oversight, or neglect on the part of the DSO, but do not include instances where a pattern of repeated violations or where a willful failure on the part of the student resulted in the need for reinstatement; or

(2) The 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. 103.2(a)(1) state in pertinent part:

Every benefit request or other document submitted to DHS must be executed and filed in accordance with the form instructions, notwithstanding any provision of 8 CFR Chapter 1 to the contrary, and such instructions are incorporated into the regulations requiring its submission...

The instructions for Form I-539 Instructions state in pertinent part the following about initial evidence for F-1 reinstatement requests:

To request a change to F-1 status or apply for reinstatement as an F-1 student . . . Your application must include your original Form I-20, Certificate of Eligibility for Nonimmigrant Student issued by the school where you will study...

You seek reinstatement to F-1 student status to attend Madison Area Technical College. You submitted a Student and Exchange Visitor Information System (SEVIS) Form I- 20 for reinstatement signed by a Designated School Official (DSO) on September 14, 2016. Your SEVIS record shows that your status was terminated on September 8, 2014. Your application was not stamped as received and properly filed until October 17, 2016.

With your I-539 application you did not submit a statement explaining why you were out of status over five months at the time you filed this application. As such, USCIS requested that you submit, among other documentation a detailed explanation as to why you failed to file within the five month period. In response to the RFE, you submitted a statement explaining that you were out of status over five months at the time you filed this application because when you applied to attend Madison Area Technical College in September of 2014, you did not know that you needed a Form I-20. However, before attending Madison Area Technical College, in May of 2014, you applied to attend Florida Southern College and then you obtained a Form I-20. You did not obtain proper permission to withdraw from Florida Southern College to attend Madison Area Technical College.

You did not submit sufficient explanation for being out of status over five months at the time you filed this application or any documentary evidence to demonstrate that the failure to file within the five-month period was the result of exceptional circumstances and that you filed the request for reinstatement as promptly as possible under these exceptional circumstances.

Based on the evidence presented above, you do not appear to be eligible for reinstatement to F-1 student status due to your untimely filing of your reinstatement application. Pursuant to INA 291, the burden of proof in these proceedings rests solely with you, the applicant. As such, your application is denied for the above-stated reason.

This decision leaves you without lawful immigration status, and you are therefore present in the United States in violation of the law. You are required to depart the United States. Remaining in the United States without authorization may affect your ability to return to the United States in the future.

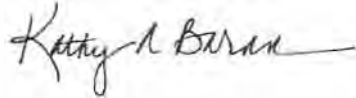
There is no appeal to this decision. However, pursuant to 8 CFR 103.5, a motion can be filed on Form I-290B. Such motion must be accompanied by the proper fee and filed within 30 days of this notice. In


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addition, pursuant to 8 C.F.R. 103.8(b), three days shall be added to the prescribed 30-day period when a USCIS notice is served by mail.

For questions concerning immigration services and benefits, you may call 1-800-375-5283 or for TTY 1-800-767-1833.

Sincerely,



Kathy A. Baran
Director, California Service Center

Student and Exchange Visitor Program

**U.S. Department of Homeland
Security**
SEVP MS 5600
500 12th Street, SW
Washington, DC 20536-5600



**U.S. Immigration
and Customs
Enforcement**

June 7, 2010

POLICY GUIDANCE FOR: Designated School Officials

FROM: Student and Exchange Visitor Program – Policy Branch

SUBJECT: Policy Guidance 1004-04 –Visa Revocations

AUTHORITIES: *Immigration and Nationality Act, section 244(b)(1); 8 CFR 214.2(f)(6) and (9); 8 CFR 214.2(m)(9) and 8 CFR 214.3(g)(2)*

Comments:

To comment on this Policy Guidance or suggest a change, please e-mail SEVIS.source@dhs.gov with “Policy Guidance 1004-04 Comment” entered in the subject line within 60 days of the date of this guidance.

Purpose:

The Student and Exchange Visitor Program (SEVP) wants to ensure that designated school officials (DSOs) are aware of the visa revocation process, how to record such an action in a Student and Exchange Visitor Information System (SEVIS) record, and how to respond to law enforcement inquiries involving students whose visas have been revoked.¹

¹ This guidance represents SEVP’s current thinking on this topic. It is advisory in nature and informational in content. Its purpose is to provide guidance to the SEVIS user community and to all SEVP personnel involved in the adjudication and review of petitions for SEVP certification and appeals.

It reflects the position on, or interpretation of, the applicable laws or regulations DHS has published as of the date of this publication, which appears on the first page of the policy guidance. This guidance does not, in any way, replace or supersede those laws or regulations. Only the latest official release of the applicable law or regulation is authoritative.

This guidance does not create or confer any rights for or on any person and does not operate to bind SEVP or the public.

SEVP has not provided previous guidance on this issue. This policy remains in effect until specifically superseded by a subsequent SEVP policy guidance or directive, or until SEVP amends the specifically cited authorities, above, with respect to this issue.

Background:

Visa revocations are an important tool in maintaining the security of our borders. Since September 11, 2001, the Department of State (DoS) has revoked 1,250 visas based on information suggesting possible terrorist activities or links. DoS receives a continuous stream of information that affects the eligibility of aliens to hold visas. Subsequent to an alien receiving a visa, the DoS uses any information received that calls into question the alien's suitability as a visa holder, such as a potential threat to the security of the United States, to revoke a visa. DoS revokes the visa promptly and relies on the visa application process to resolve identity and other questions at a later time, should the visa holder wish to reapply for a visa.

The revocation process supplements the terrorist watch-listing work of the Terrorist Screening Center (TSC), which provides the vast majority of the derogatory information on specific individuals. The TSC updates the DoS's Consular Lookout and Support System (CLASS) database with the derogatory information about an alien. If it appears that DoS may have issued a visa to a watch-listed alien, TSC forwards the derogatory information to the Visa Office (VO) of the Bureau of Consular Affairs, which manages the visa-revocation process for DoS.

Once it determines a possible link between the alien and the terrorist-related information, DoS formally revokes the visa. As soon as VO receives the derogatory information from TSC or other agencies, it places a revocation lookout (VRVK code) in CLASS, which replicates in real time in the Department of Homeland Security's (DHS) Interagency Border Inspection System, making the lookout available to DHS inspectors at ports of entry into the United States.

The alien does not receive advance notice that DoS is considering revoking the visa. After DoS revokes the visa, the relevant consular post attempts to contact the alien. However, the consular posts are not in a position to determine whether the alien is in the United States or to find the alien and provide him or her with notice that the revocation has occurred.

If the holder of the revoked visa reapplies for a visa at one of the embassies or consulates abroad, a consular officer carefully screens the application and, after consultation with DoS, determines eligibility. DoS might issue a new visa if it determines that the information which led to the revocation does not pertain to the alien or that the alien is in any event eligible.

DHS Reaction to DoS Visa Revocation:

Immigration and Customs Enforcement's Compliance Enforcement Unit (CEU) receives notification from DoS when DoS revokes a nonimmigrant's visa on national security grounds. In turn, CEU gathers additional information to prepare the case for a field investigation, if warranted. If it finds that DoS revoked an F or M visa on national security grounds, and the student is not present in the United States, CEU refers the nonimmigrant student's information to the SEVP liaison assigned to CEU.

DSO Actions in Response to Visa Revocation Notice:

The SEVP/CEU liaison provides a DSO with a list of the visa revocations at the DSO's school. A visa revocation may occur after the visa is issued but before the nonimmigrant enters the United States or upon arrival at a port of entry or while the nonimmigrant is in the United States.

If a DSO receives a visa revocation notice, the DSO should take the following actions in the student's SEVIS record:

- If the nonimmigrant was entering on an initial Form I-20, "Cancel" the record upon notification.
- If the nonimmigrant student was re-entering the United States to continue a program of study, enter "Terminated" in the SEVIS record for "No Show."

Some circumstances require revocation of a nonimmigrant student's visa while the nonimmigrant is in the United States and in status. Visa revocation is not, in itself, a cause for termination of the student's SEVIS record.

It is possible that neither the student in question nor the DSO has knowledge of the visa's revocation. However, law enforcement authorities may contact the school officials to verify whether the student is maintaining status.

Contact SEVP if you have questions.

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF COLUMBIA

AKSHAR PATEL) CIVIL NO.:
) 25-1096-ACR
Plaintiff,)
vs.)
TODD M. LYONS,)
) April 16, 2025
Defendant.) Washington, D.C.
) 10:45 a.m.

Transcript of Motions Hearing
Before the Honorable Ana C. Reyes
United States District Judge

APPEARANCES:

For the Plaintiff: Steven A. Brown, Esquire
Reddy Neumann Brown, P.C.
10333 Richmond Avenue, Ste 1050
Houston, TX 77042

Bradley B. Baniyas, Esquire
Baniyas Law LLC
602 Rutledge Avenue
Charleston, SC 29403

For the Defendant: Joseph F. Carilli, Jr., Esquire
United States Attorney's Office
Civil Division
601 D Street, NW
Washington, DC 20001

Also Present: MacKlin Everly
Andre Watson

Reported by: Christine T. Asif, RPR, FCRR
Federal Official Court Reporter
333 Constitution Avenue, NW
Washington, D.C. 20001
(202) 354-3247

Proceedings recorded by machine shorthand; transcript produced
by computer-aided transcription

P R O C E E D I N G S

THE CLERK: This is civil action 25-1096, Akshar Patel versus Todd M. Lyons.

Will the parties please identify themselves for the record.

MR. BROWN: Good morning, Your Honor. Steven Brown and Brad Baniyas for the plaintiffs.

THE COURT: Government counsel.

MR. CARILLI: Joseph F. Carilli for the Government.

THE COURT: In the future gentleman if I or any court orders you to meet and confer, there are two components of a meet and confer meet and confer. One that you actually meet, which you do not do over email. And two is that you actually confer. The second I saw your --

Mr. Carilli, could you please look up and not be writing whatever you're writing right now and listen to me.

The second I saw your first joint status report I knew immediately that none of you had done either of those two things, which is why I asked for the further report which confirmed everything that I thought. Now did you all meet and confer by video this morning?

MR. BROWN: Yes, Your Honor.

THE COURT: How long did the meet and confer last?

MR. BROWN: About 40 minutes, Your Honor.

1 THE COURT: Okay. Did you guys make any progress?

2 MR. BROWN: Not towards a resolution, Your Honor,
3 but I think we have a understanding of each -- better
4 understanding of each other's position, Your Honor.

5 THE COURT: All right. So Mr. Carilli, can you
6 explain the SEVIS system to me exactly what it is and what it
7 does.

8 MR. CARILLI: SEVIS is an information system that
9 was established under 8 U.S.C., I'm sorry --

10 THE COURT: 1372.

11 MR. CARILLI: 1372, excuse me. That was established
12 post 9/11 for the Secretary of Homeland Security to be able to
13 monitor individuals who are in the country in F, M, and J
14 status. Obviously, the issue here is the portions of SEVIS
15 that are used by F. Immigration and Customs Enforcement
16 maintains that system under that statute and it is used to,
17 like I said, monitor and then also for individual schools to
18 be able to provide information about F-1 students that are
19 enrolled at their schools.

20 THE COURT: Okay. So the purpose of SEVIS is to
21 monitor people who are here in part on F-1 visas?

22 MR. CARILLI: Yes, Your Honor.

23 THE COURT: Okay. So what's the impact of taking
24 someone off of SEVIS, why would we not want to monitor
25 somebody?

1 MR. CARILLI: Well, to clarify, Your Honor, what
2 occurred here was, in SEVIS there is a drop down menu that
3 allows you to list active -- there's categories about an
4 individual. So the record wasn't deleted, it's just in SEVIS
5 that it was changed from active to terminated.

6 THE COURT: Okay. And what's the consequence of
7 moving someone from active to terminated?

8 MR. CARILLI: The consequence is exactly as
9 described, that it changed the status of the individual inside
10 SEVIS. It did not change the individual's immigration
11 status.

12 THE COURT: So what's the impact of it being changed
13 within SEVIS, why -- what happens when that occurs?

14 MR. CARILLI: I mean, it's an indication that in
15 system that the individual -- that their record in the system
16 has been -- the status is terminated. I can't --

17 THE COURT: No, I understand that. But what is the
18 impact -- what's the impact of it having been terminated? If
19 there's no impact, then I'm sure you have no problem moving it
20 back to active and we can all go home; right?

21 MR. CARILLI: Well, I think that the government
22 has -- ICE has indicated they're not going to change it back.
23 I think that --

24 THE COURT: That wasn't my question. I'm not really
25 concerned what ICE thinks they can and can't do, I'm concerned

1 with what I can do. And my understanding from the plaintiff's
2 argument is that a change of SEVIS from active to terminated
3 either automatically cancels their F-1 visa or is a precursor
4 to canceling their visa. I'm not quite sure what the argument
5 is, but I think it's the first. And the government says no,
6 no, no, that has nothing to do with immigration. So if it has
7 nothing to do with immigration, it must have something to do
8 with something, or else we would all change it back to active
9 and we could all go home.

10 So explain to me please what the consequence is of
11 changing something from active to inactive or terminated. And
12 do not say it's terminated within the SEVIS system, because
13 that is not an answer to my question. What is the impact of
14 terminating somebody within SEVIS?

15 MR. CARILLI: I'm not prepared to answer that --

16 THE COURT: How are you not prepared to answer --
17 I'm sorry how are you not here prepared to answer that
18 question? That's the only question in this litigation, Mr.
19 Carilli.

20 MR. CARILLI: The question here is whether --

21 THE COURT: No, Mr. Carilli -- Mr. Carilli. I'm the
22 one who decides what the questions here are, okay, not you.
23 Now, obviously, the first question in this case is what is the
24 practical import of canceling someone within SEVIS. And if
25 you don't know, we're all going to wait here while you call

1 someone and find out, because I'm not going to get jerked
2 around by you telling me you're not prepared to answer the key
3 question in this case.

4 What is the impact of someone being terminated
5 within SEVIS?

6 MR. CARILLI: I do not know --

7 THE COURT: All right. Mr. Carilli, that's fine --
8 Mr. Carilli, that's totally fine. We're all going to stay on
9 the phone here. You're going to go some other phone or you're
10 going to put yourself on mute. And you're going to call your
11 client and you're going to ask. And we're going to stay here
12 until you get an answer.

13 MR. CARILLI: Yes, Your Honor.

14 THE COURT: So, gentleman, you guys can hang back
15 and we'll hear from Mr. Carilli when he's done. And I'm going
16 to stay on the bench while you get this done. And if you
17 can't get someone on the phone. Get the next person on the
18 phone. Because I'm going to stay here until you get someone
19 on the phone. I'm ordering you to get your client on the
20 phone. So we're all going to stay here while you do that.

21 And you can put yourself on mute and turn yourself
22 off the video if you would like Mr. Carilli.

23 Gentleman, you guys can put yourselves off video if
24 you want to, just stay around in case we get back from him.
25 And Ms. White mute, please. Turn off my video.

1 (Pause in the proceedings from 10:53 a.m. to 12:06
2 p.m.)

3 THE COURT: Mr. Carilli, where are we?

4 MR. CARILLI: Your Honor, I'm still waiting for a
5 response from the Agency, in terms of the practical effects of
6 changing the record in SEVIS to terminated.

7 THE COURT: Can you explain to me please why it has
8 taken over an hour and I still don't have an answer, to what
9 must be the most obvious simple question that this case
10 presents as to what happens when someone gets taken off of
11 SEVIS? I mean, you know, why there's a delay, right, Mr.
12 Carilli? Do you want to tell me why there's a delay or do you
13 want to me to tell you why there's a delay?

14 MR. CARILLI: Your Honor, I don't know why there's a
15 delay.

16 THE COURT: Well, I'll tell you why there's a delay,
17 Mr. Carilli, because what happens when you take someone off of
18 SEVIS and you terminate them they lose their status and that's
19 not something you all want to tell the Court. Now, why you
20 all don't want to tell the Court, I don't know. But we're
21 going to get an answer to the question.

22 So I want agency counsel to stop whatever
23 conversations she's having or he's having right now and get on
24 the video so I can ask agency counsel what's going on.
25 Because we asked -- apparently agency counsel was on the phone

1 no later than 11:40 having this conversation. And it's not a
2 25-minute answer. So get agency counsel on the phone. And
3 after we get agency counsel on the phone, if I'm not
4 satisfied, we're going to have the declarant Mr. Watson come
5 to my courtroom and testify today. So get agency counsel on
6 the phone, please.

7 MR. CARILLI: Yes, Your Honor. Honor, excuse me,
8 before I go off video may I go off video to --

9 THE COURT: Yeah. Sure. Of course.

10 MR. CARILLI: Thank you, Your Honor.

11 (Pause in the proceedings from 12:08 p.m. to 12:19
12 p.m.)

13 THE COURT: Mr. Carilli, what's going on?

14 MR. CARILLI: Your Honor, I just forwarded the
15 invite to one of the agency counsel. Agency counsel indicated
16 there was also going to be another individual that was going
17 to join. So I have been waiting for that second name, but I
18 just forwarded it to the person that told me --

19 THE COURT: Okay. While we're waiting for them, is
20 the government's position that Mr. Patel's F-1 visa is in
21 effect or not in effect?

22 MR. CARILLI: Mr. Patel's F-1 visa is no longer
23 valid. So -- and I think there's a different genre between a
24 individual who has a valid visa which allows them to seek
25 admission into the United States versus when an individual has

1 lawful status after they have been admitted into the United
2 States.

3 THE COURT: Okay. Is he lawfully in the United
4 States right now?

5 MR. CARILLI: The government's position is that he
6 has not -- ICE has not taken -- has not terminated his F-1
7 status. And for ICE to be able to terminate his F-1 status,
8 they would have to put him in 1229a removal proceedings.

9 THE COURT: Is he lawfully in the United States
10 right now, yes or no?

11 MR. CARILLI: I'm not able to answer that question,
12 Your Honor.

13 THE COURT: How are you not able to answer that
14 question? What does that even mean? He's either here legally
15 or he's not here legally. You're the government's lawyer. Is
16 he here legally? I mean, how is Mr. Patel supposed to know if
17 he's here legally if you don't even know if he is here
18 legally?

19 MR. CARILLI: He was lawfully admitted to the United
20 States --

21 THE COURT: No, no, Mr. Carilli, there's a -- no, no
22 Mr. Carilli, there is a yes or no answer here. We are not --
23 this is not Schrodinger's visa, either he's here legally or
24 he's not here legally. If you cannot answer the question, you
25 have to explain to me why you cannot answer that question.

1 MR. CARILLI: I cannot answer that question. I have
2 talked to ICE as to whether or not they consider at this point
3 in time the individual, whether or not they are maintaining
4 lawful status.

5 THE COURT: And what does ICE say to that?

6 MR. CARILLI: I have not received a response, Your
7 Honor.

8 THE COURT: Do you realize that this is Kafkaesque?
9 I've got two experienced immigration lawyers on behalf of a
10 client who is months away from graduation, who has done
11 nothing wrong, who has been terminated from a system that you
12 all keep telling me has no effect on his immigration status,
13 although that clearly is BS. And now, his two very
14 experienced lawyers can't even tell him whether or not he's
15 here legally, because the Court can't tell him whether or not
16 he's here legally, because the government's counsel can't tell
17 him if he's here legally.

18 And you know what's going to happen when he gets
19 picked up? He's going to be accused of being here illegally
20 in the United States because when he is picked up and put
21 through deportation proceedings, everyone's going to say he
22 was here illegally and he was obviously here illegally and he
23 should have known that. And then some court down there is
24 going to say no, no, no, the Court up in D.C. asked and the
25 government said they didn't know. And those lawyers, do you

1 know what they are going to do? They're going to be like, I
2 don't know what that lawyer was thinking.

3 We are not going to do that here, Mr. Carilli. That
4 is not happening in this courtroom. We're going to get an
5 answer. And if the answer somehow contradicts what is in your
6 brief, or what is in God willing no, Mr. Watson's declaration,
7 there are going to be serious consequences. Where is your
8 agency counsel?

9 MR. CARILLI: Will you allow me to confer with the
10 agency --

11 THE COURT: No, you've been conferring with the
12 agency for -- I want the agency counsel on the phone, you sent
13 them the thing; right?

14 MR. CARILLI: Your Honor, what I meant by confer was
15 please let me try and get them back on the phone to find out
16 why they have not joined the call.

17 THE COURT: Fine.

18 MR. CARILLI: That's what I meant by --

19 THE COURT: Fine.

20 (Pause in the proceedings.)

21 MR. CARILLI: Your Honor, agency counsel is joining
22 on the line.

23 THE COURT: Plaintiff's counsel, is your client
24 allowed to go to classes right now?

25 MR. BROWN: Your Honor, it is our client's position

1 that based off of ICE he cannot be in status and thus cannot
2 attend classes.

3 THE COURT: Is anyone at the school preventing him
4 from going to classes?

5 MR. BROWN: I don't think there's anybody physically
6 preventing him, no, Your Honor.

7 THE COURT: All right. Government counsel, I assume
8 while this is pending you are okay if he goes to classes?

9 MR. CARILLI: I would need to confer with the Agency
10 about that, Your Honor. I asked that specific question before
11 this hearing and did not receive a response.

12 THE COURT: Is it they just don't respond to you or
13 they just don't give you an answer?

14 MR. CARILLI: I have received that they don't have a
15 response to my question. In other words, it's not a -- it is
16 not a they did not respond. It's -- as the Agency counsel
17 just explained to me, when I asked him to join the link is he
18 indicated that those are operational decisions that are with
19 the client, with their client.

20 THE COURT: Okay. Well, then I want someone from
21 the client -- where is agency counsel? How long does it take
22 to log on to a video? We've been waiting for the agency
23 counsel now 20 minutes.

24 (Pause in the proceedings.)

25 MR. CARILLI: Just communicated, Your Honor, that

1 he's trying to log in right now.

2 THE COURT: Mr. Everly, could you please enter your
3 appearance.

4 THE CLERK: Mr. Everly this is the courtroom deputy,
5 can you hear me, sir? I can't hear you.

6 MR. EVERLY: Can you hear me now?

7 THE COURT: Mr. Everly, can you please enter your
8 appearance.

9 MR. EVERLY: Yes. MacKlin Keith Everly, agency
10 counsel for U.S. Immigration and Customs Enforcement.

11 THE COURT: How long have you been agency counsel,
12 sir.

13 MR. EVERLY: Little less than two years.

14 THE COURT: Where were you before then?

15 MR. EVERLY: I was with Progressive and
16 (indiscernible) company.

17 THE COURT: All right. Government counsel asked you
18 some questions today about Mr. Patel, sort of rather obvious
19 questions that I have asked government counsel. He says he's
20 asked you and you said you can't -- you don't have an answer
21 for him because it was above your pay grade or with some
22 operational people. So I'm going to ask the two questions and
23 there will be more. And then we're going to get answers to
24 those questions, Mr. Everly, before we all get off the phone.
25 Am I understood?

1 MR. EVERLY: I understand. I understand, Your
2 Honor. I will preface my responses with I won't have any
3 additional information --

4 THE COURT: We're going to get additional
5 information, Mr. Everly, because you're going to tell me who
6 has that additional information and we're going to get that
7 person on the phone. And if we have to, I'm going to get them
8 under oath. All right?

9 MR. EVERLY: Understood, Your Honor.

10 THE COURT: The first question is, is Mr. Patel here
11 legally? Is he lawfully in the United States?

12 MR. EVERLY: Your Honor, since that's an operational
13 decision by my client, we're actively conferring with the
14 client, I don't have a response to provide at this time. I
15 believe --

16 THE COURT: Is Mr. Patel free to go to his classes
17 at Wisconsin?

18 MR. EVERLY: I have to reiterate the same. Same
19 response, Your Honor.

20 THE COURT: Well, what's the effect of terminating
21 someone on SEVIS? That's just a mechanical question, what's
22 the effect of terminating someone from SEVIS?

23 MR. EVERLY: Again, Your Honor, that's an
24 operational --

25 THE COURT: It's not an operational question,

1 Mr. Everly. That is a mechanical question. There is a policy
2 somewhere that says what the effect is, so tell me what the
3 effect is of terminating somebody from SEVIS.

4 MR. EVERLY: Your Honor, I apologize, I do not have
5 the answer to the question.

6 THE COURT: Okay. Who has -- Mr. Everly, name me
7 the individual who has the answer to the first two questions
8 and then the third question.

9 MR. EVERLY: Your Honor, all I can offer at this
10 point is that we have provided a declarant in this case --

11 THE COURT: Yes, fine. All right. That's fine.
12 We're going to get Watson, Mr. Watson here under oath since
13 he's filed a declaration. And if he doesn't give me the
14 answers that I need then we're going to get somebody else.
15 Because Mr. Watson's declaration doesn't tell me if Mr. Patel
16 is here legally. It doesn't tell me if Mr. Patel can go to
17 classes. And it doesn't tell me what the practical effect is
18 of terminating someone from SEVIS, but if we want to start
19 with Mr. Watson under oath subject to penalty of perjury, I'm
20 very happy to do that. Is there anybody else other than Mr.
21 Watson, who can give me answers to those questions? Let me
22 put it to you this way, who have you been communicating with
23 at the agency?

24 MR. EVERLY: I've been communicating with other
25 agency counsel.

1 THE COURT: Who? Names, names, Mr. Everly, who?

2 I am ordering you to tell me who have you been
3 communicating with. Now if you want to violate a court order
4 by stalling --

5 MR. EVERLY: Your Honor, I have no desire --

6 THE COURT: Okay. Great. Then tell me the name of
7 the person that you've been communicating with.

8 MR. EVERLY: I have been communicating with -- and I
9 will provide names, I'm just prefacing, I've been
10 communicating with individuals from our National Security Law
11 Division, primarily deputy chief Nina Gleiberman and the chief
12 of the division also Kate Briscoe. And also in communication
13 with my management deputy chief -- excuse me, deputy chief
14 Christa Leash and Chief Henry (indiscernible.)

15 THE COURT: Okay. Of those four people who is most
16 likely to have an answer to my questions.

17 MR. EVERLY: Unfortunately, they are all in the same
18 position as I am.

19 THE COURT: Who are they communicating with?

20 MR. EVERLY: They're communicating with the
21 client --

22 THE COURT: Who is the client? Who at the client is
23 the person who's making these decisions or can give me an
24 answer?

25 MR. EVERLY: We've been working with the

1 declarant --

2 THE COURT: All right. Fine. Fine. Get Mr. Watson
3 on the phone right now. I'm ordering him to appear to this
4 hearing. And he's going to be put under oath.

5 MR. EVERLY: Understood, Your Honor. I will take
6 those steps, if I can go on hold for a moment while I go do
7 that.

8 THE COURT: Yup.

9 MR. EVERLY: Thank you.

10 (Pause in the proceedings.)

11 THE COURT: I'm going to take a ten minute recess
12 I'm going to be back here at 12:45. Mr. Carilli, Mr. Watson
13 had better be on this phone when we get back, are we
14 understood?

15 MR. CARILLI: Yes, Your Honor.

16 THE COURT: All right.

17 (A recess was taken from 12:35 p.m. to 12:45 p.m.)

18 THE COURT: All right. Do we have Mr. Watson?

19 MR. EVERLY: Your Honor, we're in active contact
20 with him and we're working to get him here as soon as we can.
21 If we could just have 10 or 15 more minutes to accomplish
22 that, I would really appreciate that.

23 THE COURT: All right. I'm going to give you until
24 1:15.

25 MR. EVERLY: Thank you, Your Honor.

1 THE COURT: Have him here by then, all right?

2 MR. EVERLY: Yes, Your Honor.

3 THE COURT: If something happens and you can't get
4 him here by 1:15, alert my law clerk we'll all get back on
5 with the video. We'll figure out where to go from there, but
6 it's not going to be pretty. Okay?

7 MR. EVERLY: Yes, Your Honor. Thank you.

8 THE COURT: Thank you.

9 (A recess was taken from 12:47 p.m. to 1:15 p.m.)

10 THE COURT: All right. Mr. Watson, welcome. You're
11 on mute, sir.

12 MR. WATSON: My apologies. Good afternoon, Your
13 Honor.

14 THE COURT: No worries. All right. So you filed a
15 declaration on behalf of the government in this case. And I
16 have some questions for you about that declaration. I'm not
17 going to put you under oath at this time, but if I feel like
18 I'm getting the run around, which I hope I will not, I will
19 put you under oath. Okay?

20 MR. WATSON: Yes, ma'am.

21 THE COURT: All right. So first of all, can you
22 explain to me what the practical effect is of terminating
23 someone on SEVIS? How do I say that by the way, SEVIS, SEVIS?

24 MR. WATSON: SEVIS is appropriate.

25 THE COURT: Okay. So what happens, what's the

1 effect of terminating someone on SEVIS?

2 MR. WATSON: So it does not terminate their
3 nonimmigrant status, but what it does is it essentially raises
4 a flag as it relates to the student and their participation in
5 the student and exchange visitor program.

6 THE COURT: Okay. And so what happens if that flag
7 is raised, what's the effect of the flag raised? First of
8 all, who does it raise a flag to, ICE?

9 MR. WATSON: Well, it raises a flag to a designated
10 school official.

11 THE COURT: Okay.

12 MR. WATSON: Because they have access to the student
13 and exchange visitor information system. So a designated
14 school official works with ICE in managing the student and
15 exchange visitor program to ensure compliance with applicable
16 code of federal regulations as it relates to nonimmigrant
17 students studying in the United States. So it alerts the DSO,
18 the designated school official or the PSO as to that matter.

19 THE COURT: Okay. And so that flag tells the
20 official what? What does the official take from that flag?
21 I'm the school official, I have a flag on Mr. Patel, what do I
22 do now?

23 MR. WATSON: So it raises a -- it raises a gap, if
24 you will, a question about the student, and compliance as it
25 relates to the terms of their -- as it relates to the terms of

1 their participation in the program.

2 THE COURT: Okay. And how does that question get
3 answered? What question is asked, if they're in compliance?

4 MR. WATSON: Well, the question can be what
5 happened, what occurred. So there can be a notation in the
6 record saying what happened, or that someone may or may not be
7 in compliance.

8 THE COURT: Okay. So I'm -- so I'm the school
9 official, and I have Mr. Patel's transcripts and he's attended
10 all his classes. And so far as I, the school official, know
11 he's done everything he's supposed to do. I see that -- I
12 mean, I don't know if I see this from SEVIS, but I see from
13 somewhere that he got arrested -- or he got pulled over for
14 driving too fast in Texas, but that the charges were
15 dismissed. And so now am I satisfied that he's in compliance,
16 is everything kosher? If the answer to that is yes, what do I
17 do next?

18 MR. WATSON: So great question. And here's another
19 novelty as well too, designated school officials can also
20 reach out to field representatives.

21 THE COURT: Field representatives for -- I'm sorry,
22 field representatives for ICE?

23 MR. WATSON: Yes, ma'am.

24 THE COURT: Okay.

25 THE WITNESS: And there's a hand -- there's a

1 working relationship there as to compliance and oversight with
2 the program. So questions can be raised in that dialogue and
3 discussion. So like in this instance with the case being
4 dismissed, the question would be then what would the next
5 steps be in terms of in this case the defendant. So with
6 those charges being dismissed the question then becomes is
7 there a matter there that requires further review.

8 THE COURT: Okay.

9 MR. WATSON: As it relates to immigration.

10 THE COURT: All right. So let's say you're the
11 field representative for Wisconsin, and I'm -- you're the
12 field representative that there was cause for school officials
13 to contact, you and I have a good working relationship. I'm
14 the school official in Wisconsin. I get a notice, a flag that
15 Mr. Patel has been terminated on SEVIS. I call you and I say
16 what's this flag about? I've looked at his transcript I've
17 talked to his professors, he's in compliance with all our
18 obligations. Either I know or you tell me that he had been
19 arrested or pulled over for reckless -- for driving too fast
20 in Texas, but the charges were dismissed. And so then you --
21 so I say, okay, so now you field representative say what to
22 me?

23 MR. WATSON: The field representative in that
24 instance can say, well, based on this matter, as it relates to
25 the arrest, the question then becomes is there shall I say a

1 continuing requirement or a situation where this can or should
2 be revisited. So what's interesting to note --

3 THE COURT: I'm sorry, if what can be revisited?
4 His termination on SEVIS or his --

5 MR. WATSON: That's correct.

6 THE COURT: Okay. All right.

7 MR. WATSON: Yes, that's correct. His termination
8 in SEVIS. So the question then becomes by what means would
9 this person seek to do so, because what's interesting to note
10 about SEVIS is that there's also an ability for, if I'm
11 correct, CIS, Citizenship and Immigration Services to also do
12 the same as well too.

13 So this is a novelty, I'd like to note, in this
14 instance, where it was turned off pursuant to, I think what's
15 in the declaration, collaboration with State as to criminality
16 of nonimmigrant student studying in the United States. So
17 pursuant to --

18 THE COURT: Well, to be clear -- to be clear,
19 though, Mr. Watson, he's not a criminal. He hasn't been
20 charged of anything, much less found guilty of anything, but I
21 understand your point.

22 But so let -- so let me ask you this, right now as
23 of this moment, is Mr. Patel legally in the United States?

24 MR. WATSON: In terms of his status, this action in
25 itself, it doesn't terminate his nonimmigrant status at this

1 point. It doesn't.

2 THE COURT: So he's legally in the U.S. So the
3 answer to my question is yes, he's legally in the United
4 States, as of this moment?

5 MR. WATSON: I can't say that he's legally in the
6 United States.

7 THE COURT: Who can tell me if he's legally in the
8 United States?

9 MR. WATSON: So I would say right now the Department
10 of State by way of a nonimmigrant visa being issued would be
11 the starting point. Now, if the visa has been revoked or it
12 has expired, then the question becomes whether or not duration
13 of status would apply.

14 THE COURT: Okay. But let me -- well, I'm happy to
15 get someone from State on the phone with us, but before I do
16 that, I have your declaration -- I imagine you filed a lot of
17 these declarations recently, right, because apparently somehow
18 all this has happened, like a lot of dozens of people have
19 been terminated from SEVIS, this isn't the only declaration
20 you've filed; right?

21 MR. WATSON: Yes, ma'am.

22 THE COURT: Okay. All right. Well, for this one in
23 particular, I don't know if you have it in front of you, but
24 in paragraph 8, and this is for Akshar Patel, if I go to
25 paragraph 8 it says, on April 2nd, 2025, CTLD received

1 communications from the Department of State indicating that
2 Patel did not have a valid visa and requesting that the SEVIS
3 record be terminated. Was that -- I didn't -- are plaintiff's
4 counsel aware that his -- that State apparently terminated his
5 visa?

6 MR. BROWN: Your Honor, I don't believe his visa is
7 the issue we're challenging, because he had a B visa and then
8 changed his status to F-1. So he is not on that B visa. I
9 can double -- I'm going to double check right now.

10 THE COURT: But he's on a valid F-1 visa.

11 MR. BROWN: He has valid F-1 status until this
12 happened, Your Honor.

13 MR. CARILLI: Your Honor, if I may?

14 THE COURT: Yeah, sure, please.

15 MR. CARILLI: Yes, Your Honor. Plaintiff initially,
16 as I understand from the Department of State, plaintiff
17 initially was issued an H-4 visa based on his -- based on his
18 mother coming in on an H -- I believe an H-1B.

19 THE COURT: Okay.

20 MR. CARILLI: And he was admitted into the country
21 on that H-4 visa in an H-4 status. He then sought an I
22 believe adjusted status to that of an F status, and then is in
23 the country on an F status.

24 THE COURT: Okay. So then Mr. -- I'm sorry, sir.

25 MR. CARILLI: And the H-4 visa validity period has

1 expired, which routinely happens for -- depending on how
2 individuals come into the country with a nonimmigrant
3 category, their visa validity period will be different than
4 the stamp that is provided on their I-94, which is their entry
5 document, which the periods may be different or in a lot of
6 cases individuals will be admitted into the United States in a
7 duration of status.

8 So, for example, Your Honor, if you've seen H-1B
9 case where is an individual says they've been in the United
10 States, they've been working but they had to leave for a
11 family issue or they have to leave and depart the United
12 States to get a new visa so that they can come and go from the
13 United States on that H-1B, that's why there's a different
14 between those two things. And again the visa is just an
15 admission document, but also I would note that visa
16 revocations can form some basis for deportability under 327.

17 THE COURT: Okay. Thank you, sir.

18 So this April 2nd, 2025, communication that you
19 received from the State Department, Mr. Watson, do you have it
20 available to you? I mean, was that a mistake by the State
21 Department that he was on an H-1 visa and he shouldn't be
22 terminated, but State just didn't pick up he was here validly
23 as a student. I'm trying to figure out why State communicated
24 with you to have this record terminated?

25 MR. WATSON: So, Your Honor, I don't have that

1 record in front of me. And we are actually rescrubbing these
2 lists, because to the point that the gentleman that just spoke
3 pointed out, there are some of those nuances that have come
4 about. So I don't have the information in front of me. And I
5 believe State is re-examining various cases in a quality
6 control measure as well.

7 THE COURT: Okay. So let me put it to you this way.
8 So far as I can understand this kid has done everything that
9 he's supposed to have done. And it seems like there's been
10 some miscommunication or something has happened. And I'm
11 happy for State to do quality control. I'm happy for you to
12 follow up on this and other individuals. But what I want
13 coming out of this hearing is to at least either order
14 either -- I want this student to be able to go to class and
15 not get picked up by ICE.

16 Now, we can do that by, Mr. Watson, you agreeing to
17 that, or someone agreeing to that, and the plaintiffs going
18 and talking to Wisconsin people and saying he can go to
19 classes. And if the Wisconsin person wants to talk to the
20 field representative, that's fine. And if I need to put this
21 in an order, I will. And I want him not to be picked up by
22 ICE.

23 Now, we can do this one of two ways. One, we can
24 all agree that this is what's going to happen and Mr. Patel,
25 his lawyers can tell him legitimately that he can go to class,

1 or I can enter a temporary restraining order saying that he
2 can go to class and that he can't be deported. And since
3 everything I've heard from you all is that that seems not
4 inconsistent with what you all know as of this moment, not
5 something that you all would challenge.

6 So Mr. Carilli, how should we proceed here?

7 MR. CARILLI: Your Honor, I would comment that under
8 8 U.S.C. 1252(g), which addresses the jurisdiction of courts
9 to be able to over the decision by the Department of Homeland
10 Security to initiate removal proceedings and stripped that
11 jurisdiction from district courts. And so for any matters
12 arising from a decision as to whether or not to place an
13 individual in removal proceedings, the Congress has said that
14 there's no jurisdiction for district courts in those
15 decisions.

16 THE COURT: All right. Well, let's take the classes
17 first. We can all agree that I can order him to be allowed to
18 go to class as a TRO for now; right? Mr. Carilli?

19 MR. CARILLI: Your Honor, if you just give me a
20 moment to look through the relief that has been sought in the
21 TRO, I just need -- I need a moment to ensure that I -- and I
22 also, I mean, that's a -- you're asking me for potentially
23 something that is beyond the scope of my authority.

24 THE COURT: Okay. Here's what we're going to do,
25 Mr. Carilli, because I understand you guys are in a tough

1 spot, because you have a bunch of these cases and you don't
2 want a bunch of bad case law. I get it. One way or the other
3 this kid is going back to school today if he has classes,
4 tomorrow if he has classes tomorrow. And if ICE touches this
5 guy there's going to be repercussions.

6 So now we can do this with you all agreeing that
7 amongst yourselves, and if anything happens you all bring it
8 to my attention, or we can do it through a subsequent hearing
9 this afternoon where I enter a TRO order. I would rather the
10 former. And I assume you guys are fine with both of those, at
11 least agreeing with plaintiffs to those because -- or just
12 some agreement that if ICE is going to pick up the guy that,
13 you know, they have 24 hours notice so that they can seek
14 emergency relief, I mean, we can just do that, right. He can
15 go to class. And if ICE is going to do anything with him,
16 which I don't suspect they are going to, the plaintiffs get 24
17 hours notice. All right.

18 You guys come to that agreement, make life easy for
19 everyone, or you can continue to deal with me, Mr. Carilli.
20 And I will not stop with you or Mr. Everly or Mr. Watson,
21 we're going to continue down the road. All right?

22 MR. CARILLI: Yes, Your Honor.

23 THE COURT: All right. So I'm going to set another
24 hearing for 4:30, but you guys tell me that we don't need it.

25 Mr. Watson, do you have any idea how long State is

1 going to take with this quality review?

2 MR. WATSON: Ma'am, I can tell you that they are
3 proceeding in earnest to do so, with the level of effort
4 they've made great strides in progress in coordination with my
5 team.

6 THE COURT: Okay.

7 MR. WATSON: So ma'am, I can emphasize to you that
8 sooner than better is occurring, ma'am.

9 THE COURT: Perfect. All right. So it seems like,
10 Mr. Carilli, since my hope -- my strong hope is that State is
11 going to realize that this guy was on an F-1 visa and should
12 not have been terminated from SEVIS, my strong hope is that
13 that happens, that this was all an unfortunate mix up, that I
14 don't have to enter a TRO. So I'm hopeful Mr. Carilli that
15 you and plaintiffs can figure something out amongst
16 yourselves. Knowing, of course, that if anything happens,
17 plaintiff's lawyers, you can always seek relief from me.

18 Plaintiff's lawyers, do not make Mr. Carilli's life
19 miserable here. Let's just practically try to get this guy
20 back to class and at least settled in the U.S. until we have
21 final determination of something. Okay?

22 So I'm setting a hearing for 4:30 tentatively.
23 Hopefully, you all will tell me that we don't need it.

24 Mr. Watson, I understand that you're incredibly
25 busy. And the last thing that you ever want to hear is

1 lawyers saying I need you on the phone right now with the
2 Court. So I appreciate you getting on the phone. And I
3 appreciate you giving me this information. Thank you,
4 everybody.

5 MR. WATSON: Thank you, ma'am.

6 MR. BROWN: Thank you, Your Honor.

7 (A recess was taken from 1:33 p.m. to 4:31 p.m.)

8 THE CLERK: Your Honor, recalling civil action
9 25-1096, Akshar Patel versus Todd M. Lyons.

10 Will the parties please identify themselves for the
11 record, starting with plaintiff's counsel.

12 MR. BANIAS: I apologize, Brad Banias. And I
13 believe Steve Brown will be joining us for the plaintiffs.

14 THE COURT: All right. Mr. Carilli.

15 MR. CARILLI: Good afternoon, Your Honor. Joseph
16 Carilli on behalf of the government. And I'm expecting agency
17 counsel to join.

18 THE COURT: All right. Where are we gentleman?

19 MR. CARILLI: Your Honor, the plaintiffs counsel and
20 I discussed a possible resolution. I spoke to the agency and
21 the agency is not willing to reach a resolution with
22 plaintiff's counsel.

23 THE COURT: Why isn't the agency willing to reach a
24 resolution?

25 MR. CARILLI: They said at this point in time they

1 are not willing to do so.

2 THE COURT: Mr. Everly can you please explain to me
3 why your agency is not willing to reach a resolution in a case
4 where they can't even tell me if the plaintiff is legally in
5 the United States, and it appears that by all events someone
6 at State and ICE screwed up here, and apparently in a lot of
7 other cases? That's to you, Mr. Everly.

8 MR. EVERLY: I apologize, Your Honor, I just logged
9 in, I thought you were addressing --

10 THE COURT: No, I'm addressing you. I want to know
11 why the Agency is not willing to reach a resolution when it
12 appears by all accounts that there was a massive screw up at
13 State, not just in this case, but in a lot of other cases,
14 where individuals who are in this country legally, have been
15 going to school, have been doing everything that they're
16 supposed to be doing, are now getting notices that their SEVIS
17 has been terminated when it appears it shouldn't have been.
18 And they're now having to hire lawyers. And they have hired
19 lawyers for which they're spending money and now those lawyers
20 are in federal court.

21 And this morning I asked the most straight-forward
22 question one could ask, which is what is the effect of someone
23 being terminated on SEVIS? And even though the government had
24 represented that it has no effect on an individual's
25 immigration status, no one could tell me what the effect of

1 having been terminated in SEVIS even is until I got you on the
2 phone and then I got Mr. Watson on the phone. And I still, to
3 this day, do not have an answer from the government as to
4 whether or not the individual is here legally or not legally.

5 We all had what I thought was a very fair, very
6 simple process moving forward. ICE and the plaintiffs would
7 work out an agreement where the plaintiff could continue to go
8 to school. And since no one is able to tell him that he's
9 here illegally, he would stay in the country. Now, what is
10 the problem with that resolution from your agency's
11 perspective?

12 MR. EVERLY: Your Honor, all I can offer at this
13 time is my leadership is not able to provide a response at
14 this time.

15 THE COURT: Who at your leadership, because we're
16 going to get that person on the phone.

17 MR. CARILLI: Your Honor, if I may?

18 THE COURT: Mr. Carilli.

19 MR. CARILLI: From the government's perspective, we
20 believe that the Court -- the government has stated its
21 position in its papers and that --

22 THE COURT: Yeah, but your statement in your papers
23 is not supported by the evidence, in fact, it's contradicted
24 by the evidence.

25 MR. CARILLI: Your Honor, I disagree --

1 THE COURT: And you can't even tell me what the
2 government's position is. Tell me right now, right here, Mr.
3 Carilli, is the plaintiff in the country legally or illegally?

4 MR. CARILLI: The government, as the individual
5 witness appeared before the Court --

6 THE COURT: Mr. Carilli -- Mr. Carilli, do not
7 lecture me. Do not lecture me. I'm well aware of what has
8 happened in this case. Is the individual here legally or
9 illegally?

10 MR. CARILLI: That is an operational decision --

11 THE COURT: Mr. Carilli -- Mr. Carilli --

12 MR. CARILLI: I can't answer that.

13 THE COURT: You can't answer that because the
14 government doesn't know or a decision hasn't been made?

15 It is outrageous, it is outra- -- Mr. Carilli, no,
16 stop. It is outrageous that we have an individual who is
17 being told that he has been terminated in SEVIS, which by all
18 accounts is because your witness said that the State
19 Department told him that he was not here on a valid visa, even
20 though he is here on a valid visa. And now, the government is
21 not able to say if he's here legally or illegally. That is
22 either willful -- it is either willful or incompetent, neither
23 of which are good.

24 MR. CARILLI: Your Honor, I would first state that
25 what the declarant stated when I stated earlier about whether

1 the individual is here on a valid visa, as we stated the
2 validity period of his visa has expired.

3 THE COURT: Of the H visa. Of the H visa. That was
4 the validity of the H visa. And the problem was that
5 apparently State didn't pick up that he's been moved to an F-1
6 visa, or maybe State has picked up that he's been moved to an
7 F-1 visa, we don't know, because apparently State made a
8 number of mistakes and now it's trying to correct them.

9 What I find particularly outrageous, Mr. Carilli and
10 Mr. Everly, is that we are here with the government of the
11 United States not able to tell a federal court whether a
12 plaintiff is here legally or illegally. Even though that
13 you've had this case since, when did you all file this,
14 Mr. Brown, Friday, Thursday, when did you all file this?

15 MR. BANIAS: Last Wednesday, Your Honor.

16 THE COURT: Last Wednesday. We're at a week and the
17 United States Government can't tell me whether or not an
18 individual's in the country legally or illegally. You can't
19 even tell me why he's been terminated from SEVIS.

20 Here's what we're doing, Mr. Carilli, I'm entering a
21 TRO. I find that there is potential irreparable injury, one,
22 in whether or not he'll be able to go to school. And two,
23 whether he might be picked up at any moment mistakenly by ICE,
24 put on a plane and sent somewhere to never be heard from
25 again. And while that might seem like an exaggeration, we all

1 now know that's not an exaggeration and it's, in fact, quite
2 possible.

3 So I'm entering a TRO. He's going to be put back on
4 SEVIS in active status today within the hour. And that TRO is
5 going to be in effect until we have briefing on this issue,
6 which you all tell me what briefing schedule you want.

7 And in that briefing, Mr. Carilli, the government is
8 going to tell me why he was terminated from SEVIS, whether
9 that was appropriate or not, and whether he's in the country
10 here legally. Because I find that it is very likely that
11 plaintiffs are going to be able to prove that this was done
12 arbitrarily and capriciously. And, you know, why I find it's
13 likely that they're able to prove that, because you all can't
14 tell me otherwise.

15 So what briefing schedule do you all want and what
16 hearing time do you want?

17 MR. CARILLI: Your Honor, I would defer to
18 plaintiffs, if they would like to supplement their motion
19 first before -- and then I can speak as to when the government
20 would like to file a response to that.

21 THE COURT: Well, the government is filing some
22 response, because I want these questions answered.

23 Mr. Brown, what schedule do you guys want? I don't
24 want the TRO holding out too long.

25 MR. BANIAS: Your Honor, I apologize. Mr. Brad

1 Banias for the plaintiffs. We are happy to file by Friday or
2 Monday, Monday preferably, only because I have another hearing
3 tomorrow. But Friday would be fine, Your Honor, we're happy
4 to move as quickly as we can. And we'd like to amend our
5 briefing to address these issues head on.

6 THE COURT: All right. Please also address the
7 finality of the issues. So that would be -- that would be
8 Friday the -- Monday the 21st?

9 THE CLERK: Yes, Your Honor.

10 MR. BANIAS: Yes, Your Honor. That would be
11 great.

12 THE COURT: Mr. Carilli, how much time would you
13 like to respond?

14 MR. CARILLI: The government would like the time
15 that's permitted under the local rules, one week, so the
16 28th.

17 THE COURT: All right. And then we will have the
18 TRO hearing on the 29th. Mr. Watson is going to be in my
19 courtroom. We'll have the PI hearing on the 29th. Mr.
20 Carilli, Mr. Everly, both of you are going to be in my
21 courtroom, as is Mr. Watson, as is any other declarant you
22 want. And I want witness in this courtroom who can tell me
23 whether the plaintiff is here legally or illegally. Are we
24 clear, Mr. Carilli? That's going to be in my order.

25 MR. CARILLI: Yes, Your Honor.

1 THE COURT: All right. Mr. Bantias, Mr. Brown, I
2 suggest you all be here in person too. If you can't -- if you
3 can't you can appear by video, but I suggest one of you be
4 here in person.

5 Plaintiffs lawyers, I don't know if I have the power
6 to award attorney's fees in this case, but if I do you better
7 bring that to my attention, because if I find that the
8 government has been screwing around on this, we're going to
9 get into it. All right. Obviously, if I can't award fees, I
10 can't, but -- and maybe the government will tell me that I've
11 been wrong all along and, in fact, this wasn't arbitrary and
12 capricious and there was actually a reason that all this
13 happened and just nobody knows today, you know, I'll be the
14 first to say the government was right.

15 But right now what I'm seeing is that the government
16 is doing things at a very fast pace without much regard to the
17 effect it actually has on human being's lives. And the fact
18 that this student, who is months from graduation, is now
19 having to pay two lawyers if not more to find out whether or
20 not he's even in the country legally, which is frankly beyond
21 belief at this point. But we will be here.

22 You guys, Mr. Bantias, Mr. Carilli, I understand you
23 guys are coming up with TRO language, come up with agreement
24 for TRO language in this case that's similar. I want him back
25 on SEVIS though.

1 Mr. Everly, how soon can that happen?

2 MR. CARILLI: Your Honor, I will have to reach out
3 to those who can reinstate it, but it will be done as quickly
4 as possible.

5 THE COURT: All right. If it's not done, Mr.
6 Baniyas, Mr. Brown, we're going to get into contempt issue,
7 because that's an order of the court. Are we clear? Is
8 everyone clear on that? Is there any lack of clarification on
9 what I have ordered with respect to him being put back on
10 active in SEVIS immediately.

11 MR. CARILLI: Your Honor, no.

12 THE COURT: All right. Great. You guys come up
13 with TRO language. I know that you guys had until 10:00 a.m.
14 tomorrow for Judge Walton. If you guys need until 10:00 a.m.
15 tomorrow that's fine. I want him put back on SEVIS as quickly
16 as possible. Are we all clear?

17 MR. CARILLI: Yes, Your Honor.

18 MR. BANIAS: Yes, Your Honor.

19 THE COURT: Mr. Carilli, I know that this is not
20 your fault. I know that you're just doing what you can.
21 Mr. Everly, I assume that you're doing what you can. But I'm
22 not playing games. I'm not going to be jerked around by
23 anyone in your leadership. It's not going to happen. Are we
24 clear on that?

25 MR. CARILLI: Yes, Your Honor.

1 THE COURT: Mr. Everly?

2 MR. EVERLY: Yes, Your Honor.

3 THE COURT: I would suggest that you let your
4 leadership at agency and Mr. Watson, who I found to be
5 forthright today at least, know that we're done playing games.
6 I want answers. I want to get this settled. If this was
7 arbitrary and capricious, I'm going to say that. If there was
8 a reason why it happened then we'll get into that too, and
9 I'll obviously listen for it, right. But I'm not going to get
10 here on 29th and have a response of I don't have an answer
11 from my client. Are we understood? Mr. Everly, are you
12 understood that we're not going to get here on the 29th with
13 anyone saying to me I don't have an answer from my client?

14 MR. EVERLY: I understand, Your Honor.

15 THE COURT: All right. Thank you.

16 (The proceedings were concluded at 4:44 p.m.)

17 I, Christine Asif, RPR, FCRR, do hereby certify that
18 the foregoing is a correct transcript from the stenographic
19 record of proceedings in the above-entitled matter.

20 /s/
Christine T. Asif
21 Official Court Reporter
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25

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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

MANSI REDDY BUSHIREDDY,)
)
Plaintiff,)
)
vs.) CASE NO. 1:25-cv-01102-SLS
)
TODD M. LYONS, Acting)
Director, U.S. Immigration)
and Customs Enforcement,)
)
Defendant.)
)

TRANSCRIPT OF TRO MOTION HEARING
BEFORE THE HONORABLE SPARKLE L. SOOKNANAN, DISTRICT JUDGE
Monday - April 21, 2025
2:59 p.m. - 3:46 p.m.
Washington, DC

FOR THE PLAINTIFF:

Banias Law, LLC
BY: BRADLEY BRUCE BANIAS
602 Rutledge Avenue
Charleston, South Carolina 29403
(843) 352-4272

FOR THE DEFENDANT:

United States Attorney's Office - Civil Division
BY: JOSEPH F. CARILLI, JR.
601 D Street, NW
Washington, DC 20001
(202) 252-2525

SONJA L. REEVES
Registered Diplomat Reporter
Certified Realtime Reporter
Federal Official Court Reporter

333 Constitution Avenue, NW
Washington, DC 20001
Transcript Produced from the Stenographic Record

1 (Call to Order of the Court at 2:59 p.m.)

2 DEPUTY CLERK: Your Honor, this is Civil Action
3 25-1102, *Bushireddy versus Lyons*.

4 Counsel, please come forward to identify yourselves
5 for the record, starting with the plaintiff.

6 MR. BANIAS: Good afternoon, may it please the Court,
7 Brad Banias for the plaintiff, Your Honor.

8 THE COURT: Good afternoon.

9 MR. CARILLI: Good afternoon, Your Honor. Joseph
10 Carilli on behalf of the government.

11 THE COURT: Good afternoon, Counsel.

12 So we are here this afternoon on the plaintiff's
13 motion for a temporary restraining order. I have reviewed all
14 the filings from both sides, including the latest notice of
15 supplemental authority that the plaintiff just filed. I'm also
16 aware that this is one of many cases pending in this court
17 challenging the government's recent SEVIS terminations.

18 I am generally familiar with the other cases,
19 including all the orders entered by my colleagues and the new
20 case I just got last night.

21 So with that, I have some questions for both sides,
22 after which we will recess for a little and I will come back
23 and rule from the bench and follow up with a written order.

24 So I will actually start with the government today,
25 even though we're here on the plaintiff's motion. Mr. Carilli?

1 (Mr. Carilli approaches podium.)

2 THE COURT: Can you start by telling me about the
3 recent terminations in SEVIS? Am I saying that right? Is it
4 SEVIS?

5 MR. CARILLI: Your Honor, I have heard it pronounced
6 "SEVIS" and "SEEVIS."

7 THE COURT: I will go with "SEEVIS," if that's one
8 possible pronunciation.

9 So I have seen lots of news reporting, and there has
10 obviously been a bunch of filings in this court. It appears
11 you're handling all of them somehow. And all of those filings
12 tell me there was some recent mass termination effort by the
13 government.

14 Just start at a general level telling me how that mass
15 termination effort came about.

16 MR. CARILLI: Your Honor, I'm not in a position to
17 discuss any mass termination. I can speak as to what occurred
18 in this case. Obviously, there was an event that occurred
19 along the same timeline.

20 THE COURT: Mr. Carilli, how many of these cases do
21 you have that you're handling, because I have seen your
22 appearance on a number of them. I have two of your cases.

23 MR. CARILLI: I have entered a notice of appearance on
24 behalf of the government in 12 of these, and those are all of
25 these cases that are filed in this district.

1 THE COURT: Are you telling me -- so you have been
2 working on these cases for how long? When was the first one
3 assigned to you?

4 MR. CARILLI: The first one assigned to me was on --
5 April 11th, I believe, was the first case, which would have
6 been a Friday.

7 THE COURT: So about ten days you have been working on
8 these?

9 MR. CARILLI: Yes, Your Honor.

10 THE COURT: And so you don't know anything about what
11 event triggered all of these SEVIS terminations?

12 MR. CARILLI: I'm unable to answer that question as
13 far as any questions about a mass action that may have occurred
14 at Immigration and Customs Enforcement.

15 THE COURT: How did ICE identify the 12 students in
16 the cases you're handling? What criteria did they use?

17 MR. CARILLI: It generally plays along the same fact
18 pattern, Your Honor, where ICE received information from the
19 Department of State that an action was taken on a visa or that
20 an individual's visa validity period had expired. Those are
21 two different things, either that the visa was revoked or that
22 the validity period for the visa had expired. And --

23 THE COURT: ICE received notice from the State
24 Department that these students' visas had been revoked or that
25 they had expired?

1 MR. CARILLI: Generally speaking. And so this is
2 what's referenced in the agency's declaration in paragraph
3 eight where you can see that there was a communication.

4 THE COURT: I understand. I just want a yes or no,
5 and I have read the declaration.

6 So you're saying that in some number of cases, ICE
7 received notice that the State Department had either revoked
8 visas or that visas had expired. And what criteria did the
9 State Department use to identify these students?

10 MR. CARILLI: I do not know what criteria they used.
11 I can just tell you as to what the communication that occurred
12 from the department --

13 THE COURT: I don't need you to restate what's in the
14 declaration. I have read it. I have read the transcripts of
15 the proceedings before my colleagues in the other cases.

16 I'm asking you questions that I do not know the
17 answers to based on reviewing those documents, so if you are
18 not going to answer those questions, just tell me you're not
19 going to answer them and don't restate what's in the
20 declaration because I have already read it.

21 MR. CARILLI: Yes, Your Honor. As I stated
22 previously, when you asked about a mass event, I am not in a
23 position to discuss a mass event. Plaintiff has brought a
24 claim about their individual --

25 THE COURT: Counsel, if you just -- if you're not

1 going to answer my questions, again, just tell me you're not
2 going to answer them and tell me why, either because you don't
3 know the answer or you're not going to answer them. I am very
4 familiar with the facts of this case and what plaintiff is
5 alleging, and I'm trying to get answers to questions that I do
6 not know the answers to.

7 How many students has ICE terminated in the past
8 couple weeks?

9 MR. CARILLI: I'm not in a position to answer that
10 question.

11 THE COURT: Do you know the answer to that question?

12 MR. CARILLI: I do not know the answer to that
13 question.

14 THE COURT: Who knows the answer to that question?
15 You're here representing ICE; is that not correct?

16 MR. CARILLI: I'm here representing the government.

17 THE COURT: And the plaintiff sued the acting director
18 of ICE; is that correct?

19 MR. CARILLI: Correct, and they challenged --

20 THE COURT: And so -- Mr. Carilli, so have you
21 conferred with your client in preparation for this hearing?

22 MR. CARILLI: Well, Immigration and Customs
23 Enforcement --

24 THE COURT: Yes or no? Have you conferred -- who in
25 the government have you conferred with in preparation for this

1 hearing?

2 MR. CARILLI: Your Honor, I, of course, discussed this
3 matter with counsel for the agency.

4 THE COURT: So did you ask counsel for the agency or
5 did counsel for the agency tell you how many students have been
6 terminated in the past couple weeks?

7 MR. CARILLI: Your Honor, I'm not in a position --

8 THE COURT: Just yes or no. Do you know the answer to
9 the question, yes or no?

10 MR. CARILLI: As I stated, I do not know the answer to
11 that question.

12 THE COURT: Okay. I'm trying to get information from
13 you. If you're not going to provide it, either because you
14 don't know it or you're not going to tell me today, we'll move
15 on and I will let you know what I expect for further
16 proceedings in this case.

17 Has the government identified mistakes in these recent
18 termination efforts? Yes or no?

19 MR. CARILLI: Your Honor, I'm not able to answer that
20 question, because, again --

21 THE COURT: Based on testimony in another case last
22 week before one of my colleagues in *Patel versus Lyons*,
23 Mr. Watson said that, "ICE is," and I'm quoting, "rescrubbing
24 these lists." What does that mean?

25 MR. CARILLI: I do not have any information about his

1 testimony. What he indicated during the court was that ICE is
2 looking again at the individuals, who some number of the
3 individuals who had their cases, their record changed from
4 active to terminated.

5 THE COURT: Okay. Let's move on to the effect of
6 SEVIS terminations. You have said over and over that
7 terminating a student's status in SEVIS does not change their
8 immigration status and does not revoke the visa. If that is
9 true, what is the point of changing the SEVIS status to
10 terminated? There is some consequence, otherwise, the
11 government would not go about changing some number of students'
12 status from active to terminated. So what is the point of
13 making that change?

14 MR. CARILLI: The purpose of SEVIS is to communicate
15 and track individuals who are here in the United States on an
16 F, M or J visa.

17 THE COURT: I understand that. What is the point of
18 making a change in SEVIS from active to terminated? That's the
19 question I'm asking. And it's a question you have been asked
20 before and you have not answered. So are you going to answer
21 me today, and, if no, is it because you do not know the answer
22 to the question or you're not going to answer me?

23 MR. CARILLI: I do not know the answer to the
24 question.

25 THE COURT: You do not know the answer to that

1 question, even though you have been asked it in hearing after
2 hearing before my colleagues? You didn't go figure out the
3 answer from agency counsel after you were asked it the first
4 time and the second time and you didn't know the answer?

5 MR. CARILLI: And I haven't received a response, Your
6 Honor, but, again, you're --

7 THE COURT: You have asked that question of the agency
8 and the agency has not given you a response? Yes or no?

9 MR. CARILLI: No, they have not. Your Honor --

10 THE COURT: Counsel, I just want to get these
11 questions answered, figure out who I can get the answers from,
12 if I can't get it from you, and if you can't get it from your
13 client.

14 I want to talk about this notice of supplemental
15 authority that the plaintiff filed shortly before this hearing.
16 Do you have a copy of it?

17 MR. CARILLI: I do not. Plaintiff's counsel and I
18 spoke prior to --

19 THE COURT: Counsel, do you have a copy of the notice
20 you filed that you can give to Mr. Carilli?

21 MR. BANIAS: Not a paper copy, but I --

22 MR. CARILLI: Plaintiff's counsel did notify me, Your
23 Honor, as to the contents of what he filed.

24 (The Court hands down a copy for defense counsel.)

25 MR. CARILLI: Thank you.

1 THE COURT: Okay. So this looks to me like a notice
2 that was sent to an individual, but on the very first page of
3 this notice, which is quoting from that document, and I am
4 reading the last sentence of the first paragraph, it says,
5 "According to the beneficiary's SEVIS record, their F-1
6 nonimmigrant status was terminated on April 10, 2025 because of
7 the criminal records check and the revocation of their F-1
8 visa."

9 So doesn't this make clear that SEVIS termination has
10 something to do with immigration status?

11 MR. CARILLI: Your Honor, without knowing the
12 circumstances of this, without being able to speak to
13 Citizenship and Immigration Services as to what the basis was
14 to make this decision and how they rendered that decision based
15 on their internal guidance and their regulations, I'm not able
16 to comment further on what occurred in this individual case.

17 THE COURT: I'm not talking about this individual
18 case. I'm asking you, based on this sentence and reading that
19 sentence, doesn't it appear to you that the SEVIS record has
20 some impact on immigration status?

21 MR. CARILLI: In this specific circumstance, on this
22 decision by Citizenship and Immigration Services for what they
23 wrote, that appears to be what they stated.

24 THE COURT: Okay. Thank you, Counsel.

25 Tell me what message does a SEVIS termination send to

1 schools. So when they look up a student and it says
2 "terminated," doesn't that mean that the student is not in an
3 active status?

4 MR. CARILLI: It means that in the SEVIS record it is
5 not active, yes, Your Honor.

6 THE COURT: What does that mean? To be not active in
7 the SEVIS record, what does that mean?

8 MR. CARILLI: It means that in the system of records,
9 that is the status of the individual -- that is the -- that's
10 the status.

11 THE COURT: What does that mean, Counsel? What is the
12 implication of not having an active record in the SEVIS system?

13 MR. CARILLI: It doesn't affect their nonimmigrant
14 status.

15 THE COURT: What does it mean? What is the impact of
16 it? Counsel, you have been asked this -- you were asked this
17 question last week by different judges on this court. You said
18 you didn't have an answer.

19 You are representing to me today that you have since
20 asked your client the question and they have not provided you
21 with a response. I assume you have told the client that
22 various judges on this court have asked the question and would
23 like to know the answer; is that correct?

24 MR. CARILLI: Agency counsel is aware that judges have
25 asked questions and specifically along this line. Again, Your

1 Honor --

2 THE COURT: And they have not responded?

3 MR. CARILLI: They have not provided a response.

4 THE COURT: Okay, Counsel. What actions are schools
5 taking when the government has changed the status in SEVIS to
6 terminated?

7 MR. CARILLI: In these -- I do not know outside of
8 these 12 cases.

9 THE COURT: So in these 12 instances, what actions
10 have schools taken when the government has changed the status
11 from active to terminated?

12 MR. CARILLI: Generally, the schools have indicated to
13 the student that they should either cease attending class, so
14 cease their studies, or that they should cease performing their
15 OPT.

16 THE COURT: So this change that you have represented
17 to me and that your declarant has represented to this court
18 multiple times as having no impact whatsoever on these
19 students' status is nonetheless leading schools to stop those
20 students from attending classes or their practical OPT
21 training, yes?

22 MR. CARILLI: There have been some schools --

23 THE COURT: Yes or no?

24 MR. CARILLI: There have been some schools that have
25 done that and some have not, and as I stated --

1 THE COURT: Okay, Counsel. Let's move on to this
2 plaintiff, Ms. Bushireddy. Why was her status terminated in
3 SEVIS?

4 MR. CARILLI: As it stated in the agency declaration,
5 it was based on a criminal history, and they amended -- changed
6 the record from active to terminated.

7 THE COURT: What criminal history? Is it the
8 government's position that she has a criminal record?

9 MR. CARILLI: It is the government's position that she
10 has criminality in her background and she has --

11 THE COURT: Yes or no, is it the government's position
12 that she has a criminal record? Please answer my question, not
13 the question you want to answer.

14 MR. CARILLI: Yes. Based on the agency's declarant,
15 yes.

16 THE COURT: That she has a criminal record for being
17 arrested for shoplifting and those charges having been
18 dismissed by a judge, it's your position that that means she
19 has a criminal record?

20 MR. CARILLI: Yes.

21 THE COURT: Okay. What's the government's position on
22 her immigration status, her current immigration status?

23 MR. CARILLI: As is stated in the agency declaration,
24 the agency and the government has not revoked --

25 THE COURT: Is it the government's position that she

1 is legally in the United States on a valid F-1 visa right now?

2 MR. CARILLI: That I am not able to answer. As the
3 agency --

4 THE COURT: The government does not know whether this
5 plaintiff is currently legally in the United States?

6 MR. CARILLI: No, because that is an --

7 THE COURT: Counsel --

8 MR. CARILLI: Your Honor --

9 THE COURT: Counsel, you're standing here today on
10 behalf of the United States and you're telling me that you do
11 not know whether this plaintiff is legally in the United
12 States? How is she supposed to know the answer to that
13 question if you don't?

14 MR. CARILLI: Your Honor, as Immigration and Customs
15 Enforcement and as Mr. Watson stated in the courtroom with
16 Judge Reyes, it is an operational question. It is an
17 assessment on whether or not an individual is in the country
18 lawfully.

19 It is also a question of whether or not -- it's
20 something that arises out of a decision as to whether or not to
21 place an individual in removal proceedings, which, again, is a
22 prosecution question and a civil enforcement.

23 THE COURT: Counsel, you're telling me that the
24 government does not know whether this plaintiff is legally in
25 the United States on a valid F-1 visa? Yes or no?

1 MR. CARILLI: What I have stated --

2 THE COURT: Yes or no?

3 MR. CARILLI: What I --

4 THE COURT: Is this plaintiff currently legally in the
5 United States?

6 MR. CARILLI: Your Honor, I can tell you that the
7 status wasn't revoked, and Immigration and Customs Enforcement
8 has indicated that that question and the answer to that
9 question is an operational --

10 THE COURT: It's a question the government should know
11 the answer to, whether it's operational or not, correct?

12 MR. CARILLI: I don't know that I would agree with
13 that, Your Honor, and I would also state that that is a
14 question about -- that's arising for a decision on whether or
15 not to place someone on removal proceedings, which Congress has
16 said is outside of district court's jurisdiction.

17 THE COURT: Counsel, I am asking you a factual
18 question about whether this plaintiff is legally in the United
19 States, and you are telling me that you do not know the answer
20 to that question and that the government cannot tell me whether
21 this plaintiff is legally in the United States.

22 Let me ask you another question.

23 MR. CARILLI: Your Honor --

24 THE COURT: What is the government's position on
25 whether this plaintiff can continue her practical studies?

1 MR. CARILLI: Your Honor, if I could go back to your
2 other question.

3 THE COURT: I would like you to answer my question.
4 Can you tell me whether this plaintiff can continue her
5 practical studies?

6 MR. CARILLI: I have asked -- there is nothing -- what
7 Immigration and Customs Enforcement --

8 THE COURT: Can she do that, yes or no?

9 MR. CARILLI: That has been asked of the agency, and I
10 have -- I can't give you --

11 THE COURT: You have not received a response? Okay.

12 MR. CARILLI: I cannot give you an answer to that.

13 THE COURT: Okay. Thank you, Mr. Carilli. You can
14 sit down.

15 MR. CARILLI: Your Honor, I would like --

16 THE COURT: What would you like to clarify, Counsel,
17 because most of your answers are non answers. You are telling
18 me things you want to tell me and you are not answering most of
19 the questions that I am asking you. What would you like to
20 tell me?

21 MR. CARILLI: Your Honor, I would like to comment,
22 like, the determination on whether or not someone is lawfully
23 present in the United States is not a factual question. It is
24 a legal question. And if ICE needs to be able to put that
25 forward and decides that they believe an individual is

1 unlawfully present in the United States, they would put the
2 individual on removal proceedings, at which time they would
3 have to go before an immigration judge and --

4 THE COURT: I understand how that works, Counsel.
5 You're telling me you do not know the plaintiff's current
6 status. That is what you have told me today.

7 MR. CARILLI: What I said is that the SEVIS
8 termination was not a revocation of their F-1 status. Whether
9 or not --

10 THE COURT: I understand that that's what you have
11 told the Court. Thank you, Counsel.

12 MR. CARILLI: But, Your Honor, I would only comment
13 that that type of question as to whether or not --

14 THE COURT: Counsel, you have said that to this Court.
15 You have said it multiple times. You have said it to other
16 courts. As you have heard, no judge is satisfied with that
17 answer. Thank you.

18 MR. CARILLI: Excuse me, Your Honor. Thank you.

19 THE COURT: Counsel, I have a couple of questions for
20 you.

21 (Mr. Bantias approaches the podium.)

22 THE COURT: Is your client going to her practical
23 training at this point?

24 MR. BANIAS: No, Your Honor.

25 THE COURT: Is she permitted to continue from her

1 perspective? Has the school stopped her from pursuing her OPT?

2 MR. BANIAS: Your Honor, on ECF 8-2, page 3, the
3 University of Texas at Arlington told her that this ends her
4 OPT and that she's no longer in status, so no.

5 THE COURT: Okay. Thank you, Counsel.

6 I am going to recess for about ten minutes, and I will
7 come back and make an oral ruling. And then I will enter a
8 written order and talk about next steps.

9 (Recessed from 3:20 p.m. to 3:38 p.m.)

10 DEPUTY CLERK: Your Honor, we're back on record for
11 Civil Action 25-1102, *Bushiredy versus Lyons*.

12 THE COURT: Thank you.

13 Okay. Counsel, thank you for answering my questions.

14 I am going to enter a temporary restraining order in
15 this case. TROs are intended to preserve the status quo for a
16 limited period of time in order to prevent irreparable harm
17 and allow the Court to decide the merits of a case.

18 This case, which involves an international student
19 validly admitted to our country, who now faces an imminent risk
20 of arrest and deportation, is the very reason that the TRO
21 mechanism exists.

22 I am well aware that a temporary restraining order is
23 an extraordinary and drastic remedy. The plaintiff, as the
24 moving party, has the burden to establish that she is likely to
25 succeed on the merits, facing an irreparable injury, the TRO

1 would not substantially harm other parties, and that it
2 furthers the public interest. I find that the plaintiff has
3 done that in this case.

4 Ms. Bushireddy is an Indian national who has been
5 living and studying in the United States since 2022 under a
6 valid F-1 student visa. A little over two weeks ago, her
7 university notified her that ICE had terminated her status in
8 the SEVIS system, which is a database the State Department uses
9 to track international students.

10 ICE's termination was sudden and it did not provide
11 Ms. Bushireddy, who is a student legally admitted to the United
12 States, with any notice, reasoning, opportunity to be heard or
13 avenue to challenge the decision.

14 Starting with likelihood of success on the merits, at
15 this stage of the proceedings, the Court finds the plaintiff's
16 arguments compelling. The government's hasty termination of
17 her SEVIS record with no notice or opportunity to be heard
18 appears arbitrary and capricious in violation of the
19 Administrative Procedure Act.

20 Standing here today, ten days after first being
21 assigned to these cases, government counsel could not provide
22 basic details about the government's recent SEVIS terminations,
23 and we know from testimony in another case that the government
24 is, quote, "rescrubbing," end quote, the termination lists,
25 suggesting there may have been errors.

1 In the absence of answers from the government, the
2 plaintiff is left to speculate about the reason the government
3 terminated her record and whether and how she may correct this
4 alleged mistake. The plaintiff has thus shown a likelihood of
5 success on the merits.

6 Turning to irreparable harm, the SEVIS termination
7 seems poised to trigger a series of consequences, many of which
8 may well be irreversible. The government has argued that the
9 termination has no impact on the plaintiff's immigration
10 status, but it cannot explain why the termination happened if
11 it indeed has no consequence whatsoever. This is a question
12 other judges on this court have asked the government over and
13 over and no judge has gotten a straight answer.

14 The government also cannot assure the Court of the
15 plaintiff's legal status. While it represents that SEVIS
16 termination does not impact immigration status, government
17 counsel cannot tell me whether the plaintiff is here in the
18 United States legally. This is unacceptable.

19 The plaintiff quite reasonably fears for her safety.
20 The Court has no assurance that the plaintiff will not be
21 picked up and deported to El Salvador or some other country
22 tomorrow.

23 There are other ways the plaintiff is experiencing
24 irreparable harm. Her university has told her that she no
25 longer has status to continue her optional practical training,

1 she's no longer authorized to work in the United States,
2 barring her from the very activity that formed the basis for
3 her legal residence.

4 The government argues that monetary harms resulting
5 from the loss of work ordinarily do not constitute irreparable
6 harm, but that is because economic injuries are generally in
7 fact repairable with monetary damages in the ordinary course of
8 litigation. That is not true for this plaintiff.

9 Ms. Bushireddy's loss of her work authorization is not
10 just about money; it is about her ability to live legally in
11 the United States. No amount of money can provide her
12 immigration status. For all those reasons the plaintiff has
13 established irreparable harm.

14 Finally, the balance of hardships and consideration of
15 the public interest favor the plaintiff. The underlying
16 purpose of a temporary restraining order is to preserve the
17 status quo and prevent irreparable harm until the Court has an
18 opportunity to rule on the merits, and the temporary
19 restraining order will not harm the defendant or any other
20 party. This is particularly true given that the government has
21 not presented any evidence that the plaintiff's continued
22 presence here poses a threat to national security.

23 For all those reasons, I am granting your temporary
24 restraining order in this case. The United States admitted
25 Ms. Bushireddy legally, then appears to have revoked her status

1 without notice or reason. This not only runs contrary to
2 fundamental principles of fairness, but to the mission of the
3 very program in which she was enrolled.

4 The State Department's optional practical training
5 program, which entitled the plaintiff to an extension on her
6 F-1 visa, was designed for the twin purposes of providing
7 international students experience in their field, and as the
8 State Department's own website states, to quote, "help U.S.
9 colleges and universities remain globally competitive in
10 attracting international students to study and lawfully remain
11 in the United States," end quote.

12 The government seems to have lost its way.

13 I am going to enter a written order right after this
14 hearing. And in terms of next steps, that order will require
15 briefing on the preliminary injunction.

16 The plaintiffs are to file their preliminary
17 injunction papers by April 25th.

18 The government is to file any opposition by May 2nd.

19 The plaintiff should reply by May 4th.

20 And I'm going to hold a preliminary injunction hearing
21 on May 5th at 10:00 a.m., at which I expect the government to
22 provide answers to the questions it was not able to answer
23 today, either through counsel or through the government's
24 declarant or other witnesses.

25 Any questions from either side?

1 MR. BANIAS: None from the plaintiff, Your Honor.

2 THE COURT: Thank you, Counsel.

3 MR. CARILLI: Your Honor, government counsel, on
4 May 5th, I have a prescheduled mediation in a Title VII matter.

5 THE COURT: At what time, Counsel?

6 MR. CARILLI: It is an all day session. It is with
7 the circuit mediation program.

8 THE COURT: Counsel --

9 MR. CARILLI: I'm sorry, Your Honor. I would just ask
10 if we move into the later half of the afternoon, I will make it
11 work with the circuit mediator if we hold the hearing at
12 3:30 or 4:00.

13 THE COURT: Let's do it at 3:30.

14 MR. CARILLI: Thank you, Your Honor.

15 THE COURT: No problem.

16 Okay, Counsel. Thank you. I will enter my order
17 shortly. And I will see you on Wednesday, Mr. Carilli.

18 (Proceedings concluded at 3:46 p.m.)
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1 CERTIFICATE

2 I, Sonja L. Reeves, Federal Official Court Reporter in and
3 for the United States District Court of the District of
4 Columbia, do hereby certify that the foregoing transcript is a
5 true and accurate transcript from the original stenographic
6 record in the above-entitled matter and that the transcript
7 page format is in conformance with the regulations of the
8 Judicial Conference of the United States.

9 Dated this 21st day of April, 2025.

10 /s/ Sonja L. Reeves
11 SONJA L. REEVES, RDR-CRR
12 FEDERAL OFFICIAL COURT REPORTER
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