

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO: 25-CV-24650-BB

Cesar Roman Mora-Velazquez,

Petitioner,

v.

Director, U.S. Department of Homeland Security,
Immigration and Customs Enforcement, Removal
Removal Operations, Miami Field Office, *et al.*

Respondents.

RESPONDENTS' RESPONSE TO PETITION

Respondents, through the undersigned Assistant United States Attorney, consistent with this Court's Order (ECF No. 11), respectfully submit this Response to Petitioner Cesar Roman Mora-Velazquez's *Verified Petition for a Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2241 and Complaint for Declaratory and Injunctive Relief* (ECF No. 1 ("Petition")).¹ The Court should dismiss the Petition for lack of jurisdiction because Petitioner has already been released, *see Alawieh v. Tweedie*, Case No. 25-10614-LTS, 2025 WL 3171170, at *3 (D. Mass. 2025), *appeal docketed*, No. 25-2238 (1st Cir. Dec. 31, 2025), or, in the alternative, deny the Petition on the merits because Petitioner failed to establish that the United States Constitution guarantees his right to attend pastry school in the United States.

¹ Petitioner separately filed an *Emergency Motion for Preliminary Injunction and/or Temporary Restraining Order* (ECF No. 6), which this Court denied as moot (ECF No. 12).

BACKGROUND

I. Factual Background

Petitioner Cesar Roman Mora-Velazquez is a 37-year-old, citizen and national of Mexico (ECF No. 1-1 at 2; ECF No. 1-2 at 2, ECF No. 1-3 at 2, ECF No. 1-5 at 72), who studied law and served as the “the Head of the Comptroller’s Office of the State of Hidalgo, Mexico” from July 2018 to September 2022 (ECF No. 1-5 at 4, 75). In that capacity, Petitioner “assess[ed] the proper implementation and management of public resources” in Mexico (ECF No. 1-22 at 10).

After completing his government service in Mexico, Petitioner entered the United States in late 2022 on an F-1 nonimmigrant visa (ECF No. 1-5 at 72). From December 2022 to February 2025, Petitioner was enrolled in language programs (*id.* at 75), and in February 2025, Petitioner enrolled in a culinary program in Miami (*id.*) where he was authorized to take classes from February 10, 2025, to April 2, 2027 (ECF No. 1-4 at 2). The Petitioner’s designation in the Student & Exchange Visitor System (SEVIS) was “Active student” as of May 30, 2025. (ECF No. 1-10 at 9).²

Despite claiming to be unemployed and a student, Petitioner began to live in increasingly expensive residences in the United States, including an apartment worth over

² Petitioner attended classes called “Introduction to Patisserie,” “Introduction to Baking” and “Viennoiserie and Laminated Dough” (ECF No. 1-5 at 14 (describing a B+ grade), EFC No. 1-10 at 15)), where *Viennoiseries* is the name given by professional chefs to describe yeast-leavened dough products that are at a meeting point between bread and pastry. <https://en.wikipedia.org/wiki/Viennoiserie> (visited October 15, 2025).

\$800,000 in San Diego, California,³ a \$1.7 million apartment in Miami Beach, Florida,⁴ and a home worth approximately \$3.5 million in Miami Beach, Florida⁵ (ECF No. 1-5 at 75).

In 2023, while Petitioner was living in one of these expensive residences, Mexico issued “detention orders”⁶ against Petitioner for offenses including “influence peddling,” “aggravated embezzlement,” and “aggravated unlawful use of power” in connection with Petitioner’s public service in the State of Hidalgo (ECF No. 1-5 at 6, 34, 77). The following year, the United States Department of State prudentially revoked Petitioner’s F-1 nonimmigrant visa (ECF No. 1-6 at 2, ECF No. 1-13 at 22 (October 2, 2024)).

Several months later, the Department of Homeland Security issued the first of three documents alleging that Petitioner was subject to removal from the United States. First, on or about May 28, 2025, the Department of Homeland Security issued a Notice to Appear, stating that Petitioner’s visa was revoked on October 2, 2024, by the Department of State and that Petitioner was subject to removal. (ECF No. 1 at 7, ECF No. 1-17 at 2, 4; ECF No. 1-22 at 10). Second, on July 16, 2025, the Department of Homeland Security issued

³ 700 W E Street, Apartment 3404, San Diego, California is estimated to be worth \$869,758 according to Redfin, <https://www.redfin.com/CA/San-Diego/700-W-E-St-92101/unit-3404/home/12159401> (visited October 15, 2025); and \$820,500 according to Realtor.com, https://www.realtor.com/realestateandhomes-detail/700-W-E-St-Unit-3404_San-Diego_CA_92101_M19660-23176 (visited October 15, 2025).

⁴ 6899 Collins Avenue, Apartment 1908, Miami Beach, Florida is estimated to be worth \$1,741,500 according to Zillow, https://www.zillow.com/homedetails/6899-Collins-Ave-UNIT-1908-Miami-Beach-FL-33141/92447402_zpid/ (visited October 15, 2025).

⁵ 5978 Alton Road, Miami Beach, Florida is estimated to be worth \$3,499,000, https://www.zillow.com/homedetails/5978-Alton-Rd-Miami-Beach-FL-33140/155852170_zpid/ (visited October 15, 2025). Miami-Dade property records show a sale in August 2024 for \$2.6 million.

⁶ Petitioner submitted an affidavit that explained that the “warrants/detention orders issued by state-level courts [in Mexico] are means of bringing the person before the judge, but don’t substitute for the proceedings . . . to hear the charges from the prosecutor.” (ECF No. 1-11 at 7).

“Additional Charges of Inadmissibility/Deportability,” alleging Petitioner “remained in the United States for a time longer than permitted...” (ECF No. 1-16 at 2). Third, on September 8, 2025, the Department of Homeland Security issued another “Additional Charges of Inadmissibility/Deportability,” alleging that Petitioner’s “SEVIS status was terminated on July 16, 2025” (ECF No. 1-24 at 2).

Petitioner was taken into custody on May 28, 2025 (ECF No. 1 at 6, ECF No. 1-17 at 7), which prevented him from completing his in-person Summer 2025 classes which ranged from “Classic Patisserie” to “Platted Desserts” (ECF No. 1-10 at 16). Petitioner requested to be released on bond, but an Immigration Judge denied that request based on “risk of flight” and “discretion” on June 13, 2025 (ECF No. 1-12). Petitioner appealed that denial on July 14, 2025 (ECF No. 1-14 at 2). On October 17, 2025, the Department of Homeland Security filed a motion to dismiss removal proceedings with the Miami Immigration Court, and on October 22, 2025, the Immigration Judge granted the Department of Homeland Security’s motion and dismissed proceedings. On October 23, 2025, the Plaintiff was released from Department of Homeland Security’s custody (*see* ECF No. 10 at 1 (Joint Motion)).

II. Procedural Background

On October 8, 2025, Petitioner filed a *Verified Petition for a Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2241 and Complaint for Declaratory and Injunctive Relief* (ECF No. 1). The bulk of Petitioner’s claims relate to his detention and how an Immigration Judge conducted a bond hearing (*id.* at 3 (asking this Court to “order the Respondents to release him from custody”), *id.* at 14 (discussing “[i]mmigration detention” and “[c]ivil detention”); *id.* at 17 (“**Detention and Bond**”); *id.* at 24 (“Respondents’ detention of the Petitioner. . .”); *id.* at 26 (describing how “the IJ erred” when “denying the Petitioner’s bond motion”); *id.* at 27

(requesting that this Court declare that “Respondents detention of Petitioner” violated the United States Constitution and asking this Court to order Respondents to “release the Petitioner from custody”). Because Petitioner was released on October 23, 2025 (ECF No. 10 at 1 (Joint Motion)), all claims relating to detention and bond are now moot.

The Petition could be construed as containing a second allegation, namely that because of the alleged “punitive detention” of Petitioner by Respondents, Petitioner was no longer able to “remain in lawful F-1 nonimmigrant status” (ECF No. 1 at 24), leading his designated school official to set Petitioner’s SEVIS record to “Terminated” status. As a remedy for this alleged “punitive” action, Petitioner asks this Court to reinstate Petitioner’s F-1 nonimmigration status (ECF No. 1 at 3 (asking this Court to “reinstate Petitioner’s [student visa] status”), *id.* at 5 (“including request to reinstate F-1 nonimmigrant status”).⁷

ARGUMENT

At the outset, Respondents seek to clarify what this case is *not* about. First, Petitioner does not challenge the Department of State’s decision to revoke Petitioner’s visa after Mexico issued “detention orders” against Petitioner. Indeed, the decision to revoke a visa remains within the “discretion” of the Secretary of State or a Department of State Consular Officials, 22 C.F.R. § 41.122 (“A consular officer, the Secretary, or a Department official to whom the Secretary has delegated this authority is authorized to revoke a nonimmigrant visa at any time, in his or her discretion.”), and Petitioner has named *no* official from that Department as a respondent. Second, Petitioner does not challenge the Notice to

⁷ Concurrently, Petitioner is seeking reinstatement of his student status through a pending application before USCIS, pursuant to 8 C.F.R. § 214.2(f)(16) “(Reinstatement to student status)”. See *id.* § 214.2(f)(16)(F)(1) (describing relief available if “violation of status resulted from circumstances beyond the student’s control”).

Appear or the Additional Charges of Inadmissibility/Deportability (ECF No. 1 at 7, ECF No. 1-17 at 2, 4; ECF No. 1-22 at 10; ECF No. 1-16 at 2; ECF No. 1-24 at 2), as he currently has the legal means to challenge those charges before the appropriate authorities. Third and finally, Petitioner does not ask this Court to enforce a different District Court's preliminary injunction. Although Petitioner cites that decision (ECF No. 1 at 22 (citing *Doe v. Trump*, 784 F. Supp. 3d 1297, 1314 (N.D. Cal., 2025) (modified by *Doe v. Trump*, 2025 WL 2430494 (N.D. Cal. Aug. 22, 2025))), Petitioner appears to recognize that his individual claims do not "implicate immigration policy" or raise "a particularly strong claim for uniform, nationwide relief" that was at issue in that other case. See *Doe v. Trump*, 784 F. Supp. 3d 1297, 1314 (N.D. Cal., 2025).

Instead, this case now revolves around whether this Court can and should require the reinstatement of Petitioner's F-1 nonimmigrant status. This Court lacks jurisdiction to do so, and, if this Court were to find that it had jurisdiction, it should not grant relief.

I. This Court Lack Jurisdiction to Grant Relief.

Petitioner filed a Petition for Writ of Habeas Corpus, pursuant to 28 U.S.C. § 2241, a statute that, by its plain language, permits courts to rule on claims related to an "applicant's commitment or detention." 28 U.S.C. § 2241. Here, Petitioner is neither committed nor detained, meaning the prerequisites for habeas relief have not been met. *Black v. Decker*, 2020 WL 4260994, at *5 (S.D.N.Y. July 23, 2020), *aff'd*, 103 F.4th 133 (2d Cir. 2024) ("Congress has authorized federal district courts to grant a writ of habeas corpus whenever a petitioner is in custody in violation of the Constitution or laws or treaties of the United States.") (cleaned up).

The “commitment or detention” requirement is jurisdiction. *Clements v. Fla.*, 59 F.4th 1204, 1206 (11th Cir. 2023) (“When Congress first gave federal courts the authority to issue writs of habeas corpus, it limited relief to persons held by federal authorities” where “custody generally means physical detention or confinement.”); *id.* at 1209 (describing the “in custody” requirement in the statute for habeas relief for state prisoners as “jurisdictional”). *See also Alawieh v. Tweedie*, Case No. 25-10614-LTS, 2025 WL 3171170, at *3 (D.Mass., 2025). A federal court can grant a writ of habeas corpus “to a prisoner” *only if* that person “is in custody in violation of the Constitution or laws or treaties of the United States.” 28 U.S.C. § 2241(c)(3)). The clear language of the statute and “the common-law history of the writ” showed that “the essence of habeas corpus is an attack by a person in custody upon the legality of that custody, and that the traditional function of the writ is to secure release from illegal custody.” *Alawieh*, 2025 WL 3171170, at *3 (quoting *Preiser v. Rodriguez*, 411 U.S. 475 (1973) and citing *Munaf v. Geren*, 553 U.S. 674, 693 (2008)). If a “petitioner seeks relief that ‘falls outside the scope of the writ as it was understood when the Constitution was adopted,’ [those] claims are beyond the reach of a federal court's habeas jurisdiction.” *Id.* (quoting *Dep't of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103, 119 (2020)). Here, Petitioner is no longer seeking a relief within the clear language of the statute or the common-law history of the writ, meaning this Court lacks jurisdiction. *Id.*

The facts in *Alawieh* are identical to this case. In *Alawieh*, the petitioner was in custody when she filed her habeas petition, but she was subsequently released, *id.* at *4. Despite the end of petitioner’s detention, the petitioner in *Alawieh* asked the court to “order Respondents to reinstate” her student status. *Id.* The district court refused to do so, finding that the “remedy . . . within a federal district court’s core habeas jurisdiction” did not extend to

granting visas or reinstating visa status. *Id.* (citing *Department of Homeland Security v. Thuraissigiam*, 591 U.S. 103, 119 (2020)). The *Alawieh* court, therefore, found no jurisdiction to rule on the remaining claims.

As in *Alawieh*, Petitioner was detained but subsequently released, yet he asks this Court to order a remedy beyond the core of this Court's habeas jurisdiction.⁸ For these reasons, this Court should dismiss for lack of jurisdiction.

II. Petitioner's Claim Lacks Merit.

If this Court disagrees and finds that it has jurisdiction to hear Petitioner's claim, this Court should nonetheless deny the Petition on the merits because Petitioner cannot meet his burden of showing that he is entitled to reinstatement of his F-1 nonimmigrant status. *See Blankenship v. Hall*, 542 F.3d 1253, 1270 (11th Cir.2008) (describing how the burden of proof is on the habeas petitioner "to establish his right to habeas relief" and how a petitioner "must prove all facts necessary to show a constitutional violation."). In this case, Petitioner failed to prove any legal basis to establish that Court must remedy a constitutional violation by ordering the reinstatement of Petitioner's F-1 nonimmigrant status.

To the contrary, Petitioner cannot establish that he has a constitutional right to remain in the United States to pursue an education in culinary sciences. This is particularly true given how Petitioner failed to explain why a citizen of Mexico who studied law and served as the "the Head of the Comptroller's Office of the State of Hidalgo, Mexico" would suddenly change careers to learn about "Introduction to Patisserie," "Introduction to Baking" and

⁸ Petitioner implicitly recognizes that reinstatement of his F-1 nonimmigrant status is beyond the core of this Court's habeas jurisdiction in that Petitioner sought relief independently from USCIS through the filing of his petition, pursuant to 8 C.F.R. § 214.2(f)(16).

“Viennoiserie and Laminated Dough” in the United States when the Autonomous University of the State of Hidalgo offers a similar program⁹ and *Le Cordon Bleu* offers a *Certificado de Panadería* and *Diplomado de Concina* in Mexico City.¹⁰ Moreover, Petitioner failed to explain how, despite claiming to be unemployed and a student, he lived in increasingly expensive residences ranging from a \$800,000 residence in San Diego, California to a home worth approximately \$3.5 million in Miami Beach. More disconcerting, Petitioner failed to explain why he is subject to “detention orders” in Mexico for offenses including “influence peddling,” “aggravated embezzlement,” and “aggravated unlawful use of power” in connection with Petitioner’s public service in the State of Hidalgo, and he cites no cases to support his claim that the United States Constitution protects a foreign national’s right to study “Classic Patisserie” and “Platted Desserts” while subject to criminal investigation overseas.

For these reasons, Petitioner cannot meet his burden of establishing that this Court must remedy an alleged violation of the United States Constitution by ordering the reinstatement of Petitioner’s F-1 nonimmigrant status.

⁹ <https://en.uaeh.edu.mx/campus/icea/licenciatura/gastronomia/> (visited on January 14, 2026).

¹⁰ <https://www.cordonbleu.edu/mexico/inicio/mx> (visited January 14, 2026). Those Spanish terms translate to a *Certificate in Baking* and a *Diploma in Culinary Arts*.

CONCLUSION

For all these reasons, this Court should dismiss Petitioner Cesar Roman Mora-Velazquez's *Verified Petition for a Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2241 and Complaint for Declaratory and Injunctive Relief* (ECF No. 1) for lack of jurisdiction or, in the alternative, deny the Petition on the merits.

Respectfully submitted,

JASON A. REDING QUIÑONES
UNITED STATES ATTORNEY

By: **H. Ron Davidson**
H. RON DAVIDSON
ASSISTANT U.S. ATTORNEY
Court ID A5501144
U.S. Attorney's Office
99 N.E. 4th Street, Suite 300
Miami, Florida 33132
Telephone: (305) 961-9405
E-mail: H.Ron.Davidson@usdoj.gov

Counsel for Respondents