UNITED STATES DISTRICT COURT

DISTRICT OF MASSACHUSETTS (Boston)

No. 1:25-cv-10685-WGY
Volume 1, Page 1 to 78

AMERICAN ASSOCIATION of UNIVERSITY PROFESSORS, et al,
Plaintiffs

vs.

MARCO RUBIO, in his official capacity as Secretary of State, et al,
Defendants

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For Bench Trial Before:
Judge William G. Young

United States District Court
District of Massachusetts (Boston.)
One Courthouse Way
Boston, Massachusetts 02210
Monday, July 7, 2025

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REPORTER: RICHARD H. ROMANOW, RPR
Official Court Reporter
United States District Court
One Courthouse Way, Room 5510, Boston, MA 02210
rhr3tubas@aol.com

A P P E A R A N C E S

RAMYA KRISHNAN, ESQ.
CAROLINE DeCELL, ESQ.
ALEXANDER ABDO, ESQ.
SCOTT B. WILKENS, ESQ.
Knight First Amendment Institute at Columbia University
475 Riverside Drive, Suite 302
New York, NY 10115
(646) 745-8500
E-mail: Ramya.krishnan@knightcolumbia.org
and
COURTNEY GANS, ESQ.
NOAM BIALE, ESQ.
Sher Tremonte LLP
90 Broad Street, 23rd Floor
New York, NY 10004
(212) 540-0675
Email: Cgans@shertremonte.com
For Plaintiffs

ETHAN B. KANTER, ESQ.
WILLIAM KANELLIS, ESQ.
VICTORIA M. SANTORA, ESQ.
JESSICA STROKUS, ESQ.
DOJ-Civ
P.O. 878
Ben Franklin Station
Washington, DC 20044
(202) 616-9123
Email: Ethan.kanter@usdoj.gov
and
SHAWNA YEN, ESQ.
United States Attorney's Office
1 Courthouse Way, Suite 9200
Boston, MA 02210
Email: Shawna.yen@usdoj.gov
For Defendants

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P R O C E E D I N G S

(Begins, 9:00 a.m.)

THE COURT: Good morning. We have, um, or I have authorized zoom access for this proceeding. That being so, let me say that the rules of court remain in full and effect, and that is that there is no taping, streaming, rebroadcast, screen shots, or other transcription of these proceedings, and you must keep your microphone muted. If you don't keep your microphone muted, we will, um, in essence turn you off.

Now I'm told that there's various housekeeping matters. Housekeeping matters will wait until 2:00 this afternoon, I want to get going on the trial as scheduled. Though I have some rulings to be made, which I think ought be made once we've have the openings.

Since there are many participants in the case, I'll ask you, when you speak for the first time, if you wouldn't introduce yourself, that way the Court Reporter will pick you up, and as, um, if you speak more than once as the trial goes on, we'll have your name, rather than have everyone introduce themselves at this time.

As I said, we'll, um, start, if you wish, with brief openings, not to exceed 15 minutes. And I'll hear the plaintiff if they wish to open.

MS. KRISHNAN: Good morning, your Honor, Ramya

Krishnan for the plaintiffs. I'm just going to head over to the podium to deliver the opening statement.

OPENING STATEMENT BY MS. KRISHNAN:

Plaintiffs challenge a government policy of deporting noncitizens and students -- noncitizen students and faculty based on their pro-Palestinian advocacy. Not since ***Mikaviera*** have immigrants been the target of such intense repression of lawful political speech. The policy creates a codicia of the university communities and it is at war with the First Amendment.

The First Amendment forecloses viewpoint discrimination, it forecloses government retaliation, and it forecloses government threats meant to coerce silence. Over the course of the trial, plaintiffs will demonstrate first that defendants adopted a policy of ideological deportation, that is a policy of revoking visas and green cards of noncitizens engaged in pro-Palestinian advocacy, and of arresting, detaining, and deporting them. Second, plaintiffs will show that the policies imposed real and serious burdens on plaintiffs' members and plaintiffs themselves.

Plaintiffs will prove that the policy exists by presenting, among other things, public statements of government officials. In those statements officials

describe the policy, they even boast about it. The evidence will show moreover that these statements are taken seriously by the employees tasked with implementing the policy and by the noncitizens forced to live under it.

In addition to presenting these statements, plaintiffs will provide testimony from government employees responsible for executing the policy. Their testimony will establish that the policy began sometime in February or March, that senior leadership at the Departments of State and Homeland Security launched an operation to identify students and faculty to target, that they developed a new process to effectuate deportation of those identified, and that the agencies continued to issue new guidance to grease the policy's wheels.

Through the testimony of their witnesses, plaintiffs will establish that the policy has harmed their members as well as plaintiffs themselves. This testimony will show how AAUP's members have been forced to self-sensor, how their citizen members have been deprived of the insights and perspectives of their noncitizen colleagues and students, and how the works and missions of these organizations have been harmed as a result, when they started the policy itself.

The evidence will show that the policy was adopted in response to the campus protests of 2023 and 2024. Thousands of students and faculty attended those protests. They had different perspectives. Some called for a cease fire, others called for institutional divestment from Israel, and still others called for cutting off U.S. support for the war.

In January, President Trump issued two executive orders that took aim at those who protested. In a White House fact sheet, the President characterized those protests as pro-Hamas and pro-jihadist and threatened those who participated in them. In the fact sheet included this morning, quote, "To all the resident aliens who joined the pro-Jihadist protest, we put you on notice, come 2025, we will find you and we will deport you. I will also quickly cancel the student visas of all Hamas sympathizers on college campuses which have been infected with radicalism like never before."

The President's threats were not merely empty words. As the evidence will show, the agencies quickly put those threats into action by adopting the policy. Defendants have already arrested and detained nearly a dozen nonstudents pursuant to the policy and they have revoked the visas of potentially hundreds more.

When ICE arrested Mahmoud Khalil, a recent Columbia graduate, and an outspoken advocate for Palestinian human rights, Secretary Rubio posted to X, quote, "We will be revoking the visas and green cards of Hamas supporters in America so they can be deported.

In a litany of statements made since, officials have referenced and reaffirmed the policy. They have also made clear that they deem a broad spectrum of pro-Palestinian and antiwar speech to be pro-Hamas and antisemitic.

For instance, when asked on NPI's Morning Edition how Mr. Khalil had supported Hamas, the Deputy Secretary of Homeland Security responded, quote, "Well I think you can see it on TV, right? This is somebody we've invited, and he's put himself in the middle of the process of basically pro-Palestinian activity." The defendants' public statements describe the policy and good evidence of its existence. The plaintiffs will show the defendants have implemented the policy as well.

First, in February or March, the Department of Homeland Security launched an operation to identify students and faculty to target under the policy. Government officials will testify that around that time senior leaders of DHS's Homeland Security investigations began meeting to discuss revoking the visas and green

cards of student protestors. This group called itself the "Tiger Team." HSI's Office of Intelligence was instructed to prepare reports on student protestors. And senior officials in HSI provided the office with the names of new protestors on a rolling basis.

The vast majority of these names came from Canary Mission, an organization that maintains public black lists of students and faculty they deem to be anti-American, anti-Israel, or antisemitic.

Some of the names came from Bayta, a group that antidefamation league has labeled as extremist because it openly harasses Muslims. Government officials will testify that the Office of Intelligence has prepared reports on at least 100 and potentially hundreds of students as part of this operation. These students include Mr. Khalil, as well as Mohsen Mahdawi, Rumeysa Ozturk, Yuncseo Chung, and Badar Khan Suri.

Second, DHS and the State Department have established an interagency process to deport targets identified through this operation. Government officials will testify that once HSI's Office of Intelligence prepares a report on a student protester, it shares that report with HSI's National Security Division. Senior officials in that division then decide whether to refer the case to the State Department. When they make the

referral, the National Security Division will share the Office of Intelligence's report together with a letter recommending action.

In several of these cases, Secretary Rubio has made a personal determination over the INA's rarely-invoked foreign policy provision. In other cases the State Department has acted to revoke student visas under a different provision of the INA, Section 221(i), without referencing any specific ground of deportability. Third --

THE COURT: Let me interrupt, and your opening flags it. There is this statute, it's been on the books for sometime. Congress has empowered the Secretary personally to revoke visas if, in the Secretary's determination, the presence of the individual embarrasses the foreign policy of the United States. Now -- and from my preparation for the trial, it appears that at least in some cases, if not all, the public officials have relied upon that provision to take action.

How do you deal with that? That's awful, isn't it?

MS. KRISHNAN: It is, your Honor. And I'd start by noting this, which is that the policy that we challenge is effectuated by relying on a variety of the

provisions of the INA. It is true that in many of these cases Secretary Rubio has invoked the foreign policy provision to which your Honor refers. In many other cases, including student visas, it's relied on different provisions of the INA, including Section 221(i). But as regard to the foreign policy provision, whatever Congress intended as to its scope, the First Amendment prohibits the government from deporting noncitizen students and faculty based on their political viewpoint, which is what the government is doing here.

THE COURT: But my problem -- and you're right to address this right at the beginning, my problem is that the -- that the statute empowers the Secretary of State to take various actions. Your point is that if those actions are ideologically based, he can't do it? How do I harmonize the two?

MS. KRISHNAN: It is possible that the foreign policy provision has some narrow applications that are constitutionally permissible. For example, if the government sought so deport a foreign government official based on speech activities that would otherwise be lawful. The budget for the history of this provision shows that Congress intended its scope to be narrow.

THE COURT: Well that gets me to my second -- and I just throw it out now, and I recognize I've

interrupted you. Your, um, litigants here, um, are you asking me to declare that the conduct of these public officials, including the Secretary of State, is unconstitutional as applied notwithstanding this statute, is what you're saying?

MS. KRISHNAN: That is correct.

THE COURT: Then I've got this problem. If that's what you're asking, you people -- your litigants, your clients, they're not -- they haven't challenged it, have they?

MS. KRISHNAN: But to be clear, your Honor, we do not challenge the foreign policy provision -- the constitutionality of the foreign policy provision directly, what we challenge is the policy of relying on a variety of INA provisions in order to deport noncitizen students and faculty based on their political viewpoints.

THE COURT: Thank you. About 3 more minutes.

MS. KRISHNAN: Third, the State Department -- and this goes to the policy's implementation. Third, the State Department has issued and continues to issue formal guidance to effectuate the policy.

For example, on February 28th, Secretary Rubio issued a cable titled "Catch and Revoke," providing that a visa should be revoked if a visa holder engages in

activities that are inconsistent with their visa status. Later cables, together with the defendants' own public statements, made clear that the State Department deems pro-Palestinian advocacy to be inconsistent with holding a student visa, and also a basis for finding that noncitizens have endorsed or espoused terrorist activity or that their presence here compromises U.S. foreign policy, both of which are grounds of deportability under the INA. But the most powerful evidence of the policy's existence is the way in which defendants have enforced it.

Despite this Court's clear orders, defendants have produced very little about the targeted -- the five targeted noncitizens as to which this Court has allowed discovery. But the evidence we will present is unambiguous. It will show that in each case the government retaliated against -- constitutionally protected advocacy.

In the cases of Khalil, Mahdawi, Chung, and Khan Suri, the government relied on the foreign policy provision to which we've just discussed. In each case Secretary Rubio made the personal determination required by that provision of the INA citing the individual's constitutionally protected expression.

In Ms. Ozturk's case, the State Department relied

on a different provision of the INA, Section 221(i). But in her case too the government justified its decision by pointing to lawful advocacy, mainly an Op-ed she co-wrote in Tufts Daily criticizing her school's failure to disclose its investments and divest in companies in Israel.

Defendants' public statements confirm that the government sought to deport these noncitizens in retaliation for their speech. They also established that the defendants campaign of retaliation extends far more broadly than these five individuals. And remarks delivered to the press on March 28th, for example, Secretary Rubio confirmed that all but a few of the Trump administration's then 300 student visa, quote, "related to pro-Palestinian protests." Defendants have made clear that further revocations and arrests are to come.

THE COURT: Your time is about up, and I am going to keep time. We need to get this case through in the allotted time.

MS. KRISHNAN: Okay, thank you, your Honor.

THE COURT: Thank you.

Does the defense wish to open now or reserve?

MS. SANTORA: Thank you, your Honor, we'd like to open now.

THE COURT: And you may. But if you would first introduce yourself.

MS. SANTORA: Good morning, may it please the Court, Victoria Santora appearing on behalf of defendants.

THE COURT: And I'm going to start with one question for you, Ms. Santora.

Do the public officials, defendants here, agree that a noncitizen lawfully in the United States has the same constitutional rights under the First Amendment as a citizen?

MS. SANTORA: Individuals within the United States have certain rights under the First Amendment. We'll argue, your Honor, and the evidence will show that the government is not revoking Visas or deporting noncitizens.

THE COURT: No, no, you need to answer my question. I'll respect whatever answer you give me, but I'll need an answer. The same rights as a citizen? I mean it may be that they don't, that's a possibility. And this statute, that I pressed the plaintiffs on, bears on that. But I just want to know going in, what's the position of the public officials here?

MS. SANTORA: So our position would be that the First Amendment does refer to "persons," um, and that

people in the United States share the same rights under the First Amendment.

THE COURT: Thank you, that's an answer. And I'll hold you to that. And please go ahead.

OPENING STATEMENT BY MS. SANTORA:

Your Honor, plaintiffs claim their speech is chilled and their organizations are harmed because the government is revoking visas and deporting noncitizens on the basis of protected speech. The government, they say, has created and is deploying what they describe as an "ideological deportation policy." At this trial the evidence will show that none of that is reality. The plaintiffs' case is grounded in speculation and supposition, it's a theory, it's an idea, it's conjecture. And it falls far short of meeting the steep burden the plaintiffs face here.

The plaintiffs ask the Court to apply a traditional First Amendment retaliation analysis. But because of the issues that play in this case, national security, foreign policy, immigration enforcement, and enforcement discretion, this case is far from a traditional First Amendment retaliation case.

In this case, plaintiffs must first show that the alleged policy they challenge has no legitimate cause or

objective. Because the evidence will show that the government is enforcing the immigration laws lawfully and justifiably, plaintiffs will fail to clear that high hurdle. Even if they did, to prove retaliatory conduct that they allegedly fear, plaintiffs must show, one, engagement in a protected activity, two, an adverse action taken again them, and, three, a causal link between the two.

Your Honor, plaintiffs in this case are institutions. They claim that they, and their noncitizen members have been injured by an alleged policy. But the reality is, and the evidence will show, that the government has taken no adverse action against any institutional plaintiff or noncitizen involved in this case.

The evidence will undermine all claims that these institutions and people have been adversely affected in any way. Where's the harm? The harm is essential to prove the plaintiffs' case? It's illusory. There is simply none.

Plaintiffs will offer, as evidence of retaliation and harm, examples of other cases outside of this one where noncitizens were allegedly retaliated against for their unprotected speech. Such evidence misses the mark because, as your Honor has recognized, we're not here to

relitigate other people's cases which are being fully litigated in other District Courts. When we focus, as we should, on this case, on the government's policies and practices, the evidence will show that the government is acting lawfully, reasonably, and justifiably, in carrying out the law and pursuing the administration's priorities.

Not only is the retaliation entirely imagined here, the alleged chill is also. To show chill, plaintiffs must show that speech was actually chilled. Allegations of a subjective chill are not an adequate substitute for a claim of specific, present, objective harm or a threat of specific future harm. Your Honor, after the hearing the evidence you will certainly find that plaintiffs have not shown specific subjective harm, present or future. The reality is that plaintiffs will show no more than subjective chilling, which is insufficient to meet their burden.

Plaintiffs' witnesses will say that they are afraid, but the evidence will refute that and it will show that they shouldn't be. Plaintiffs' witnesses will say that they changed their behavior, but the evidence will undermine that and it will prove there's no objectively-reasonable basis for them to have done so. Again plaintiffs' witnesses will contend that they have

been harmed, but the evidence will demonstrate that is nothing more than a theory on which they base their entire case.

Your Honor, this week you will see that plaintiffs' witnesses are academics. You will find them impressive, you will find them intelligent, because they are. You'll learn that they work in the realm of ideas, concepts, theories, and hypotheses. But you'll see too that their case is theoretical and hypothetical. Indeed it is about things that they fear may happen. But the law requires that their case be grounded in facts, the law requires that their case be grounded in reality. It's not.

So if plaintiffs are presenting a theory, a conjecture, what's the reality? The reality is what the government will present in this trial. The work of the government witnesses in this case is grounded in reality, their work is grounded on a daily basis in the sober reality of protecting our national security. You'll see that every one of the government's witnesses has done this important work for decades. This week and next they will discuss the fact that under the law the government may revoke visas and remove noncitizens and it has wide discretion to do so. That's been the case for quite some time.

The government's evidence will show that these legal authorities have existed for decades and that their purpose is to promote safety and security. The reality is that it is the prerogative of each administration to set immigration enforcements priorities, and the government's evidence will show that this administration set immigration enforcement priorities within the confines of longstanding law. The reality is that there is no ideological deportation policy or anything like it under any other name.

Your Honor, during that trial you'll hear about two executive orders, Executive Orders 14161 and 14188, they're titled "Protecting the United States from foreign terrorists and other national security and public safety threats," and "Additional measures to combat antisemitism."

Protecting United states citizens, combatting antisemitism rigorously, these are the prerogatives of this administration, objectively-justifiable priorities. Because the evidence will confirm a longstanding need to protect Americans from foreign threats, including through visa vetting and agency prophecies addressed in Executive Order 14161.

The evidence will further confirm, as Executive Order 14188 says, that in the past two years we have

seen, quote, "an unprecedented wave of vial antisemitic discrimination, vandalism, and violence, against our citizens, especially in our schools and on our campuses. The evidence will sadly additionally confirm, as Executive Order 14188 states, "Jewish students have faced an unrelenting barrage of discrimination, denial of access to campus common areas and facilities, including libraries and classrooms, and intimidation, harassment, and physical threats and assaults." Ultimately the evidence will leave no doubt as to the necessity of the executive orders at issue in this trial. To state the obvious, protecting national security and fighting antisemitic are worthy causes.

You'll also hear evidence concerning how the Department of Homeland Security and states have implemented these executive orders. Later this week and next week, government officials working in those departments will testify that the executive orders have been implemented using standards and authority that has been in place for decades. The priorities and emphasis may change, but the standards and authorities remain the same.

The government witnesses will tell you that the reality is that these tools and measures preventing noncitizens from seeking to enter our country, or

already in our country, are developing and are necessary in light of past tragedies. The 1993 World Trade Center Bombing. The terrorist attack of September 11th, 2001. The 2013 bombing of the Boston Marathon. The 2015 San Bernadino shooting. Preventing future tragedies like these, the government officials will testify require vetting noncitizens under longstanding legal standards --

THE COURT: About 5 more minutes. Go ahead.

MS. SANTORA: -- using both existing and evolving standards and methods. The evidence will show that that is exactly what our government is doing in implementing these executive orders, no more, no less.

Within the context of these revocations and visa actions undertaken in the past 6 months, these officials will explain how their agency shared information and how they independently conduct a case-specific fact-based analysis to determine whether a noncitizen's activities rendered him or her removable or his or her visas revocable. The officials' testimony will prove unequivocally that since the administration's inception the decision to revoke visas and to institute immigration enforcement actions have been in accordance with existing statutes, regulations, and procedures. It will affirm the reality that there's no policy to revoke

visas or remove noncitizens on the basis of protected speech or any other unlawful basis.

Next week you'll hear from four senior Homeland Security investigation agents involved in four different of the administration's acts of noncitizens between March and today. These agents will further develop the plaintiffs' theory that the government is conducting ideologically-motivated and improper arrests. The agents will testify that their offices conduct all arrests, including the ones plaintiffs attempt to exemplify in this case according to Established HSI protocols and procedures. By the end of this trial, your Honor, you will understand that the so-called ideological deportation policy is no more than a theory plaintiffs have conjured from a series of suppositions and speculations.

Again, conjecture, supposition, and speculation, is not evidence. It fails to meet any burden. The evidence presented at this trial will bear out the reality that plaintiffs are challenging nothing more than the government's lawful enforcement of the immigration laws. The evidence will show, without question, the reality that there is no immigration enforcement strategy based on protected speech. The evidence will show, without question, that there have

been no immigration enforcement actions based on protected speech. The evidence will show, without question, that there is no ideological deportation policy, your Honor.

Your Honor, one more point to make, if I may? I wanted to add one qualification to my answer to the question you posed at the beginning, I apologize if I misspoke earlier. But I do want to say that there are nuances to the First Amendment and we will address that fully in closing. Um --

THE COURT: Like what?

MS. SANTORA: I'm sorry?

THE COURT: Like what? What are the nuances? I mean I understand, um -- when you say that, here's what I think. Political speech is at the very core of the First Amendment. Advertising, for instance, is not. So that's a nuance. But both are protected forms of speech.

MS. SANTORA: Yes. And the nuance is that, as I addressed in our opening statement, this context involves issues of national security, foreign policy, immigration enforcement, an enforcement --

THE COURT: And those, you suggest, have less protection?

Now when you say "national security," you know in

World War II, the populous was urged, and for very good reason, for instance, not to disclose ship departure times and the like. We were in the middle of global war. One can understand that. But speech about our foreign policy, speech about matters of national security, I had always thought was political speech, it was of the most protected speech. And indeed, speech about our immigration policy is political speech.

The President ran on a policy of immigration enforcement, which he's attempted to carry out. And whether individuals support that or oppose that, all of that seems to me political speech. I'm just trying to find out what you meant by that?

MS. SANTORA: So our evidence will show that speech was not the basis for Visa revocations or deportation actions in this case. As you recognize, your Honor, though this case does involve the foreign policy provision of the INA, um, which addresses when an individual's activity is --

THE COURT: Well now is not the time, because we haven't heard the evidence, and you've outlined forceful evidence that I'm eager to hear. But in closing, I imagine we'll be talking about that and seeing if what is only speech can form the basis of the Secretary's determination under that statute. I'm well aware of the

statute and, um -- I tried to flag, I've got to square that statute, or maybe not, maybe I don't have to. Maybe I shouldn't, because of course they're not the people being challenged, they, um, under this statute. As pointed out, those matters are being litigated in other cases, which I express no opinion on. None. They're not before this court. Those determinations will be made by judges every bit as good and experienced and as thoughtful as I am. So I'll say nothing about that.

But on the issue of whether these plaintiffs can get any relief -- and of course there would have to be a factual basis, you pointed out some of the hurdles before we get there. I did say to plaintiffs' counsel, "Well assuming things went your way." Well you're saying they shouldn't go that way.

You haven't talked yourself out of reliance, because I'm -- honestly, I try to be transparent, you haven't talked yourself out of relying on the statute or any of the statutes. But I'm taking your view that, as a general matter anyway, people lawfully in the country have the same rights to free speech as citizens. You answered "yes" to that.

Am I right on that?

MS. SANTORA: So the question is not necessarily

based on -- the answer I think is not necessarily based on their status in this country, but it's based on again how their status relates to and comes up in this context of these provisions of the INA, which relate to --

THE COURT: Except that -- again this is not the -- you've made your opening, I want to get to evidence now. Except that if the Secretary says, personally, under the statute, "This person embarrasses the foreign policy of the United States," under the statute now, that's a basis for revoking their status and immediately expelling them from the United States. What the Secretary of State had to stay about the speech of a citizen, the identical speech of a citizen counts for nothing because a citizen cannot be expelled from the United States on the Secretary's say so, but a noncitizen can. So how those two mesh is a real problem in this case. And I think that's all that may be said now because we need to have a factual record. And thank you.

All right, I said I was going to rule on matters, but since we're going to talk about housekeeping at 2:00, I can postpone those rulings until then.

You may call your first witness.

MR. BIALE: Thank you, your Honor.

The plaintiffs call Megan Hyska.

THE COURT: And your name is?

MR. BIALE: And my name is Noam Biale.

THE COURT: And, Mr. Biale, thank you.

MR. KANELLIS: Your Honor, can we first ask -- we would like the Court's exclusional rule on witnesses.

THE COURT: Sequestration order?

MR. KANELLIS: Yes, sir.

THE COURT: Oh, I understand that.

(Interruption on zoom.)

THE COURT: You're familiar with the rules of sequestration, they are, that only one witness will be in the courtroom at a time. Counsel may talk with the witness at any time, but the witnesses are not to talk amongst themselves about the testimony that they've given. That is the order of the Court. Witnesses are sequestered on all parties, including the defendant public officials.

And the witness may come forward, please.

THE COURT: Yes, we will take a short recess first.

(Shorts recess.)

THE COURT: Please swear the witness.

(MEGAN HYSKA, sworn.)

MR. BIALE: May I proceed?

THE COURT: You may.

MR. BIALE: Thank you, your Honor.

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MEGAN HYSKA

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DIRECT EXAMINATION BY MR. BIALE:

Q. Good morning, Professor Hyska.

A. Good morning.

Q. Where do you work?

A. I work at Northwestern University.

Q. And what's your position there?

A. Assistant Professor in the Philosophy Department.

Q. Tell us briefly about your academic work?

A. So I'm a specialist in the philosophy of language and in some topics in social philosophy.

Q. And within those disciplines, what are some of the topics that you studied?

A. So I have studied and written about topics having broadly to do with political communication including questions about the nature of political propaganda, about how political communication is technologically mediated by things like social media or artificial intelligence. I've also written about social organizing and social movements.

Q. And why -- you mentioned political propaganda. Why is that a subject of interest for a philosopher of language?

A. A philosopher of language might broadly be characterized as having an interest in the mechanics by which we get information across to one another. And a question that has arisen for some people is whether political communication might preferentially use some of those mechanisms rather than others, whether propaganda, for instance, uses some of those mechanisms more than others.

Q. Thank you. And do you have any scholarly writings?

A. I do.

Q. Can you tell us about those?

A. Sure. So I, um, within the subject matters that I mentioned a moment ago, for instance I have a couple of articles about kind of the concept of political propaganda, I have articles on the ways that political speech and political mobilization interact with synthetic media, that is AI-generated media. I've got some work on the nature of communication per se, and some other work on, um, the nature of social organizing and social movement.

Q. And other than your scholarly writings, have you

written anything more public-facing?
A. I have.
Q. Can you tell us about those publications?
A. So what comes to mind is two publications which were more public-facing. One of them was an article in the "Yale Review," this would have been in the fall of 2018. The second is an Op-Ed in the "LA Times" in 2022.
Q. Okay. Let's start with the article in the Yale Review. What was the topic of that article?
A. That article was about how, based on public discourse, Americans were conceiving of what propaganda was at that moment in time, and it also engaged with some questions about how propaganda worked alongside other tools of political coercion and control.

It engaged a little bit with an evaluation of whether the Trump administration -- and this was the first Trump administration in its first few years, it engaged a little bit with the question of the ways in which the Trump administration was then using -- using or not using some of the traditional tools in the sort of authoritarian tool box.
Q. Okay. And given what you just said, would you characterize that article as critical of the Trump administration?
A. I would.

Q. And remind us, when was that published?
A. That was published in the fall of 2018.
Q. Okay. And Mr. Trump was President then?
A. He was.
Q. Tell us about the Op-Ed that you wrote in the Los Angeles Times?
A. So this Op-Ed came not long after Russia's invasion of Ukraine. The article concerned making sense of what I took to be Russia's propaganda strategies around the invasion, specifically this claim that the Kremlin was making at the time, that they invaded Ukraine so it could "denoxify" it. That's what I discussed in the article.
Q. Do you believe that it's important for an academic philosopher to write public-facing articles?
A. I do.
Q. Why?
A. Look, academic philosophers, even those of us who like myself work at private institutions, are the beneficiaries in various more or less indirect ways of public funds, um, for that reason. Among I think others, we have some responsibilities to kind of return the fruits of our academic labor to the public, to make them accessible.
Q. Tell us about some of the courses that you teach

at Northwestern?

A. I regularly teach courses in the philosophy of language, in the history of what we call the "analytic tradition," or broadly "Anglo-American philosophy." I also teach classes in topics of social philosophy.

THE COURT: I mean no disrespect, but so far we haven't heard anything about this case. So let's -- maybe we could come to this case and work these out, because I am at sea.

MR. BIALE: Yes, your Honor, and I don't mean to belabor any of this, but I do want to set up some of what we will be discussing about this case. So let me do two more questions and then we'll dive in.

Q. Do any of your courses touch on political issues, Professor?

A. They do.

Q. Can you tell us which ones and what subjects?

A. Sure. The one that comes to mind is that in the introduction to the philosophy of language that I standardly teach almost every year, I typically teach a unit on how the history of linguistics interaction -- history of linguistics as a discipline interacts with the history of colonialism and colonial ideas about language and the differences between languages. So that's one.

I also -- when I've taught, for instance, a graduate seminar on language and politics in the analytic tradition, that some of the key figures in this tradition were socialists and how their socialism might inform, um, their kind of otherwise abstract theories in the philosophy of language.

Q. Okay. And separate from your teaching and writing, are you politically active?

A. I am.

Q. What have you done?

A. So I am, for instance, a member of the Democratic Socialists of America, um, and as a member of that organization have engaged with various political campaigns around, um, for instance, housing issues, policing, and some other things.

Q. Why is it important for, in your view, for a philosopher to be politically active?

A. Well I mean some philosophers may differ on this but I think of philosophy as investigating some of the basic conditions of our, you know, human existence, that among those conditions is that we are born among and live among other human beings, and the wells-spring of politics as well. And so in my own education and career as a philosopher, engaging politically has seemed like sort of an inevitable and natural outgrowth of

philosophical investigation.

Q. Okay, now we're going to come down to earth a little bit, consistent with what the Court would like to hear.

Where were you born?

A. Edmonton Alberta, Canada.

Q. And what country are you a citizen?

A. Canada.

Q. Did you grow up in Canada?

A. I did.

Q. And when did you come to the United States?

A. I moved to the United States in 2012.

Q. Why did you decide to come here?

A. I moved to the United States when I began, um, a graduate program in philosophy at the University of Texas at Austin.

Q. And why did you decide to pursue graduate study in the University of -- withdrawn.

Why did you decide to pursue your graduate studies in the United States?

A. I mean the United States has a ton of amazing research universities, um, that's why I came here. I work at one now too, that's why I've stayed here.

Q. And what's your current citizenship status?

A. I am still just a citizen of Canada.

Q. And how about your immigration status here in this country?
A. I'm a green card holder.
Q. When did you obtain your green card?
A. In April of 2021.
Q. And, um, I want to ask you, prior to this year, prior to 2025, were you planning to stay in the United States?
A. I was. I was planning, for instance, to go up for tenure at the end of this next academic year. I had signed on to advise students over the next couple of years. I was planning to stay.
Q. Now you mentioned earlier an organization, you remember, of the Democratic Socialists of America. Are you a member of any other organizations?
A. I am.
Q. Which organizations?
A. So I'm a member of the American Association of University Professors, the AAUP. I am a member of the American Philosophical Association, the APA. I am also a member, although not very active, um, in an organization called the Chicago Alliance against Racism and Political Repression, or CARPR.
Q. And just focusing briefly on the AAUP. When did you join that organization?

A. I joined, and I believe it was December of 2020.
Q. And can you tell us why you decided to join AAUP?
A. Well you know I think, as a general rule, um, I believe it's important for workers to, um, organize collectively to protect their working conditions in a private university. Like the one I work at, we're not allowed to unionize. But I'm working through an advocacy chapter, so AAUP can do some of that work for us. And more specific to higher education, I also think that faculty organizing collectively to advocate for what we take to be the research and education machine of our institution, is important and is something we can do through the AAUP.
Q. Now I want to ask you about Democratic Socialists of America, when did you join that organization?
A. I joined that in -- it would have been the late summer or early fall of 2018.
Q. Okay. And can you just tell us a little bit about what is the Democratic Socialists of America?
A. The DSA is a progressive organization that has existed in this country since the 1980s, they're perhaps best known for their electoral work around national candidates, people like Senator Bernie Sanders of Vermont, um, maybe people like Alexander or Catherine Cortez of New York, they're recently --

Q. And why did you decide to join that organization?
A. Um, there were a few reasons at the time. The first is that there were clear commitments, deeply-held political commitments that were in common between myself and the DSA around, for instance, issues having to do with health care. A further reason is just that at the time that I joined, this was, as I said, the late summer or early fall of 2018, a couple months prior to that in I believe it was June of 2018, Alexander and Cathy Cortez, who I mentioned, a member of Congress from New York, a DSA member, had been elected, and that impressed upon me that DSA nationally was a progressive organization that could actually score electoral wins, that could actually get things done. And I guess the last reason is that I joined right around the time that I moved to Chicago for my current position, and the Chicago Chapter of DSA was at that time very active doing -- canvassing around a housing issue right in my neighborhood in the North side of Chicago. And so this struck me as an organization that I shared values with and was doing work in my community.
Q. I just want to ask you about the first reason you gave. What about the DSA's position on health care made you politically aligned with the organization?
A. All right. So as I said, I'm Canadian and in

Canada we have universal health care. I might always have had some sort of default preference for a health care system like that, but that political commitment was really intensified for me while I moved to the United States in 2012 for graduate school.

I had, while living in Canada, trained as and volunteered as a sexual assault respondent in emergency rooms. So the role was to be on-call in emergency rooms, typically during my shifts, um, to come to the hospital if a recent survivor of sexual assault came in, to offer crisis counseling, safety planning, that kind of thing.

Now when I moved to the United States I trained for and served as a volunteer in a very similar role in Austin Texas, where I then lived, and what was immediately clear to me was the contrast in that experience. Obviously anybody who's showing up at an emergency room, because they've experienced a sexual assault, is having a very bad day, but it was very vivid to me the ways in which that experience was made much worse because of the for-profit insurance system in the United States, and that made me feel very passionate about the need to pass something like Medicare For All, which is also a commitment of the DSA.

Q. Are you aware, Professor Hyska, whether the DSA

has a position on the Israeli/Palestinian conflict?
A. I know that the DSA Nationally endorses the BDS, or Boycott Divestment Sanctions campaign.
Q. And do you personally align yourself with that position of the DSA?
A. I do.
Q. Can you explain for us why you support the Boycott Divestment Sanctions initiative of the DSA?
A. So multiple human rights organizations, including organizations of the UN, have repeatedly found that Israel is violating the human rights of Palestinians in the occupied Palestinian territories. I take it this is something that the international community has a responsibility to do something about. I'm strongly committed to using nonviolent means to address the situation.

So the kind of economic tools that are enumerated by the international BDS campaign, tools that are inspired by those that were used, for instance, in the 1980s, and in the decades before during the international movement to end apartheid in South Africa -- and two are familiar from the nonviolent forms of resistance practices during the anticlinal struggle in India and during the civil rights movement in this country. Those are the explicit influences upon the BDS

campaign. And this felt attractive to me and struck me as an appropriate way to address ongoing human rights abuses.

Q. What has your involvement in the DSA entailed, what kind of activities?

A. So among the activities I've engaged in as a DSA member, um, has been things like sitting on the steering committee for a kind of geographical branch of the Chicago chapter of the DSA, and in that capacity I worked on, for instance, mobilizing other members in that geographical region to take part in Chicago DSA's priority campaigns.

I also, um, sat on the steering committee at one point for a campaign in Chicago concerning a police oversight in the City of Chicago. And I've done various other like canvassing work around, for instance, housing issues.

Q. Are those positions on the steering committees that you mentioned, um, leadership positions in the DSA?

A. Yes, that's fair to say.

Q. And, um, separate and apart from those positions, have you attended any protests as part of your membership with the DSA?

A. I have.

Q. Tell us about some of the protests that you've

attended over the last five years?

A. So definitely the period of time in which I was attending the most protests would be during the summer of 2020, this was during the kind of national uprising, um, after George Floyd was killed in Minneapolis. I attended a lot of protests that summer which DSA helped organize. And I continued to attend protests that, in some cases -- in many cases DSA helped organize around issues related to policing and occasionally, um, immigration, abortion rights, and related issues over the subsequent years.

THE COURT: Mr. Biale, again, um, and I say this with respect, let's come to this case.

MR. BIALE: So, your Honor, these questions are meant to establish what the witness's past practice was before the implementation of the policy.

THE COURT: Well you know I find it easier to understand if we talk about matters relevant to this case, and then -- and I don't see them objecting. But then I'll allow you to move out and relate to past practice. Let's get to this case.

MR. BIALE: All right, that's fine, your Honor, I'll invert my order somewhat.

Q. So, Ms. Hyska, just tell me, um, focus us on 2025, when President Trump was inaugurated in January, um, was

there anything you wanted to do in response?
A. Yes. While as I stated a moment ago, I have in the past held leadership positions, and the DSA has been politically active in the City of Chicago, I have taken a bit of a hiatus for a couple years because I was busy personally and professionally, but when President Trump was reelected in November and in the runup to his inauguration in January, it was clear to me that I wanted to become, um, much more active in the DSA in Chicago again and find that political community again.
Q. Okay. And did there come a time when you changed your mind about that?
A. I did.
Q. When was that?
A. So that was in, um, mid to late March.
Q. Okay. And what prompted you to change your mind about wanting to become more involved in political activism with the DSA?
A. It became apparently to me after I, um, became aware of a couple high-profile detentions of, for instance, student activists, people like Mahmoud Khalil, who was, like me, a green card holder, people like Rumeysa Ozturk, um, that my engaging in like public political dissent would endanger my -- would potentially endanger my immigration status, that I risked, um,

detention and deportation for being publicly and politically critical of the Trump administration.

Q. Okay, let me focus you first on Mahmoud Khalil, whom you mentioned. When did you hear about Mr. Khalil's situation?

A. So I believe that I heard about it on March 9th of this year.

Q. And how did you hear about it?

A. I would have read about it in -- I forget the exact news source, but I know that I both read about it and saw a video of his detention taken, I believe, by his wife.

Q. Okay, I'd like to show you, um, Exhibit A1. Mr. Kumar, if you could pull that up.

(Plays video.)

THE COURT: We don't have --

(Plays video.)

THE COURT: Wait. Wait. Wait a minute.

MR. BIALE: I'm sorry, your Honor.

THE COURT: Wait. First, I don't have a joint exhibit list. And you're telling me, both sides, that you're working on it. I should have had it this morning.

Second, I don't know what exhibit -- I do, because it's been placed here, but that A1 is supposed to be.

But under the protocol that the Court follows, A means the exhibit is not admitted. So on this foundation --

And, Mr. Kanellis, do you object to this being played now?

MR. KANELLIS: Yes, your Honor.

THE COURT: Sustained on that foundation. There's that no foundation for it.

MR. BIALE: Your Honor, I'm hoping to show the witness the exhibit and establish a foundation for it. To inquire whether it's the video she saw. And then we will later, because the government has not stipulated to this video --

THE COURT: We'll later tie it in if this is in fact accurate?

MR. BIALE: Yes. So we will be moving to admit it subject to a connection --

THE COURT: Yeah, well, I'm -- that doesn't work very well in this court, I'd rather have the connection and then see the video. She saw the video. Let's move on.

MR. BIALE: Yes, your Honor.

Yes, Mr. Kumar, you can take that down.

Q. When you saw the video of Mr. Khalil's arrest and read about it, how did that make you feel?

A. I felt extremely shocked and distressed. I mean,

if the first place, for Mr. Khalil and for his family, his wife in the video is, um, audibly distressed. But frankly also for myself. It was shocking to me that Mr. Khalil's status as a green card holder didn't protect him from this treatment given that the reporting that I was reading at the time, including reporting on statements from officials in the Trump administration suggested to me that it was just on the basis of political speech that he engaged in that he was being detained.

MR. KANELLIS: Objection, your Honor, the witness is --

THE COURT: No, this is not -- we're going to face this frequently. I'm going to take that as her accounting of something that she heard. It is not offered for the truth of what -- and President Trump isn't a defendant in this case, for the truth of something that he, or any administration official, said. But this is what she recalls hearing. And that's how I'm going receive it in evidence. An objection really is not necessary where it's a third-party, that she heard it on the media.

Now, if we want proof of what he said, either we'll do it by agreement or someone who actually heard it and can recall precisely what he said and the like.

Go ahead.

All right, so you heard the news reports and among them, um, you heard something that you believed that the President had said, is that fair?

THE WITNESS: Yes, your Honor. I would also just add that I also saw social media posts from the President's social media accounts.

THE COURT: Yeah, so -- and we'll add that. Fine. Go ahead.

Q. Just to put a finer point on it for the record. Do you recall specifically what you, um, heard the President say?

A. So what I remember seeing from the President specifically was a post he had made on the Truth Social --

(Interference Zoom.)

THE COURT: Turn the person off.

I must say to those who are accessing via the internet, if you cannot keep the microphones muted, your access will be terminated. I'm not going to have the trial interrupted. We have two courtrooms here devoted to this case. Now microphones must remain muted.

Go ahead, Mr. Biale.

Actually I didn't catch your answer because of the interruption.

Would you say what you recall was said?

THE WITNESS: Yes, your Honor.

A. So what I recall seeing was a post that President Trump had made on Truth Social. I believe I saw some type of a screen shot and reposted on X by the White House's X account in which it said that Mr. Khalil had been detained and would be deported, something to that effect, because he was, um, pro-Hamas or Hamas-linked, and in which the President said that this would be the first of many such arrests.

Q. And, um, I think you testified how you felt about it.

Did you express to anyone at that time your then existing feeling about witnessing this video or reading about this report?

A. I did.

Q. To whom was that?

A. So I recall, for instance, texting one of my colleagues in the philosophy department at Northwestern the next day, that would have been March 10th, to ask whether she heard about the case and tell her how I was feeling about it.

MR. BIALE: Your Honor, at this time I'd like to show the witness what's marked as Exhibit E for identification.

THE COURT: You may show her.

(On screen.)

Q. Do you recognize this document, ma'am?

A. I do.

Q. What is it?

A. So this is a screen shot, um, of the first sequence of texts from me to my sort of colleague that I mentioned.

Q. Okay. And is this a true and accurate copy of the messages that you sent?

A. It is.

Q. Okay.

MR. BIALE: Your Honor, I offer Exhibit E.

THE COURT: Any objection?

MR. KANELLIS: Yes, your Honor. Obviously hearsay --

THE COURT: If I need argument, I will say so.

MR. KANELLIS: Hearsay.

THE COURT: Well some of it comes in under 8033. And on the ***Polan*** case, it's clear that her then present impression is admissible, and any intention she expressed is likewise admissible. There are other things -- I mean the start, "it was lovely to see," that's out. I'll parse it in those circumstances. And with that limitation, E is admitted.

What's the next number?

MR. BIALE: So this -- the next number of --

THE COURT: I assume you've agreed on some things and they have numbers, correct?

MR. BIALE: Correct, and I believe we're up to 57.

THE COURT: It is 58, as limited.

MR. BIALE: 59. I apologize, your Honor.

THE COURT: 59 in evidence.

MR. BIALE: Actually, your Honor, I'm being told it's actually 65. I apologize. We'll get better at this time as we go.

THE COURT: Well rapidly one hopes.

(Laughter.)

THE COURT: Tomorrow morning will be sufficient.

(Exhibit 65, marked.)

MR. BIALE: Fair enough, your Honor.

Q. Ms. Hyska, you see that there's two text bubbles on this document. Looking at the second text bubble, if you could read the first sentence of that.

THE COURT: Why is this necessary? I can read.

MR. BIALE: Okay.

Q. Can you tell us, Ms. Hyska, what you meant by the statement at the beginning of the second text bubble?

A. Right. So I meant that I had heard this news about this student protester, Mahmoud Khalil, being

detained, I just described it as making me feel like I was climbing the walls, which is a way of saying that I was feeling extremely stressed out, scared, maybe even trapped.

Q. Okay. Now you mentioned another individual who was arrested, Rumeysa Ozturk?

A. I did.

Q. What do you remember of Ms. Ozturk's situation?

A. So I remember that again I saw reporting about Ms. Ozturk and again saw a short video clip of her detention, and this was near the end of March. What I learned about her was that she was a graduate student at Tufts, and what I saw, for instance in the video clip, is that she was, um, kind of grabbed and detained in what appeared to be the middle of the sidewalk, um, and the reporting that I read said that she was, um, being detained for deportation. And what I also learned through that reporting is that the main basis for her being detained and deported seemed to be that she had co-authored an Op-Ed in the Tufts campus newspaper the previous year and that Op-Ed spoke in support of some things related to divestment from Israel.

THE COURT: Just so we're clear and you understand I'm paying attention, I'm receiving that as what she believes or recalls she heard, not as evidence that that

is the reason for her detention, and I will do that throughout, um, without interruption.

Go ahead.

MR. BIALE: And, your Honor, with this witness we're offering it for that purpose.

THE COURT: What?

MR. BIALE: I said we are offering it with this witness for precisely the purpose that the Court just identified.

THE COURT: Thank you.

(Laughter.)

THE COURT: That makes me more comfortable with my ruling.

(Laughter.)

THE COURT: Now why don't you ask her questions.

MR. BIALE: Yes, your Honor.

Q. I'm not going to show you the video, Ms. Hyska, but can you tell us how you felt when you saw it?

A. Yeah, I was extremely disturbed by this video. I don't believe that the video, at least the version that I saw had any audio, but you can see this young woman, Ms. Ozturk, walking along and sort of like it's startling, she's grabbed by the wrist by some individuals who are not discernible in the video, who I deemed law enforcement, although they weren't clearly

wearing uniforms. She looked very deeply frightened. And I felt frightened and disturbed upon seeing it.

Q. And you mentioned that, um, you had heard that she was arrested because she wrote an Op-Ed in the Tufts Daily.

Did you read that Op-Ed at the time?

A. I did take a look at it at the time, yes.

Q. Do you remember generally what it was about?

A. I won't remember specifics, but as I recall, she and her co-authors were urging the university to, um, I believe it was to respect the decision of some sort of -- maybe it was like faculty or a student governance body on campus, as concerned the measures regarding, um, other statements on divestment from Israel, and statements related to the ongoing Israeli bombardment of Gaza at the time.

Q. Okay, you said that when you saw the video you felt frightened and disturbed. Why did you feel frightened and disturbed?

A. So in the first place, because I looked at Rumeysa Ozturk as somebody who could be, um, you know potentially one of my students, someone for whom I feel like -- like a kind of presumptive feeling of caring and concern, and also because she was somebody that I could identify with myself. And this feeling grew more acute

for me as I learned she was apparently being detained mostly, as far as I could read, entirely on the basis of this Op-Ed, particularly because I myself had recently drafted an Op-Ed that was critical of the Trump administration.

Q. Okay, and I want to ask you about that in a moment. But if I could just ask you to elaborate on why you felt identification with Ms. Ozturk?

A. Like Ms. Ozturk, I had some connection to being critical of, um, let's say Israel's track record on the human rights of Palestinians, um, and so there was a connection between the kind of speech I engaged in and the kind of speech she was being detained for having engaged in. Like Ms. Ozturk, I'm not a citizen of this country, so it struck me that any treatment she was subjected to could be treatment I could be subjected to for engaging in political expression.

Q. And you just mentioned a track record of criticism of Israel. Can you tell us specifically what you have in mind?

A. Sure. So for one thing, as I stated earlier, I'm a DSA member, and I take it that DSA membership per se is a kind of connection to, um, a criticism of Israel state policy with respect to Palestinians, because DSA has these national commitments to campaigns like BDS. I

had also done things like visiting the students', um, encampment on Northwestern's campus the previous spring at which students were making, or for instance calling for a cease fire and making, um, and demanding, um, Northwestern University's divestment from some military funds that were helping continue the bombardment.

Q. Tell us briefly about that student encampment and about your attendance at that protest?

A. So in spring of 2024, at Northwestern University, as with many universities across the country, there was an encampment where some of our students camped out on Deering Meadow, the big open space on campus. I visited that encampment, and did this of course to protest, um, like Israeli, um, attacks on Gaza at the time. I visited this encampment on two occasions to, um, show support for the students.

Q. And when you say "show support for the students," what do you mean exactly?

A. So, first of all, I was in sympathy with some of the students' demands, for instance the demand for a cease fire. Secondly though, these are students on my campus and I felt that they had a right to be engaging in this, as far as I could tell, this entirely peaceful protest, um, and I wanted to show them, against these kind of threats of being dragged off the field by

police, for instance, that some of their faculty supported them in engaging in their political expression.

Q. Okay. Now when you went to these encampments -- or to that encampment in 2024, did you have any concern that, um, attending that protest could affect your immigration status?

A. That wasn't on my radar, no, I didn't suspect that.

Q. Did you have any concern that attending that protest could potentially have an adverse consequence on your job at Northwestern?

A. That was on my radar, that was something that occurred to me as a possibility.

Q. And why was that?

A. Um, I mean it's not an entirely new phenomenon, that discussing, um, criticism of say Israeli military engagement in occupied territories is kind of a sensitive topic in U.S. universities. And so it occurred to me as possible that certainly my administration would rather the students not be there, and my showing of support for the students could be construed as like a kind of adversarial, um, stance towards the university.

Q. But given that concern with respect to your

employer, you nonetheless attended that protest, correct?

A. I did.

Q. Now let me ask you just briefly, and then I want to turn to another topic you mentioned, you spoke also about the national DSAs -- being associated with the national DSA's position on Israel, Palestinian, specifically the Boycott Divest and Sanctions movement, and you testified previously about attending protests as a member of the DSA. At those protests, was the Israel/Palestinian issues one of the topics that people were protesting about?

A. It was.

Q. Let's turn now to the Op-Ed that you mentioned that you drafted. Tell us about that, when did that occur?

A. So I drafted this Op-Ed, um, near the end of March, I believe it was March 22nd specifically. This Op-Ed concerned, as I framed it, what it would look like to draw meaningful red lines. This is -- what I meant by that is that among those of us who were critical of many of the policies of this federal administration, what it would look like to demarcate certain political events, um, certain incremental moves towards authoritarianism, as I would characterize it, as

significant, and as prompting special action.
Q. And I think you testified that you in fact drafted this Op-Ed, is that right?
A. I did.
Q. Okay. I'd like to show you Exhibit D for identification.
MR. BIALE: And, Mr. Kumar, if we could pull that up.
(On screen.)
Q. Ma'am, do you recognize this document?
A. I do.
Q. And what do you recognize it to be?
A. I recognize it to be the Op-Eds that I drafted in March of this year.
Q. Okay. And, um, what you're seeing right now on the page is just the first page.
MR. BIALE: Mr. Kumar, if you could show the witness how many pages it is.
(Scrolls.)
Q. Okay. Is that the entirety of the Op-Ed that you drafted?
A. It is.
MR. BIALE: Your Honor, we offer Exhibit D.
MR. KANELLIS: Your Honor, objection, and let me articulate, it's important.

THE COURT: Please.

MR. KANELLIS: ***Callasandro*** -- this is not 8033, it's the ***Callasando*** decision, 100 F3rd 203, the First Circuit 1996 says that 8033 applies only to the extent --

THE COURT: That's why it's offered.

MR. KANELLIS: There's no other basis?

THE COURT: Well let me ask a couple of questions.

Whatever became of this, ma'am?

THE WITNESS: So while I drafted this Op-Ed, I subsequently decided, um, related to the fact that three days later Remeysa Ozturk was detained for having co-authored an Op-Ed, that it would not be safe for me to try to publish it, even though I had in the past published things that are critical of the Trump administration.

THE COURT: And so where had this resided since that determination and until today?

THE WITNESS: On my computer.

THE COURT: All right.

I'm going admit it. It has nothing to do with hearsay. This is an example of what was withheld from intellectual discourse. It's admitted, Exhibit 66 in evidence.

MR. BIALE: Thank you, your Honor.

MR. KANELLIS: For clarification, your Honor, is it admitted for the contents?

THE COURT: No, it's admitted for the fact of its existence.

MR. KANELLIS: All right, I just wanted to be clear.

(Exhibit 66, marked.)

Q. Ms. Hyska, if you could take a look at what's now been marked as Exhibit 66, and I'd like you to look at, on Page 2, that sort of final big paragraph.

A. (Looks.)

Q. Take a moment to read it.

A. (Reads.) Do you want me to read it aloud?

THE COURT: No, that's not necessary.

Q. Just refamiliarize yourself with it.

THE COURT: And again, I don't mean to be disrespectful, but it's now in evidence, so I'm going to read it.

MR. BIALE: Understand, your Honor.

A. (Reads.)

Q. Okay, have you read it?

A. I have.

Q. Can you tell us what are some of the things you were referring to in this paragraph?

THE COURT: Well I guess I don't understand,

especially given the defense's objection here. This is -- I've admitted it for the facts of its existence. This is her expression. Only it's stunted expression, assuming the Court believes her, because of her fear, among other things, of her immigration status. So assuming, and it appears she writes well, one can understand what she was saying.

MR. BIALE: Understood, your Honor, and I certainly agree as far as that goes --

THE COURT: I'm always happy to get your agreement.

(Laughter.)

THE COURT: Go ahead.

MR. BIALE: I'm happy to make you happy, your Honor.

I just wanted to establish through the witness with respect to some of what she was talking about why she had specific fear about publishing this Op-Ed.

THE COURT: And I'll permit that.

MR. BIALE: Okay.

Q. So, Ms. Hyska, having read this paragraph again, was there something specific that you were referencing that raised a concern for you?

A. Yes. So, um, I mean in this passage what I make reference to is the kind of fear, I think I describe

this as a kind of impersonal fear that some people are experiencing, but this is the very fear that I was experiencing. Fear that I might -- that it might not be safe for me to engage in certain forms of expression, that, um, it might be risky for me to leave the country and try to come back in, that potentially even ultimately it would be so unsafe for me to engage in political expression that I would have to move abroad. It's personal fears that I'm describing in an impersonal manner here in this passage.

Q. Okay. And I think you mentioned you talked a little bit about why you ultimately felt that it was, um, you ultimately decided not to publish the Op-Ed. Can you tell us a little bit more about why you felt that was too risky?

A. Well, yeah, I'll just say that this Op-Ed was, um, in other passages, aside from the one that I just looked at in particular, was critical, I think of the Trump administration. The premise of the Op-Ed is the Trump administration is doing bad criticizable things that we should organize against.

Because it was evident to me, on the basis of the detention of people like Mahmoud Khalil and Rumeysa Ozturk, that this administration was potentially willing to use immigration enforcement as a tool to retaliate

against people who criticized it or its preferred policies, it struck me too that I could be potentially detained and deported on the basis of publishing something like that.

Q. And, um -- and the Court asked you where it's resided. Just for the record, did you ever publish this Op-Ed?

A. I did not.

Q. Now you talked about some of the protests that you attended prior to March, 2025. Did you attend any protests subsequent to March 2025?

A. I did not.

Q. Did you --

A. Oh, I'm sorry, there was one protest that I attended in early April.

Q. Okay. Can you tell us about that protest?

A. Yeah, this was the Chicago instance of the national Hands-Off protest, this was like a set of national protests that were protesting kind of like a wide range of Trump administration conduct. And I attended it, as I say, in Chicago. And it stands out in my mind because I felt an unusual degree of anxiety about attending a protest. As I said, I've attended a lot of protests in the past, so that wasn't normal for me. And in this case I took the measure of like wearing

a mask, like a safe-covering surgical mask, to the protest, because I hoped that that meant that I wouldn't be like easily identifiable and photographed if any were taken at the protest.

Q. And why were you concerned about being identified at the protest?

A. So being at the protest clearly amounted to engaging in speech that was critical to the Trump administration, issues having to do with Israel and Palestine were among the things that were being protested at that event, along with other things. I was aware that if I was associated with that kind of like public or political dissonance, that could be the basis for my being targeted for, for instance -- by, for instance, immigration enforcement.

Q. Prior to that protest in April, had you ever worn a mask at a protest before?

A. Well I had done so, it was only during the height of the Covid 19 pandemic, so it was for public health reasons, not reasons of wanting to hide my face.

Q. Okay. Had you ever worn a mask at a protest specifically to hide your identity before?

A. No.

Q. And now other than this protest that we mentioned just now in April, have you attended any other protest

subsequent to the events in March 2025 that we've been discussing?
A. I have not.
Q. Were there any protests that you wanted to attend?
A. There were.
Q. Can you tell us specifically if any come to mind?
A. The two that come to mind, um, one was there was a series of protests that were co-organized by Chicago DSA around May Day of this year, so it would have been between May 1st and 5th, there was a protest about labor rights issues, but those were also connected to immigration. I felt pretty confident that I would have tried to attend one of those, um, but for my feeling that it was now unusually risky for me to attend protests. And the other that comes to mind is the national No Kings protest that took place in cities around the country, including Chicago, a couple of weeks ago.
Q. And just to clarify, why did you decline to attend those protests?
A. Because I felt particularly afraid of being associated with, um, with that political speech.
Q. I'm sorry, I didn't mean to interrupt you.
We spoke earlier about, um, after Mr. Trump was elected, um, and around the time that he was

inaugurated, you were interested in becoming more involved in the work of the DSA. Can you tell us a little bit more about that?

A. Yeah, so I took some initial steps towards getting that deeply involved in the Chicago chapter of the DSA in the early days of this Trump administration. I started attending like a reading group that DSA members were running. And I attended in March a general chapter meeting, these are these meetings that we hold quarterly as a chapter. And at that meeting the chapter -- the chapter membership approved a new priority campaign that they called the Unite and Fight campaign, and this is a campaign that was designed to basically resist the Trump administration's policy on a number of fronts, including immigration and trans rights. I considered it at that time, because I was feeling deeply passionate about some of those issues, and particularly the immigration immigrant rights issue, putting my name forward just on the steering committee of that campaign. But this was right around the time that I started to feel that actually that would be too risky a move given my immigration status.

Q. And before we get to that, can I just ask you, um, what steps if any did you take to, um, explore this possibility of getting back onto steering committee?

A. Uh-huh. So I did attend one or two initial meetings of this campaign, which was prior to the sort of campaign-specific steering committee being appointed. You know I acquainted myself with the priorities of the campaign as the chapter membership had rendered them. I had some initial discussions with other members of the chapter.

THE COURT: Mr. Biale, my practice is to take a morning recess at about 10:45. But I can stay longer if you're about done.

How much more have you got?

MR. BIALE: So, your Honor, I would estimate that I've got 10 to 15 minutes left.

THE COURT: Make it 10 and we'll stay.

MR. BIALE: I will do my level best, your Honor.

Q. And so just tell us, you mentioned it before, but what happened with those steering committee positions that you, um, explored taking on with the DSA?

A. I, in the end, did not put my name forward. And the same can be said for another leadership opportunity with the DSA that I'm refraining from applying for.

Q. Why did you not put your name forward for those two leadership positions?

A. Because when I was just possibly attending meetings struck me as low profile and low risk, but

sitting on a steering committee, being a delegate to the national DSA convention -- that's the second leadership opportunity that I didn't end up pursuing, those struck me as potentially more high-profile things, things that might make me more public-facing on behalf of the DSA and for things that might be riskier to engage in with respect to my immigration status.

Q. Now I want to ask you, and I'm going to try to go quickly here.

Prior to March of 2025, had you signed on to any public statements, um, that touched on in any way the Israel/Palestinian situation?

A. Yes.

Q. Okay. I'd like to show you what's been marked for identification as Exhibit C.

Do you see that?

A. I do.

Q. What do you -- do you recognize this document?

A. I do.

Q. What do you recognize it to be?

A. I recognize it to be an open letter that was addressed to the President and provost of my university, Northwestern and, um, basically calling on higher administration to like, as it says in the title, not ban protests at Northwestern. This was with reference to

student encampment. It was asking our administration to respect the students' rights to engage in protest.

Q. Okay. And did you sign this letter?

A. I didn't.

MR. BIALE: Your Honor, I would offer Exhibit C.

THE COURT: Any objection?

MR. KANELLIS: Well it's hearsay, but we won't object as a courtesy.

MR. BIALE: I appreciate it.

THE COURT: Since there's no objection, it's Exhibit 67 in evidence.

(Exhibit 67, marked.)

Q. Now, subsequent to the, um, events that we discussed in March of 2025, did you sign on to any public letters about the Israel/Palestinian situation or in any way related to it?

A. Subsequent to March 2025, I signed on to a couple of open letters, um, one of which could be construed as I think connected to Israel/Palestinian specifically.

Q. Okay, and tell us why you signed on to that letter?

A. So the letter I have in mind is one, um, that was sort of protesting or taking issue with a tenure denial that took place at one university. Um, it was widely felt, and I share this feeling, that although this is

not the reason given by the university, the faculty member whose tenure was denied is somebody who had been very publicly associated with defending the students at the encampment the spring before, um, and it was felt that his tenure was denied in retaliation for the political speech engaged on the campus.

Q. Now is there any distinction in your mind between that letter and this letter, Exhibit 67, in terms of why you signed it?

A. I mean they address slightly different situations, but otherwise, um, I think they have some of the same features.

Q. Okay. And was the letter that you mentioned regarding tenure, was that, um, a public letter, was that published?

A. So that was, um -- yes, that letter, um, was not one the primary intention of which I understood to be -- that it would be like published along with all the signatories in, for instance, the Daily Northwestern, the campus newspaper. When I signed on to this statement from December 2024, I understood that my signature would be made public.

Q. Did you feel comfortable signing a letter where your signature would be made public after March of 2025?

A. I began to feel much less comfortable about it.

Q. Okay. And, um, putting aside the letter about tenure, did you sign any, um, letters or petitions that were published on the internet after March of 2025?
A. I did, yes, and in fact one in particular that I can remember that was quite clearly connected with issues related to Israel/Palestinian. Shortly after Mahmoud Khalil's detention, I encountered an online petition that concerned like, um, called for his release basically, and what I remembered feeling strongly about, is that I really wanted to sign on to like add my voice to this sentiment, so far as I could, but that I was now very worried that being associated with Mr. Khalil, with pro-Palestinian politics publicly in that way, was very risky. So I took the unusual step of signing under a pseudonym, I used my mother's maiden name.
Q. And you say it was unusual. Have you ever signed any other letter using your mother's maiden name?
A. Not in a political context.
Q. Okay. Now we talked a little bit about -- at the very beginning about courses that you teach that touch on political issues. Are you planning to revise any of your syllabi in light of the issues that we've discussed today?
A. For a while I've been on research leave and so I haven't taught since the beginning of the current

administration, but this is something I had on my to-do list, to revisit those places where I discuss, for instance, um, colonialism, a topic that it's hard to discuss these days without it being connected to discussions of the characterization of Israel settling its colonial state, for instance, whether that's now sort of too hot a topic, too risky a topic to teach in my classroom. To revisit those cases where I talk about socialism, racism, things like that in the class as well.

Q. And when you say you're going to revisit them, what do you anticipate you're going to do?

A. I anticipate it's possible that I decide to cut those things from any syllabus.

Q. Now you spoke in your Op-Ed about issues of travel. Have the events we discussed of March 2025 affected your travel plans in any way?

A. They have.

Q. How so?

A. I -- if determined that, um, as long as this risk of sort of political retaliatory immigration enforcement remains, I will not leave the country, um, because I fear extra scrutiny upon trying to reenter it. And so while I routinely, for instance, travel internationally for work, I've decided not to pursue international

opportunities to present my work for the foreseeable future.

Also on a personal note, my mother's retirement was this May and I wanted to go back to Canada to celebrate, but did not do so, because I feared the risk of scrutiny upon reentering the country, that I would have my green card revoked.

Q. And what do you fear will happen when you reenter the country?

A. So I fear that my name will be run through a system that will be associated with some of the political speech that I've already engaged with -- engaged in rather, um, and that for that reason I'll be denied entry, potentially be detained and be deported.

Q. And more broadly --

MR. BIALE: I've got maybe three more questions, your Honor.

Q. More broadly, have the, um, policies and practices that we've been discussing affected your future plans?

A. They have.

Q. How have they affected them?

A. So I am very happy in my current position at Northwestern University, I -- as I stated earlier, I had intended to remain at Northwestern, to go for tenure the next year, to continue supervising graduate students

there, but I have felt such acute, um, stress and fear about the prospect of engaging in political speech in this country that I've concluded that I want to go on the job market this coming fall to hopefully find employment outside of the United States.

Q. And have you begun to take any steps to do that?

A. I have. I, for instance, contacted, in one case, a potential reference letter writer.

THE COURT: Sorry, I've didn't understand that. You've contacted a --

THE WITNESS: A reference letter writer.

THE COURT: Yes, thank you.

Q. And that's one of the supervisors of your dissertation?

A. Yes, it's one of the committee members of my dissertation.

Q. Now are you familiar with the term "ideological deportation policy"?

A. I am.

Q. What do you understand that term to mean?

A. I understand it to refer to the policy of targeting, um, individuals for immigration enforcement and deportation because of their expressed political belief, their political speech.

Q. And has any of what we've discussed today, any of

the events we've discussed today, constitute examples of that policy in your mind?

A. In my mind the detention of people like Mahmoud Khalil, like Rumeysa Ozturk, um, like others we haven't discussed, um, yes, those are instances of that policy being applied, in my mind.

Q. And if that policy were to be declared illegal and enjoined, would that affect your behavior in any way?

A. It would.

Q. How would it affect your behavior?

A. Well I would be very happy, for instance, not to apply out for other positions and just to remain in my current job here in the United States, I would feel comfortable doing that if I didn't think that I was at risk of losing my immigration status because of my political speech, if that was enjoined by the Court. I think I would also feel comfortable going back to engaging more thoroughly in DSA work, potentially in leadership positions, and in writing and submitting for publication things like the Op-Ed that I drafted back in March.

Q. A final question. You've talked about the fears that you have and the concerns that you have. Why did you decide to testify in this case, which is being heard in a public courtroom?

A. I -- yeah, I've experienced considerable trepidation about participating in this case, um, because, as you say, it involves very public, political speech. I take comfort from the fact that the judge has -- he very explicitly in this case told the government they may not retaliate against people for being witnesses in this case. I do have remaining concerns for my safety.

The difference though between participating in this case and the other forms of speech that I said I regarded as too risky, as not ones I was willing to participate in, was in this case I felt like I understand the nature of the case and what was required, in order for it to move forward, was for noncitizens to be able to speak to what it's like to be in this country right now, what it's like to experience this level of fear over political speech that we would like to engage in. The other kinds of political speech that I wanted to engage in these past months, I felt like "Well I guess a citizen could do that and do it with less risk than I face." But in the case of this court case, I feel that's not so. If noncitizens aren't willing to take the risk, then it wouldn't move forward at all. So although I've experienced a lot of anxiety around it, I felt like it was something that, based on my political

beliefs and moral commitments, I have to do.

THE COURT: Thank you.

Do you wish to examine this witness?

MR. KANELLIS: Yes.

THE COURT: We'll do that after the recess.

We'll take the recess now until 20 minutes after 11:00. We'll stand in recess.

MR. BIALE: And may the witness stand down from the witness stand?

THE COURT: Oh, she may. She need not sit there.

(Laughter.)

MR. KANELLIS: Your Honor, I'm sorry, did you say 20 after 11:00?

THE COURT: That's what I said.

MR. KANELLIS: Thank you.

THE COURT: We'll recess.

(Recess, 10:45 a.m.)

C E R T I F I C A T E

I, RICHARD H. ROMANOW, OFFICIAL COURT REPORTER, do hereby certify that the forgoing transcript of the record is a true and accurate transcription of my stenographic notes, before Judge William G. Young, on Monday, July 7, 2025, to the best of my skill and ability.

/s/ Richard H. Romanow 07-7-25
_____
RICHARD H. ROMANOW  Date