



STATE OF NEW YORK
OFFICE OF THE ATTORNEY GENERAL

ERIC T. SCHNEIDERMAN
ATTORNEY GENERAL

DIVISION OF SOCIAL JUSTICE
CIVIL RIGHTS BUREAU
LOURDES M. ROSADO, BUREAU CHIEF

January 29, 2017

The Honorable John F. Kelly
Secretary of Homeland Security
Department of Homeland Security
245 Murray Lane SW
Washington, D.C 20528-0075

Kevin K. McAleenan
Acting Commissioner, U.S. Customs and Border Protection
1300 Pennsylvania Avenue NW
Washington, D.C. 20229

James T. Madden
New York Field Director, U.S. Customs and Border Protection
One World Trade Center
Suite 50.200
New York, NY 10007

VIA MESSENGER AND OVERNIGHT MAIL

RE: Compliance of U.S. Department of Homeland Security and U.S. Customs and Border Protection with Federal Court Injunction and Restraining Order

Dear Messrs. Kelly, McAleenan, and Madden:

I write to you in my capacity as the chief law enforcement officer of the state of New York. As you are aware, last night the U.S. District Court for the Eastern District of New York issued an

order enjoining and restraining the U.S. Department of Homeland Security (“DHS”) and U.S. Customs and Border Protection (“CBP”) from

in any manner or by any means, removing from the United States, individuals with refugee applications approved by U.S. Citizenship and Immigration Services as part of the U.S. Refugee Admissions Program, holders of valid immigrant and non-immigrant visas, and other individuals from Iraq, Syria, Iran, Sudan, Libya, Somalia, and Yemen legally authorized to enter the United States.

Darweesh et al. v. Trump et al., 17 Civ. 480 (Donnelly, J.) (Jan. 28, 2017) (ECF 8). This order was issued in response to an Emergency Motion for Stay of Removal (ECF 4) filed on behalf of individuals being detained at John F. Kennedy International Airport (“JFK”) in New York pursuant to an Executive Order entitled “Protecting the Nation from Foreign Terrorist Entry Into the United States,” which was signed by the President on January 27, 2017 (“January 27, 2017 EO”).

My office is receiving alarming reports that DHS and CBP are not complying with the federal injunction and restraining order and are, instead, planning to remove from the United States individuals specifically protected by the terms of the federal court order. I write today to inquire as to whether DHS and CPB are complying with the federal court order and, thus, will refrain from making any attempt to remove the affected individuals from the country. To that end, I request that you inform me, by 12:00 PM on Monday, January 30, 2017, of the specific steps you are taking to ensure that, as the order prescribes, all of the “officers, agents, servants, employees, attorneys” of your agencies, as well as all “persons acting in concert or participation” with your agencies are informed of their legal obligations under the terms of the January 28, 2017 federal order and the potential legal consequences of violating such order.

I further request that you provide me, by 12 noon on Monday, January 30, 2017, with the following information regarding each individual currently being held by CBP at JFK pursuant to the January 27, 2017 EO:

- Name;
- Immigration Status, including but not limited to an individual’s possible U.S. CIS-approved refugee application, valid immigrant or non-immigrant visa, and other legal authorization to enter the U.S. if that individual is from Iraq, Syria, Iran, Sudan, Libya, Somalia, or Yemen;
- Any known connection to New York State, including but not limited to:
 - Residence in New York State;
 - Family members in New York State, including the names and contact information of such family members;

- Place of employment in New York State;
- Enrollment as a student in an institution of higher learning in New York State;¹
- The basis for the individual's detention; and
- Whether the individual has been permitted to consult with an attorney.

Please provide the requested information to my Bureau Chief for Civil Rights, Lourdes Rosado, who can be reached via email at lourdes.rosado@ag.ny.gov or by telephone at 212-416-8252.

As Attorney General of New York, I am mandated to ensure that the rule of law is respected throughout the state. For that reason, I expect that DHS and CBP will fully abide by the terms of the January 28, 2017 federal court order.

Sincerely,



Eric T. Schneiderman
New York Attorney General

Attachment

¹ For example, I understand that Vahideh Rasekhi, an Iranian doctorate student studying at the State University of New York at Stonybrook, is currently being detained at JFK. I request information regarding all such individuals who are studying, teaching or conducting research at universities and colleges in New York State.

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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**HAMEED KHALID DARWEESH and
HAIDER SAMEER ABDULKHALEQ
ALSHAWI, on behalf of themselves and others
similarly situated,**

Petitioners,

- against -

**DONALD TRUMP, President of the United
States; U.S. DEPARTMENT OF
HOMELAND SECURITY (“DHS”); U.S.
CUSTOMS AND BORDER PROTECTION
(“CBP”); JOHN KELLY, Secretary of DHS;
KEVIN K. MCALEENAN, Acting
Commissioner of CBP; JAMES T.
MADDEN, New York Field Director, CBP,,**

Respondents.

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ANN DONNELLY, District Judge.

On January 28, 2017, the petitioners filed an Emergency Motion for Stay of Removal on behalf of themselves and others similarly situated.

IT APPEARING to the Court from the Emergency Motion for Stay of Removal, the other submissions, the arguments of counsel, and the hearing held on the 28th of January, 2017,

1. The petitioners have a strong likelihood of success in establishing that the removal of the petitioner and others similarly situated violates their rights to Due Process and Equal Protection guaranteed by the United States Constitution;

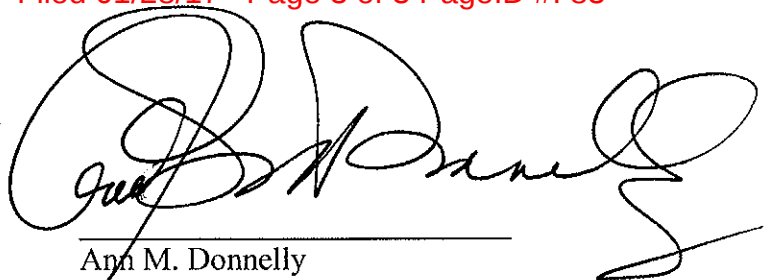
2. There is imminent danger that, absent the stay of removal, there will be substantial and irreparable injury to refugees, visa-holders, and other individuals from nations subject to the January 27, 2017 Executive Order;
3. The issuance of the stay of removal will not injure the other parties interested in the proceeding;
4. It is appropriate and just that, pending completion of a hearing before the Court on the merits of the Petition, that the Respondents be enjoined and restrained from the commission of further acts and misconduct in violation of the Constitution as described in the Emergency Motion for Stay of Removal.

WHEREFORE, IT IS HEREBY ORDERED that the respondents, their officers, agents, servants, employees, attorneys, and all members and persons acting in concert or participation with them, from the date of this Order, are

ENJOINED AND RESTRAINED from, in any manner or by any means, removing individuals with refugee applications approved by U.S. Citizenship and Immigration Services as part of the U.S. Refugee Admissions Program, holders of valid immigrant and non-immigrant visas, and other individuals from Iraq, Syria, Iran, Sudan, Libya, Somalia, and Yemen legally authorized to enter the United States.

IT IS FURTHER ORDERED that to assure compliance with the Court's order, the Court directs service of this Order upon the United States Marshal for the Eastern District of New York, and further directs the United States Marshals Service to take those actions deemed necessary to enforce the provisions and prohibitions set forth in this Order.

SO ORDERED.



Ann M. Donnelly
United States District Judge

Dated: Brooklyn, New York
January 28, 2017