

The Honorable James L. Robart

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

DOE, *et al.*,

Plaintiffs,

v.

DONALD J. TRUMP, in his official capacity as
President of the United States, et al.,

Defendants.

No. 2:17-cv-00178-JLR

JEWISH FAMILY SERVICE OF SEATTLE,
et al.,

Plaintiffs,

v.

DONALD J. TRUMP, in his official capacity as
President of the United States, et al.,

Defendants

No. 2:17-cv-01707-JLR

**DOE PLAINTIFFS' NOTICE
JOINING THE MOTION FOR
PRELIMINARY INJUNCTION IN
JEWISH FAMILY SERVICE OF
SEATTLE V. TRUMP**

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1 JFS Plaintiffs and Doe Plaintiffs have each moved for a preliminary injunction in their
2 respective cases, challenging different aspects of the Agency Memo (“Memo”). See JFS Mot.
3 Prelim. Inj., *Jewish Family Service of Seattle v. Trump*, No. 17-cv-01707-JLR, Dkt. # 42 and
4 Doe’s Mot. Prelim. Inj., Dkt. # 45. Joseph Doe and Jeffrey Doe (collectively, “Doe Plaintiffs”)
5 file this notice joining in and adopting the arguments advanced in JFS Plaintiffs’ motion. Doe
6 Plaintiffs submit this notice to provide the Court with some additional context.

7 The Memo directs the agencies’ actions in two areas: suspension of admission of
8 principal refugees from countries designated for Security Advisory Opinion (“SAO”) review,
9 and suspension of follow-to-join derivative refugees (“FTJ refugees”) regardless of nationality.
10 JFS Plaintiffs address the SAO suspension, but Defendants are also using SAO-country
11 nationality as an additional barrier to admission of FTJ refugees. Memo, Addendum at 4. This is
12 apparently what has stalled Joseph Doe’s applications for his family (his wife, nine-year-old
13 stepson, five-year-old son, and four-year-old son): travel papers for his two younger children to
14 join him in the U.S. are being withheld because they are technically nationals of an SAO
15 country, Somalia. See Supplemental Decl. of Joseph Doe ¶ 10, Dkt. # 56.

16 Joseph Doe’s situation exemplifies the cruelty and pointlessness of Defendants’
17 indiscriminate suspension of admission of FTJ refugees from SAO countries. Joseph Doe, who
18 was admitted to the U.S. as a refugee and is now a Lawful Permanent Resident, is a practicing
19 Muslim and Somali who spent twenty-two years living in a refugee camp in Kenya after fleeing
20 his country’s violent civil war with his parents and siblings when he was just a boy. Joseph’s
21 wife and stepson are Kenyan nationals. His two younger sons, however, are considered Somalis.
22 The boys were born in Kenya, which is not an SAO country, and have never been to Somalia.
23 And, although Defendants have since declared that, in fact, vetting procedures for people
24 residing in Kenya and Thailand are adequate,¹ travel documents for his younger sons are being

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26 ¹ See Higgins Decl. ¶ 11, Dkt. # 51-1.

1 withheld solely because they are deemed nationals of an SAO country.

2 Joseph Doe’s family has been through extensive security screening and two rounds of
3 medical examinations (as medical clearances expire after six months) in a country that, by
4 Defendants’ own assertion, has adequate screening procedures in place. They are at the end of
5 the lengthy review process, which began in June 2015 when Joseph filed I-730 petitions—nearly
6 two and a half years ago. They are simply waiting for travel booking now. In fact, Joseph was
7 informed that his wife and stepson are cleared to travel, and their flights could be booked. His
8 four- and five-year-old sons, however, are blocked due to their nationality. *Id.*

9 The SAO system has been in place for many years but has never required a wholesale
10 suspension of admissions. Interagency procedures for alerting officials about foreign nationals
11 who may be suspected terrorists, referred to as Visa Viper, began after the 1993 World Trade
12 Center bombing and were institutionalized by enactment of the Enhanced Border Security and
13 Visa Entry Reform Act of 2002.² Generally, SAOs are required for visa applicants more often
14 than refugees—as refugees were already the most heavily vetted category of foreign nationals.
15 The categories of SAOs have animal names, such as (1) Condor SAOs, based on national
16 security concerns and suspected terrorist activity; (2) Mantis SAOs, based on use or exportation
17 of sensitive technology with potential military application; (3) Donkey and National Crime
18 Information Center (NCIC) SAOs, based on name matches occurring in various databases; and
19 (4) Bear SAOs, for foreign government and diplomatic officials.³ Although SAOs delay visa
20 approval, they have never necessitated complete suspension of admission. Furthermore, national
21 security officials in prior administrations did not deem it necessary to require SAOs for young
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24 ² Ruth Ellen Wasem, *Visa Security Policy: Roles of the Departments of State and Homeland Security* at 8, CRS
25 Report for Congress (June 30, 2011), <http://bit.ly/2AkHbzn> (last visited Nov. 29, 2017).

26 ³ *LawFlash: Some FAQs on the Current Visa Application Delay Problem*, Morgan Lewis (Jan. 13, 2010),
<http://bit.ly/2AIXWKG> (last visited Nov. 29, 2017).

1 children, requiring SAOs only for adult males.⁴

2 That Joseph Doe’s reunion with his family is being indefinitely postponed because
3 Defendants ostensibly require SAOs for his four- and five-year-old sons is so arbitrary and
4 capricious as to be absurd.⁵ These children have been in the process of being screened by the
5 U.S. government for half of their young lives. The factors that trigger SAO review—such as
6 suspected ties to terrorism or organized crime, involvement with certain types of technology, or
7 positions in foreign governments—cannot reasonably be expected to be present in the case of
8 young children. The suspension of admission for Joseph Doe’s sons is even more arbitrary
9 because it is due to their Somali nationality, but they have never been to Somalia. It is unclear
10 what a SAO would even consist of in their case. In preventing Joseph Doe’s long-awaited
11 reunion with his young sons, who have passed all required clearance screenings, the Memo is
12 arbitrary, capricious, and, frankly, cruel.

13 In addition, Plaintiff Jeffrey Doe joins the *JFS* Plaintiffs’ motion, as his family members
14 are subject to the SAO portion of the Memo. Like Joseph Doe, Jeffrey Doe is a refugee, a Somali
15 national, and a practicing Muslim. He fled Somalia with his parents and siblings when he was a
16 boy, after men in military uniform raided his family’s home, raped his aunt, and then shot his
17 aunt and baby sister. Jeffrey Doe’s parents and siblings are classified as Priority 1 refugees who
18 are survivors of torture, and they have passed their security and medical clearances and received
19 assurances through a refugee resettlement organization in the U.S. However, they remain in
20 Kenya awaiting travel papers, and are now subject to the arbitrary SAO suspension that serves as
21 Defendants’ desired Muslim refugee ban. Third Amended Complaint § III.A.6, Dkt. # 42.

22 For the reasons stated herein and in *JFS* Plaintiffs’ motion, this Court should grant a
23 preliminary injunction against the SAO provisions of the Memo.

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25 ⁴ Mica Rosenberg & Yeganeh Torbati, *Trump Administration to Add New Screening for Refugees: Document*,
Reuters (Oct. 24, 2017), <http://read.bi/2kbPqtn> (last visited Nov. 29, 2017).

26 ⁵ *JFS* Plaintiff Afkab Mohamed Hussein’s son, who is not yet two years old, is also subject to SAO suspension.

1 DATED this 29th day of November 2017.

KELLER ROHRBACK L.L.P.

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CERTIFICATE OF SERVICE

I hereby certify that on November 29, 2017, I electronically filed the attached document with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the email addresses on the Court’s Electronic Mail Notice List.

DATED this 29th day of November 2017.

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