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18 UNITED STATES DISTRICT COURT
19 NORTHERN DISTRICT OF CALIFORNIA
20 SAN FRANCISCO

21 CRISTA RAMOS, *et al.*,

22 Plaintiffs,

23 vs.

24 KIRSTJEN NIELSEN, *et al.*,

25 Defendants.

Case No. 3:18-cv-1554-EMC

**DECLARATION OF LEON RODRIGUEZ
IN SUPPORT OF PLAINTIFFS' MOTION
FOR PRELIMINARY INJUNCTION**

Date: September 25, 2018

Time: 10:30 a.m.

Judge: Hon. Edward M. Chen

Dept: Courtroom 5, 17th Floor

Complaint Filed: March 12, 2018

Trial Date: None set

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1 I, Leon Rodriguez, hereby declare:

2 I make this declaration based on my own personal knowledge. If called to testify, I could and
3 would do so as follows:

4 1. I served as the Director of United States Citizenship and Immigration Services
5 (“USCIS”), a component of the Department of Homeland Security (“DHS”), from July 2014 to
6 January 2017.

7 2. Prior to serving as USCIS Director, I served as the Director of the Office for Civil Rights
8 at the Department of Health and Human Services from 2011 to 2014. From 2010 to 2011, I served as
9 Chief of Staff and Deputy Assistant Attorney General for Civil Rights at the Department of Justice
10 (DOJ).

11 3. From 2007 to 2010, I was County Attorney for Montgomery County, Maryland. I was a
12 principal at Ober, Kaler, Grimes & Shriver in Washington, D.C. from 2001 to 2007. I served in the
13 United States Attorney’s Office for the Western District of Pennsylvania from 1997 to 2001, first as
14 Chief of the White Collar Crimes Section from 1998 to 1999 and then as First Assistant U.S.
15 Attorney until my departure. Before joining the U.S. Attorney’s Office, I was a trial attorney in the
16 Civil Rights Division at DOJ from 1994 to 1997 and a senior assistant district attorney at the Kings
17 County District Attorney’s Office in New York from 1988 to 1994.

18 4. I received a B.A. from Brown University and a J.D. from Boston College Law School. I
19 am admitted to the bars of New York, Maryland and the District of Columbia.

20 5. During my tenure as USCIS Director, DHS conducted over a dozen periodic reviews of
21 foreign states that had previously been designated for temporary protected status pursuant to 8
22 U.S.C. § 1254a(b)(3). As Director of USCIS, during each periodic review, I was responsible for
23 making a recommendation to the Secretary of Homeland Security regarding whether the conditions
24 for temporary protected status (“TPS”) designation under 8 U.S.C. § 1254a continued to be met.

25 6. The periodic review process operated as described in paragraphs 7-17 below. This process
26 predated my tenure and I did not initiate any material changes to it.

27 7. Under the TPS statute, the DHS Secretary must decide whether the conditions for a
28 country’s TPS designation continue to be met at least 60 days before the designation is set to expire.

1 The periodic review process began well before this 60-day deadline in order to allow for meaningful,
2 orderly consultation within the agency and with other agencies and to ensure that TPS holders and
3 other stakeholders would receive notice of the decision well ahead of the expiration date.

4 8. Career civil servants at the International and Humanitarian Affairs Division of the USCIS
5 Office of Policy & Strategy (“OP&S”) initiated the periodic review process and were largely
6 responsible for driving it forward.

7 9. At the beginning of the review process, the OP&S International and Humanitarian Affairs
8 Division solicited a memorandum on the country conditions of the TPS-designated country from the
9 USCIS Refugee, Asylum, and International Operations (“RAIO”) Directorate. The RAIO country
10 conditions memo, along with input from the State Department, provided the factual basis for
11 USCIS’s review and recommendation to the DHS Secretary.

12 10. The OP&S International and Humanitarian Affairs Division also sought a
13 recommendation from the State Department. This typically came in the form of a written letter from
14 the Secretary of State, with the State Department’s country conditions reports included as
15 attachments. The letter was provided sufficiently in advance of USCIS’s recommendation to the
16 DHS Secretary that USCIS could take the State Department analysis into account in crafting our
17 recommendation.

18 11. Within both USCIS and the State Department, a separate review process was conducted
19 for each country at issue. Generally, each country was considered individually. The only exceptions
20 to this that I recall were Sudan and South Sudan, which have sometimes been considered jointly
21 because at the time of designation they were the same country; and Guinea, Liberia, and Sierra
22 Leone, which were jointly designated for TPS in 2014 on account of the Ebola epidemic. All other
23 countries were considered on an individual basis because their designation was based on different
24 events; they were on different cycles; and their country conditions varied.

25 12. Based primarily on the RAIO country conditions memorandum and input from the State
26 Department, OP&S prepared a draft “Decision Memorandum” (or “Decision Memo”). The Decision
27 Memo provided USCIS’s recommendation to the DHS Secretary as to whether a country’s
28 designation should be extended or terminated, or whether a country should be re-designated for TPS.

1 The Decision Memo also described relevant country conditions and provided an explanation for
2 USCIS's recommendation.

3 13. At the same time that I received a draft Decision Memo from OP&S for my review, I
4 also received a draft Federal Register Notice corresponding to the proposed recommendation. This
5 allowed for the Federal Register Notice to be finalized and published almost immediately after the
6 DHS Secretary made his decision.

7 14. As Director, I was responsible for approving the final Decision Memo, signing it, and
8 sending it to the DHS Secretary to make a final decision. I typically provided the Decision Memo
9 and the draft Federal Register Notice to the DHS Secretary simultaneously, accompanied by the
10 RAIO country conditions memorandum and the State Department recommendation and country
11 conditions reports. After I provided the Decision Memo to the DHS Secretary, the DHS Secretary
12 would sometimes call a meeting to discuss the recommendation. I would attend the meeting with the
13 career staff of the OP&S International and Humanitarian Affairs Division, who were largely
14 responsible for responding to questions that arose in the review process.

15 15. The Decision Memo and the Federal Register Notice were subject to an internal
16 clearance process that ensured proper consultation between agency entities. This process was
17 important to ensure that all stakeholders with equity in the decision had an opportunity to provide
18 input into the process.

19 16. During my tenure, both Country Conditions Memos and Decision Memos consistently
20 included a wide range of country conditions information. Neither was limited to conditions related to
21 the original reason for a country's TPS designation. To the contrary, both the Country Conditions
22 Memo and the Decision Memo provided a comprehensive picture of current country conditions
23 without regard to whether those conditions were related to the originating condition or to the
24 country's recovery from the originating condition.

25 17. In making a recommendation to the DHS Secretary regarding extension or termination of
26 TPS, agency policy did not preclude USCIS's consideration of the full range of current country
27 conditions. Rather, USCIS had broad discretion to consider current conditions in the subject country.
28 Intervening factors arising after a country's original TPS designation, such as subsequent natural

1 disasters, issues of governance, housing, health care, poverty, crime, general security, and other
2 humanitarian considerations were considered relevant to determining whether a country continued to
3 meet the conditions for continuing TPS designation. This was true regardless of whether those
4 intervening factors had any connection to the event that formed the basis for the original designation
5 or to the country's recovery from that originating event.

6 18. The agency policy described herein with respect to USCIS's broad discretion to base
7 recommendations regarding TPS extensions or terminations on current country conditions,
8 regardless of their connection to the original basis for designation, was not a new policy under my
9 time as USCIS Director. Rather, like the process outlined above, I kept in place the same policy that
10 had been carried out by career staff under previous USCIS Directors and DHS Secretaries.

11 I declare under penalty of perjury that the foregoing is true and correct.

12 Executed August 20, 2018 in the District of Columbia.

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Leon Rodriguez