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(See Next Page For Additional Counsel)

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAI‘I**

STATE OF HAWAI‘I and ISMAIL ELSHIKH,
Plaintiffs,

v.

DONALD J. TRUMP, in his official capacity as
President of the United States; U.S.
DEPARTMENT OF HOMELAND
SECURITY; JOHN F. KELLY, in his official
capacity as Secretary of Homeland Security;
U.S. DEPARTMENT OF STATE; REX
TILLERSON, in his official capacity as
Secretary of State; and the UNITED STATES
OF AMERICA,

Defendants.

Civil Action No. 1:17-cv-00050-
DKW-KSC

**THIRD DECLARATION OF
NEAL K. KATYAL IN
SUPPORT OF PLAINTIFFS’
MOTION TO ENFORCE OR,
IN THE ALTERNATIVE, TO
MODIFY PRELIMINARY
INJUNCTION; EXHIBITS J,
K, & L IN SUPPORT OF
PLAINTIFFS’ MOTION TO
ENFORCE OR, IN THE
ALTERNATIVE, TO
MODIFY PRELIMINARY
INJUNCTION;
CERTIFICATE OF
SERVICE**

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**THIRD DECLARATION OF NEAL K. KATYAL IN SUPPORT OF
PLAINTIFFS' MOTION TO ENFORCE OR, IN THE ALTERNATIVE, TO
MODIFY PRELIMINARY INJUNCTION**

I, NEAL K. KATYAL, hereby state and declare as follows:

1. I am counsel for Plaintiffs, the State of Hawai'i and Ismail Elshikh. I have personal knowledge of and am competent to testify to the truth of the matters stated herein. This Third Declaration is submitted in support of Plaintiffs' Motion to Enforce or, In the Alternative, to Clarify Preliminary Injunction and Reply.

2. Attached as Exhibit J is a true and correct copy of the Declaration of Erol Kekic, Executive Director of the Church World Service ("CWS") Immigration and Refugee Program, as it was provided to counsel for Plaintiffs by a third party today. CWS is a humanitarian agency comprised of Protestant, Anglican, and Orthodox member communions.

3. Attached as Exhibit K is a true and correct copy of the Declaration of John Feruzi, an approximately 21-year old Congolese refugee who presently lives in the Dzaleka Refugee Camp in Malawi, as it was provided to counsel for Plaintiffs by a third party today. Mr. Feruzi's declaration is signed on his behalf by his attorney, Marissa Ram, who works for the International Refugee Assistance Project.

4. Attached as Exhibit L is a true and correct copy of the Declaration of Mwenda Watata, the uncle of Mr. Feruzi, who was admitted to the United States as

a refugee on July 4, 2017. The declaration is submitted in the form it was provided to counsel for Plaintiffs by a third party today.

5. Due to logistical challenges, the foregoing three declarations were previously filed in a form that did not include certifications under penalty of perjury. *See* Dkts. 343-1, 343-2, 343-3. Counsel for Plaintiffs submit the attached Exhibits J, K, and L in order to supplement the record with updated, substantively identical copies of the declarations containing attestations from the declarants under 28 U.S.C. § 1746. Exhibit J otherwise is identical to the previously filed Declaration of Erol Kekic, Dkt. 343-1. Exhibit K provides updated information regarding the declarant's interpreter and the location of execution but otherwise is substantively identical to the previously filed Declaration of John Feruzi, Dkt. 343-2. Exhibit L includes a small number of minor technical clarifications, such as to explain the circumstances of interpretation and to correct spelling, but otherwise is substantively identical to the previously filed Declaration of Mwenda Watata, Dkt. 343-3. No material information from the foregoing declarations that was cited in Plaintiffs' briefs has changed.

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

DATED: Washington, D.C., July 13, 2017.

/s/ Neal K. Katyal
Neal K. Katyal



July 11, 2017

CWS Declaration

Church World Service (CWS), a humanitarian agency that brings together 37 Protestant, Anglican and Orthodox member communions. The CWS constituency represents more than 30 million people in the United States who affirm the importance of refugee resettlement as a private-public partnership that has broad support from communities across the country.

I, Erol Kekic, am the executive director of the CWS Immigration and Refugee Program (IRP). I have worked in the field of refugee protection and resettlement for more than 21 years, leading CWS's work in humanitarian protection and development of durable solutions that bridge the gap between disaster relief and development. Before serving as the associate director and then executive director of CWS IRP, I served as the associate director for the Lutheran Family and Community Service Immigration and Refugee Program and assistant director for resettlement for the Lutheran Immigration and Refugee Service, both in New York. I have a Bachelor of Science degree in chemical engineering at the University of Sarajevo and have done graduate work at The University of Detroit-Mercy in Michigan and at Oxford University Refugee Study Centre in the UK.

The United States Refugee Admissions Program (USRAP) works with nine agencies to resettle refugees into communities across the country; one of these agencies is CWS, which agreed to serve **8,687** individuals in FY 2017. Of this number, CWS has already resettled **6,664** refugees and has an additional **3,626** individuals in its assured-not-yet-arrived overseas pipeline (some of whom may arrive next year); all of whom have been waiting for years to flee from harm and the chance to live in safety.

U.S. Ties Who Are Not “Bona fide relationships” Under the Administration’s Interpretation

Of the 3,626 currently in the CWS pipeline who have been assured and have a U.S. tie, 1,072 individuals do not have what the Administration considers to be a “bona fide relationship”. In its interpretation of the Supreme Court’s decision on this case, the Administration is asserting that refugees who have expected to join their grandmothers, aunts, uncles, cousins, nieces, nephews and friends do not have a “bona fide relationship” with an individual in the United States.

Among the group of individuals being impacted by the Administration’s interpretation of a bona fide relationship is a 93 year old grandmother resettled to the US, who three years ago filed family reunification applications for her daughter and granddaughter from Ukraine, both of whom are booked to arrive in the United States in two weeks’ time. Unfortunately, neither the mother nor the daughter, who are both, importantly, religious minorities, a group that the State Department has prioritized for resettlement, will be allowed to depart for the U.S. Their cases are “hard-cross-referenced”, which means one cannot travel without the other, and as the granddaughter does not have what is considered to be a “bona fide relationship” to her U.S. tie (i.e.: her grandmother), the mother – who has a bona fide relationship –will also be prevented

from travel. As a result, this 93 year old grandmother may never be reunited with her daughter or granddaughter.

“Cross-Referenced” Family Members

Resettlement Support Centers (RSCs), which prescreen refugees referred to the US program regularly process refugees as “cross-referenced” cases if a refugee identifies a need to travel and/or live in the same location with a family member or friend. These decisions are often vulnerability or dependency based. Guidance from the federal government to RSCs on cross-referencing specifies that “a cross-reference is a link between cases for the purpose of travel and resettlement. Cross-referenced cases are those that have an established association with each other¹.”

If they need to be processed together (travel and live together), the RSC will hard-cross-reference (HCR) them to ensure they go through each step in the process together. If they want to resettle together, but one case has more urgent needs, the RSC will normally soft-cross-reference (SCR) their cases. Soft-cross referencing ensures that they will eventually be reunited in the same location in the U.S.

Implementation of this recognizes that many refugee families are not commonly that of a nuclear family, but that grandparents, cousins, aunts and uncles frequently play a role in raising children and that familial relationships do not end at the “bona fide” level as currently defined by the Administration. CWS has hundreds of individuals who may not have a “bona fide” relationship to a U.S. tie as currently defined by the Administration, but whose cases are cross-referenced to cases of family or friends who have already arrived in the U.S.

Refugees “Without US ties”

CWS also has **1,384** refugees in its assured-not-yet-arrived pipeline who do not have a U.S. tie, but who have no option to return home or be integrated into their host country. Among these individuals is a displaced Somali family of ten. Their children have been diagnosed as malnourished and continue to live in unsafe conditions. One of them was, in fact, attacked on his way to his interview with the resettlement support staff and suffered severe head trauma. Their mother suffers from strokes that have left half her body paralyzed. After having spent the past 19 years in a desolate refugee camp along the border of Kenya and Somalia, they finally were meant to arrive in the U.S. this week but their travel has been cancelled. “If these and other refugees are denied entry, families like this – who face an existential threat every day – will be in limbo indefinitely. Their medical exams and security checks will expire, they will not receive adequate treatment for their serious medical conditions; their children will remain malnourished and unable to attend school, and their future uncertain. Despite being told that they were approved for admission to the U.S., the promise of resettling safely in the U.S. will now be revoked, for no fault of their own.

¹ RSC SOP 2: Pre-screening. This SOP describes minimum standards set forth by PRM and RPC, and guides local implementation by RSCs within their regional coverage.

I declare under penalty of perjury that the foregoing is true and correct. Executed on Thursday, July 13th, 2017.

Respectfully,

A handwritten signature in cursive script, appearing to read "Erol Kekic". The signature is written in black ink on a white background.

Erol Kekic
Executive Director, Immigration and Refugee Programs
Church World Service

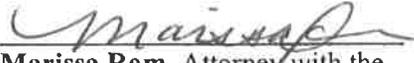
Declaration of John Feruzi

1. My name is John Feruzi. I am around 21 years old. I do not know the exact day and month that I was born, but I do know I was born in 1995. I was born in the Congo. Now I live in Dzaleka Refugee Camp in Malawi.
2. I cannot say anything about my birth parents because never knew them. I went to live with my uncle, Mwenda Watata, when I was very young. I do not consider him my uncle. He is my father. I call him "Baba," which means "Dad" in Swahili. His wife is like my mother. She raised me, too. She breastfed me as a child. I call my aunt "Mom." I do not refer to them as my uncle and aunt. They are my parents.
3. Dad is the only father I have ever known. He means everything to me. I love him very much. He brought me up. I have loved living with him. He has always been there for me.
4. I lived with Dad and Mom ever since I was a child, ever since I can remember. Dad always says I am his child, even though I am listed as his nephew on paperwork. He refers to me when he talks about his sons, because he has always considered me to be his son. Though we are cousins by birth, his birth children and I consider each other brothers and sisters. I am considered born into the family, not just a cousin.
5. My dad means everything to me. He took me to school. He gave me advice just as he did to his birth children. He took care of me when I was sick. He treated me exactly the same as his other children. We always ate together as a family.
6. When I was about 14 years old, Congo soldiers attacked our house and our family. I do not remember many details, but I remember that our family was on the run until we reached Malawi. That is really all I can remember. I was about 14 at the time. I believe we came to Malawi around October of 2009. We applied for refugee status around that time.
7. Our whole family started the application process together. We filed together. I was included because I was considered one of his children, even though I am listed as his nephew in the application. We went through all the steps together. We were fingerprinted at the same time. We took our photos at the same time. We all went to the interviews together. We completed our forms together and turned them in together. We finished the process together. We made travel arrangements together. Our cases progressed together. Dad handled everything and told us children what we needed to do.
8. Dad and Mom never officially adopted me. We just never thought it was necessary. Mom breastfed me. I was their kid. It was never a question. I was listed as their nephew on the paperwork, but we were all still processed together as a family. The fact that I was their nephew by birth never came up in my interview. It never was an issue until we all got to the airport to travel to the United States and they divided us. I never expected it to be an issue. We always thought I would be resettled with the rest of the family.
9. On the 4th of July, 2017, our whole family went to the airport together. We were all going to be resettled in Arkansas in the United States.
10. I expected that we would travel together and live together in the United States. All of a sudden, we got to the airport and I was told to stay behind. I think maybe this was because I was not considered family. I do not understand this system. I feel like I don't

understand anything anymore. All the people I grew up with are gone. This is my family. This is my Dad. This is my Mom. These are my brothers and sisters. I am separated from the people I love most in the world. My family is in the U.S. now without me. They are all there, except me. I am in the refugee camp without them.

11. I am not someone who cries easily. After this happened, I cried more than ever before in my life. I'm not in a good situation emotionally. All the people I care about are gone. My father who took care of me my whole life is gone. My whole family is all gone. I can't wrap my head around what happened. I don't understand why it happened. I'm scared I'll never get to join them. I'm afraid I'll never see Dad, Mom, and my brothers and sisters again.
12. I am providing this declaration in the hopes that somehow it might help my family and I be together again.
13. If anyone can get in touch with my dad, please tell him I'm thinking of him and the family. Please tell my dad I love him and miss him so much. If there is anything I can do to help move this process along, I'll do it. I'll do whatever I can. I just want to be with my family again.
14. I authorize Marissa Ram, attorney with the International Refugee Assistance Project ("IRAP") to sign this declaration on my behalf. I live in Dzaleka Refugee Camp and I do not have access to a printer. I would have to go out and pay to use one. Unfortunately, I do not have any money. Dad helped provide for me and now that he is gone I do not have any money. If my signature is needed at a later date and someone can pay for mailing service, I can and will sign the declaration myself. This declaration has been read to me in Swahili, a language I understand and am fluent in. I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on 13 of July, 2017
New York, New York


Marissa Ram, Attorney with the
International Refugee Assistance Project,
on behalf of John Feruzi

Interpreter Certification

I, Nancy Wallace, certify that I am fluent in the English and Swahili languages, and that the verbal translation I provided to the declarant of the above document from English into Swahili is complete, true, and accurate to the best of my abilities.

Executed on 13 of July, 2017
Davis, California


Nancy Wallace

Declaration of Mwenda Watata

1. My name is Mwenda Watata. I was born in Mboko in the Democratic Republic of Congo on January 20, 1956. In my culture, we say our family name first, then our given name. In my paperwork for the United States, my name is written in reverse order, with my given name first and my family name last. U.S. documents list my name as Watata Mwenda.
2. I am fluent in several languages, including Swahili and French.
3. I have eleven children. I have eight biological sons, two biological daughters, and my son John Feruzi. In terms of defining family, I have always seen John as my own son.
4. I don't know the exact day that John was born, but it was sometime in August of 1995. To my knowledge, he is listed as 21 years old on official paperwork.
5. John is the biological son of my younger brother, who is now deceased.
6. When John was just about one month old, my younger brother left him with me. Cholera was rampant during this time. Many people died from it. My younger brother and his wife died, too. John came to live with us. My wife, Nyasa Safi, had just had a baby boy about a month ago, too. They were around the same age. We think they might even be just a few days apart.
7. My wife breastfed them together. It was as if she had given birth to two babies. We raised them together. We raised them as both our children. We treated them both exactly the same.
8. My role as a father was the same with all my children. I never discriminated or treated my children differently from one another. Two of my biological children have a different mom than Nyasa. I loved them all the same. John is my child. He is my son.
9. I just never saw the need to legally adopt John. He was our son. He didn't know his biological mother and father. My wife breastfed him just as she did with his brother. We raised them together. He has never lived with anyone else except us.
10. I also didn't see the need to adopt him because that is just not necessary in our culture. In our cultural tradition, these distinctions between family aren't important. We're related by blood. We're a family. If someone passes away, you take care of their children. Their children become your children. My brother's son became my son. I raised John since he was a baby. He is my child. I was and am responsible for him. There is just no need to legally adopt in our culture.
11. In 2009, we were attacked by Congo soldiers outside our home. They wanted to take my life. So we had to flee. We eventually reached Malawi and in or around October 2009, we applied for refugee status there.
12. Throughout our life in the DRC and Malawi, I have never left anyone behind, even when we had to flee. It was very important to me to keep the family together. That includes my son John.
13. I just can't understand why John was made to stay behind. I truly don't understand. We went through every step of process together, fingerprints, photos, interviews. To my understanding John was being considered our child throughout the process, even though legally he is my nephew. This never came up as a problem during the interviews. Nothing

- seemed strange about the process. We were honest in our answers. There were no weird questions. No one ever asked us why we didn't adopt John.
14. We were all expecting to move together. So I don't understand why this happened in the end. I don't understand why we were separated from him.
 15. On July 4, 2017, officers from Dzaleka Refugee Camp accompanied us from the camp to the airport. When we arrived at the airport, they called out the names of the travelers. One by one all of our names were called. Except my son John. Despite going through the whole process together as a family and arranging our travel together, he was not on that list.
 16. It was very confusing. It's hard to wrap my head around what happened.
 17. One of the officers from the refugee camp told us not to worry about it. He said maybe John would join us in a week and told us to go on ahead. They didn't give us any reason. We all cried about it. But it seemed like our tears didn't help at all.
 18. It's been more than a week and we are still separated. John's still not here. It doesn't seem like he is coming now. And no one can tell us why.
 19. I understand John's belief that he was left behind because he's not considered family. The only difference between him and all my other children that are here with me is that he is legally my nephew. All my sons are here. Except John. When he was left behind at the airport, it was like leaving my son.
 20. John's mom is just devastated. One of her children is not with her. There is a gap in our family. It's not the same anymore. John has been with us his whole life. His siblings are depressed. There is something missing. I'm heartbroken because John is not sitting next to me like the rest of my sons. All my sons are here, except John. I want to see him. I miss him. I want him to be here with me. We need him home with us.
 21. I am very worried about John because I don't even know if he's safe. What if he's been attacked? He's in a refugee camp. Anything can happen there and now he's all alone.
 22. I'm worried about his health. Is he eating? Does he even have enough to eat? I always made sure all my kids had good, healthy food. I made sure they all had enough to eat, even when times were hard. I provided everything for my children.
 23. If I could speak with John right now, I would tell him to please not to lose hope. There are people trying to help. I believe something good can come out of this. I believe we will be together again.
 24. If there is anything anyone can do to help reunite me with my son, I hope someone will let me know.
 25. This declaration has been read to me in French, a language I understand and am fluent in. I declare under penalty of perjury that the foregoing is true and correct.

Executed on 13 of July, 2017
Fayetteville, Arkansas

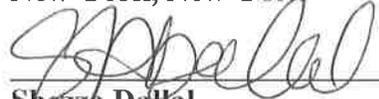


Mwenda Watata

Interpreter Certification

I, Shezza Dallal, certify that I am fluent in the English and French languages, and that the verbal translation I provided to the declarant of the above document from English into French is complete, true, and accurate to the best of my abilities.

Executed on 13 of July, 2017
New York, New York



Shezza Dallal