

**UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF MASSACHUSETTS**

MARIA ALEJANDRA CELIMEN SAVINO,
et al.,

Petitioners-Plaintiffs,

v.

STEVEN SOUZA

Respondent-Defendant.

Case No. 1:20-cv-10617-WGY

MOTION TO ADD INDIVIDUAL TO SUBCLASS ONE

Petitioners-Plaintiffs (“Plaintiffs”), through undersigned counsel, respectfully request this Court to enter an order adding Named Plaintiff Maria Alejandra Celimen Savino to its first provisionally certified subclass in this action (“Subclass One”). At its April 2, 2020 hearing, this Court provisionally certified five subclasses. While this Court has not yet entered a written order and a transcript of these proceedings is not yet available, Plaintiffs understand Subclass One to consist of individuals detained at the Bristol County Detention Facilities without any prior criminal convictions and with no pending criminal charges. Immediately following the hearing, the Court issued an order listing the class members in Subclass One. ECF No. 38.

Later in the day on April 2, 2020, Plaintiffs’ counsel emailed Defendant’s counsel, and followed up with a phone call this morning (April 3, 2020), concerning Plaintiffs’ position that Ms. Savino properly belongs in Subclass One because she has no prior criminal convictions and has no pending criminal charges. Defendant’s counsel stated an intent to investigate further, but Plaintiffs’ counsel have not yet heard back.

Based on Plaintiffs’ independent investigation, Plaintiff Maria Alejandra Celimen Savino

is properly included in Subclass One. First, the parties agree that Ms. Savino has no criminal convictions. *See* Government's Bristol Roster, Row 115. Second, as to pending charges, Plaintiffs' investigations, including communications with Ms. Savino's immigration attorney, reveal that Ms. Savino currently has no pending charges. *See* Exhibit B to Declaration of Julio Henriquez, Addendum of Declarations in Support of ECF No. 33, submitted *in camera* via email (April 2, 2020) (copy of Ms. Savino's complete criminal docket). The government's spreadsheet lists several potential criminal offenses for Ms. Savino but does not indicate which are pending or dismissed charges. Plaintiffs recognize that the government has superior access to such information on criminal charges, however the annotation for Ms. Savino under "Criminal History" does not appropriately reflect Plaintiffs' understanding that 1) Ms. Savino has no pending criminal charges and 2) the listed charges have either been dismissed by the court or nolle prossed by the prosecuting office.

Accordingly, Plaintiffs respectfully request this Court to issue an order adding Ms. Savino to Subclass One, or in the alternative, to order Defendant to produce evidence by the close of business today that Ms. Savino is subject to any pending criminal charges, as well as the nature and basis of any such charges.

Dated: April 3, 2020

Respectfully Submitted,

/s/ Michael J. Wishnie

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CERTIFICATE OF SERVICE

I hereby certify that, on April 3, 2020 a copy of the foregoing document was filed electronically and served by mail on anyone unable to accept electronic filing. Notice of this filing will be sent by email to all parties by operation of this court's electronic filing system or by mail to anyone unable to accept electronic filing as indicated on the Notice of Electronic Filing. Parties may access this filing through the court's CM/ECF system.

Date: April 3, 2020

Respectfully submitted,

/s/ Michael J. Wishnie
Michael Wishnie (BBO# 568654)

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CERTIFICATE OF CONFERENCE PURSUANT TO LOCAL RULE 7.1(a)(2)

Petitioners-Plaintiffs, through undersigned counsel, hereby file this Certificate of Conferral Pursuant to Local Rule 7.1(a)(2). Counsel for Plaintiffs conferred via email on April 2 and via telephone on April 3 with Attorney Kanwit regarding the proper classification of Named Plaintiff Savino in Subclass One, but the parties were not able to resolve this issue as of the time of this filing.

For this reason and those set forth in the motion, Petitioner-Plaintiffs respectfully request that the Court grant the motion.

Dated: April 3, 2020

Respectfully Submitted,

/s/ Michael J. Wishnie

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