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**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA**

CRISTA RAMOS, *et al.*,

Plaintiffs,

v.

KIRSTJEN NIELSEN, *et al.*,

Defendants.

Case No. 3:18-cv-01554-EMC-SK

**DEFENDANTS' STATUS REPORT ON
COMPLIANCE WITH PRELIMINARY
INJUNCTION (DKT. NOS. 128 AND 133)**

**DEFENDANTS' REPORT ON COMPLIANCE WITH PRELIMINARY INJUNCTION
(DKT. NOS. 128 and 133)**

No. 3:18-cv-1554

Pursuant to the Court's Orders on October 3, 2018 (ECF No. 128) and October 19, 2018 (ECF No. 133) directing that "Defendants shall report to the Court within fifteen (15) days of this Order on the administrative steps taken to comply with [the preliminary injunction] and otherwise preserve the status quo," Defendants submit the following declarations explaining their efforts to comply with the preliminary injunction entered in this case, attached as exhibits hereto:

1. Declaration of Donald W. Neufeld, Associate Director for Service Center Operations at United States Citizenship and Immigration Services;
2. Declaration of Robert E. Perez, Acting Deputy Commissioner of United States Customs and Border Protection;
3. Declaration of Joseph D. Simon, Acting Deputy Chief of Staff in the Office of the Director at United States Immigration and Customs Enforcement.

Dated: October 23, 2018

Respectfully submitted,

JOSEPH H. HUNT
Assistant Attorney General
Civil Division

JOHN R. TYLER
Assistant Branch Director

/s/ Rhett P. Martin
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**DEFENDANTS' REPORT ON COMPLIANCE WITH PRELIMINARY INJUNCTION
(DKT. NOS. 128 and 133)**

No. 3:18-cv-1554

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA**

CRISTA RAMOS, <i>et al.</i> ,)	
)	
Plaintiffs,)	Case No. 3:18-cv-01554-EMC-SK
)	
v.)	DECLARATION OF
)	DONALD W. NEUFELD
)	
KIRSTJEN NIELSEN, <i>et al.</i> ,)	
)	
Defendants.)	
)	

I, Donald W. Neufeld, hereby declare and say:

1. I am the Associate Director for Service Center Operations (SCOPS) for U.S. Citizenship and Immigration Services (USCIS), a component within the U.S. Department of Homeland Security (DHS). I have held this position since January 2010. In this position, I oversee all policy, planning, management, and execution functions of SCOPS. My current job duties include overseeing a workforce of more than 5,800 government and contract employees at the five USCIS Service Centers located in California, Nebraska, Texas, Vermont, and Virginia. These five service centers adjudicate over six million immigration-related applications, petitions, and requests annually, including applications for work authorization.

2. I was previously the Deputy/Acting Associate Director for USCIS Domestic Operations from June 2007 to January 2010, where I oversaw all immigration adjudication activities at USCIS's four Service Centers and 87 field offices throughout the United States, as well as 130 Application Support Centers, four Regional Offices, two Call Centers, the Card Production Facility, and the National Benefits Center (NBC). From January 2006 to

DECLARATION OF DONALD W. NEUFELD – No. 3:18-cv-1554

June 2007, I was the Chief of USCIS Field Operations managing and overseeing the 87 field offices delivering immigration benefit services directly to applicants and petitioners in communities across the United States and the NBC, which performs centralized front-end processing of certain applications and petitions. My career with USCIS and the legacy Immigration and Nationality Service (INS) spans more than 30 years, where I have held several leadership positions including Deputy Assistant District Director for the Los Angeles District, Assistant District Director, and later District Director of the Miami District, and Service Center Director for the California and Nebraska Service Centers. I began my career in 1983, initially hired as a clerk in the Los Angeles District, then serving as an Information Officer, and then an Immigration Examiner who conducted interviews and adjudicated applications for immigration benefits.

3. I make this declaration on the basis of my personal knowledge and information made available to me in the course of my official duties.

4. I am aware that on October 3, 2018, this Court issued a preliminary injunction ordering that USCIS is “enjoined and restrained from engaging in, committing, or performing, directly or indirectly, by any means whatsoever, implementation and/or enforcement of the decisions to terminate Temporary Protected Status (TPS) for Sudan, Haiti, El Salvador, and Nicaragua pending resolution of this case on the merits.” The Court “further ordered that Defendants shall take all administrative actions needed to preserve the status quo pending completion of discovery and a ruling on the merits of the action, including all steps needed to ensure the continued validity of documents that prove lawful status and employment authorization for TPS holders” (hereinafter referred to as “Order”).

5. To implement this Court’s Order, USCIS is in the process of drafting for publication a *Federal Register* Notice (“FRN”), announcing that the TPS designations for Sudan, Haiti, El Salvador and Nicaragua remain in effect so long as the Court’s order remains in effect. The FRN will describe what steps DHS is taking to comply with the Court’s Order, including to continue the validity of: (1) TPS-related Employment Authorization Documents (“EADs”); (2) Forms I-94, *Arrival and Departure Records*; and (3) Forms I-797, Notices of Action (“Approval Notices”), collectively “TPS-Related Documentation,” to demonstrate the lawful status and employment authorization of affected TPS beneficiaries.

6. The FRN will further announce that DHS is automatically extending the validity of specified TPS-related EADs. The FRN will automatically extend, through April 2, 2019, the validity of EADs with the category codes “A-12” or “C-19” and one of the expiration dates shown below that have been issued under the TPS designations of Sudan and Nicaragua:

11/02/2017
01/05/2018
11/02/2018
01/05/2019

In addition, USCIS will issue EADs valid through April 2, 2019, to beneficiaries of TPS Sudan and TPS Nicaragua who apply for an EAD and who have been approved for re-registration following the most recent TPS registration period for their country *or* who have a pending re-registration application with USCIS, provided such pending re-registration and EAD applications are approved following publication of the FRN, or sooner, if this Court indicates that Defendant’s proposed plan for compliance with its Order is acceptable.

7. The FRN will also automatically extend through April 2, 2019, the validity of specified Forms I-94 (*Arrival Departure Records*) and Forms I-797, Notices of Action (Approval Notices) for affected beneficiaries pursuant to the TPS designations for Sudan and Nicaragua. The Forms I-94 and Forms I-797 (Approval Notices) that are being extended are:

Country	Beginning date of validity:	End date of validity:
Sudan	May 3, 2016	Nov. 2, 2017
	Nov. 3, 2017	Nov. 2, 2018
Nicaragua	July 6, 2016	Jan. 5, 2018
	Jan. 6, 2018	Jan. 5, 2019

8. TPS beneficiaries from Haiti and El Salvador who have been approved for re-registration currently have TPS-Related Documentation that will remain in effect for more than six months (until July 22, 2019, and September 9, 2019, respectively). The six month auto-extension that DHS plans to announce in the upcoming FRN will therefore not apply to them. TPS beneficiaries from Haiti and El Salvador with currently pending re-registration and EAD applications that are later approved by USCIS will receive TPS-related EADS, Forms I-94, and/or Forms I-797, (Approval Notices), with the same validity dates as the beneficiaries from those countries whose applications have already been approved.

9. Should the Court's Order not be reversed or invalidated before the initial six month auto-extension of documentation for TPS beneficiaries from Sudan and Nicaragua, DHS will issue a subsequent FRN approximately 30 days before April 2, 2019 that automatically extends by nine months the appropriate TPS-Related Documentation for TPS beneficiaries from Sudan, Nicaragua, Haiti, and El Salvador. If issued, the subsequent FRN would automatically extend the TPS-Related Documentation for TPS beneficiaries from

Sudan and Nicaragua until January 2, 2020. The potential subsequent FRN would also auto-extend through January 2, 2020, the appropriate TPS-Related Documentation of TPS beneficiaries who filed for re-registration in accordance with either the TPS termination FRNs for El Salvador and Haiti (83 Fed. Reg. 2654 (Jan. 18, 2018) (El Salvador)); 83 Fed. Reg. 2648 (Jan. 18, 2018) (Haiti)); *or* the TPS extension FRNs for each country that recently preceded those termination FRNs (81 Fed. Reg. 44645 (July 8, 2016) (El Salvador)); (80 Fed. Reg. 51582 (Aug. 25, 2015) (Haiti); 82 Fed. Reg. 23830 (May 24, 2017) (Haiti)), unless such individuals' re-registration and EAD applications have been finally denied by USCIS for individual TPS ineligibility reasons under section 244(c) of the Immigration and Nationality Act (INA) and 8 C.F.R. Part 244. More specifically, the automatic EAD extension through January 2, 2020, would apply to a TPS beneficiary's EAD if the beneficiary successfully re-registered and possesses an EAD under any of those five FRNs, or if the beneficiary filed a re-registration application under those FRNs that is still pending *and* such applicant possesses an EAD that had been previously automatically extended under any of those five noted FRNs. DHS will continue to issue such FRNs at nine month intervals, subject to the orderly transition intervals described in paragraph 10, so long as the injunction remains in place and the mandate of any decision reversing the injunction has not yet issued to the district court. Notwithstanding any future automatic extension of TPS-Related Documentation described in this paragraph, no automatic extension will be provided to or maintained for any individual who fails to meet TPS eligibility requirements, including re-registration requirements, although an individual may file for re-registration late and provide his or her reasons for being late. USCIS will determine whether the individual has met the

“good cause” statutory exception for late re-registration as described in paragraphs 15 and 16.

10. All automatic extensions referred to in this declaration will remain in effect as long as the affected TPS beneficiaries remain otherwise individually eligible for TPS, unless any of the Secretary’s termination decisions become effective at an earlier date as a result of a superseding judicial order and implementing Federal Register Notice. In the event of such a superseding order, however, DHS will allow for an orderly transition period of (a) 120 days from the date the mandate issues to the District Court; or (b) the Secretary’s previously-announced effective date for the termination of TPS designations for each individual country (Nicaragua – January 5, 2019; Haiti – July 22, 2019; El Salvador – September 9, 2019). To the extent that a subsequent FRN has auto-extended TPS-Related Documentation beyond the 120-day orderly transition period DHS reserves the right to issue another FRN invalidating the documents at the end of the orderly transition period.

11. USCIS is auto-extending the TPS-Related Documentation as noted above, in response to the Court’s directive that Defendants “ensure the continued validity of documents that prove lawful status and employment authorization for TPS holders.” TPS beneficiaries who have a valid EAD are able to use that document as evidence of lawful status and employment authorization. *See* 8 C.F.R. § 264.1(b) (listing alien registration document types). When USCIS approves either an initial application for TPS or a re-registration application for an existing TPS beneficiary, the agency issues a Form I-797 (*Notice of Action*) approval notice that gives the validity dates for the person’s next period of TPS. A TPS beneficiary can use as an alien registration document either his or her EAD,

if one was issued, or the “tear off” Form I-94 (*Arrival Departure Record*) located at the bottom of a Form I-797 approval. *Id.*

12. TPS beneficiaries who have not applied for or not received an EAD can use Forms I-94 or Forms I-797 as proof that they are TPS-recipients and in lawful status. The specified Forms I-94 and Forms I-797 for TPS beneficiaries from Sudan and Nicaragua will therefore be automatically extended through April 2, 2019. If further automatic extension of Forms I-94 or Forms I-797 becomes necessary to comply with the Court’s Order, DHS will provide for such extension in the subsequent nine-month FRNs described above in paragraph 9 for beneficiaries of TPS Sudan, TPS Nicaragua, TPS Haiti, and TPS El Salvador, as appropriate.

13. In order for a beneficiary under TPS Sudan or TPS Nicaragua to establish his or her continued employment authorization, the forthcoming FRN, together with the specified auto-extended TPS-related EADs, can be shown to employers for employment eligibility verification purposes through April 2, 2019. Similarly, if a subsequent FRN extending EADs for eligible beneficiaries of TPS Sudan, Nicaragua, Haiti, and El Salvador is issued, that subsequent FRN, together with the specified auto-extended TPS-related EADs, can be shown to employers to establish continued employment authorization.

14. DHS is also automatically extending through April 2, 2019, the Forms I-94 and Forms I-797 described above in paragraph 7 for individuals with TPS status granted under the designations for Sudan and Nicaragua that has not been finally withdrawn, if the individuals’ TPS re-registration applications (Forms I-821) remain pending or have been granted. The FRN will not, however, extend the validity date of any TPS-Related Documentation issued to a TPS beneficiary if the individual has failed to file for TPS re-

registration as required under the applicable re-registration procedures for his or her country, or if his or her re-registration request has been finally denied. However, an individual may file for re-registration late and provide his or her reasons for being late. USCIS will determine whether the individual has met the “good cause” statutory exception for late re-registration as described in paragraphs 15 and 16.

15. In order to remain in lawful TPS status, beneficiaries must have re-registered as required by the INA. Beneficiaries who failed to re-register during the designated period listed in the termination FRNs for Sudan, Nicaragua, El Salvador, and Haiti, should file an application for late re-registration and demonstrate “good cause” for filing late as required by the INA.

16. Officers will be given guidance on adjudicating any late re-registration applications for the affected populations and will take into account the circumstances related to the termination notices. While any TPS beneficiary filing a late re-registration notice must show “good cause” under the TPS law, USCIS adjudicators will give presumptive weight to whether the delay in filing for re-registration was due in whole or in part to the termination notices or the May 24, 2017 extension of the designation of Haiti when determining whether good cause has been met. If the individual’s claim to have delayed filing for this reason is credible, it will be considered a presumptive factor in favor of a “good cause” finding, but all relevant factors must be considered by the adjudicator.

17. Should an FRN granting a subsequent nine month auto-extension be issued to include Haiti and El Salvador, USCIS will not extend the validity date of any TPS-Related Documentation to TPS beneficiaries from Sudan, Nicaragua, Haiti, and El Salvador who either failed to file for TPS registration or whose re-registration request has been finally


denied. However, an individual may file for re-registration late and provide his or her reasons for being late. USCIS will determine whether the individual has met the “good cause” statutory exception for late re-registration as described in paragraphs 15 and 16.

18. Defendants will provide Plaintiffs a near final copy of the Federal Register Notice in advance of publication to ensure that it is implementing the Court’s Order in a manner consistent with this declaration and to allow for good faith cooperation between the parties to resolve any ambiguities in the Federal Register Notice.

19. DHS has reached an agreement with Plaintiffs to take the steps outlined in this declaration as part of a negotiation to stay district court proceedings pending appellate review of the preliminary injunction. Should for any reason the district court proceedings not be stayed, DHS reserves the right to revisit any future actions described herein in a way that ensures compliance with the preliminary injunction.

I declare under the penalty of perjury, pursuant to 28 U.S.C. § 1746, that the foregoing is true and correct to the best of my knowledge.

10/23/2018
DATE


Donald W. Neufeld
Associate Director, SCOPS
Washington, DC

DECLARATION OF DONALD W. NEUFELD – No. 3:18-cv-1554

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

CRISTA RAMOS, et al.,

Plaintiffs,

Case No.: 18-cv-01554-
EMC

v.

KIRSTJEN NIELSEN, et al.,

Defendants.

DECLARATION OF ROBERT E. PEREZ

1. I am employed by U.S. Customs and Border Protection in Washington, DC, as the Acting Deputy Commissioner. I have been employed in this capacity since July 1, 2018. Prior to my role as Acting Deputy Commissioner, I served as the Acting Executive Assistant Commissioner for Operations Support since February 27, 2017. Prior to coming to Operations Support, I served as the Director of Field Operations (DFO) for CBP's New York Field Office. In that capacity, I directed the activities of nearly 3,000 CBP employees and oversaw the arrival of more than 21 million international travelers and over \$240 billion in imported goods.
2. In my capacity as the Acting Deputy Commissioner, I serve as the agency's senior career official. My responsibilities include providing executive leadership in planning short and long-range strategies, activities, and projects. Other top CBP priorities for which I am responsible include facilitating legitimate global trade and travel, and keeping illegal drugs and illegal aliens from crossing our borders. To implement the top CBP priorities for which I am responsible,

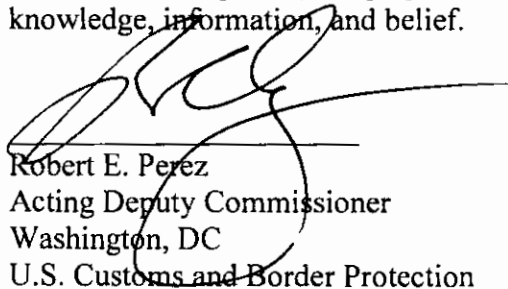
I work with various components within CBP, including the Office of Field Operations (OFO), U.S. Border Patrol (USBP), Air and Marine Operations, and the Office of Trade.

3. I make this declaration on the basis of my personal knowledge, as well as the documents and information made available to me in my position.
4. I am aware of the above captioned case. I am similarly aware that on October 3, 2018, the Court issued an order that granted the plaintiffs' motion for a preliminary injunction, which enjoined and restrained DHS from implementing and/or enforcing the decisions to terminate Temporary Protected Status (TPS) for Sudan, Haiti, El Salvador, and Nicaragua, pending the resolution of the case on the merits.
5. CBP does not play any role in processing an individual's request for TPS. In determining whether a particular alien is a TPS recipient, CBP relies on the U.S. Citizenship and Immigration Services. If a CBP officer or agent encounters an individual claiming that he or she is a TPS recipient, the officer or agent will review that individual's documents and check the relevant system of records to determine whether the individual has been granted TPS by U.S. Citizenship and Immigration Services. CBP does not decide whether an individual has TPS or not. Should there be a reason to recommend that a particular individual no longer be afforded TPS, those recommendations are referred to USCIS for consideration. Similarly, CBP does not determine whether or not a country or class of people is eligible for TPS designation or not.
6. I understand that as of the date of the Court's order all of the countries at issue in this case, Sudan, Haiti, El Salvador, and Nicaragua were still afforded TPS protection. In fact, no TPS designations were set to expire until November 2, 2018 (for Sudan). Moreover, CBP's operations continued at a *status quo*, that is, relying on the USCIS systems of record to

determine whether an individual is a TPS-recipient. However, out of an abundance of caution, CBP issued guidance to ensure that officers and agents were aware of the Court's ruling.

7. On October 4, 2018, the Executive Director for Admissibility and Passenger Programs in OFO issued a memorandum to all DFOs and the Director of the Field Operations Academy entitled "Guidance on Injunction Against Temporary Protected Status Termination." This memorandum states in relevant part that "DHS is enjoined from implementing and enforcing the decisions to terminate Temporary Protected Status (TPS) for Sudan, Haiti, El Salvador, and Nicaragua, pending the resolution of the case. . . . [T]his decision requires CBP to maintain status quo with respect to individuals from these countries who have been afforded TPS. . . . Unless and until instructed otherwise through superseding guidance, aliens with TPS from Sudan, Haiti, El Salvador, and Nicaragua, should continue to be treated as if TPS has not been terminated, regardless of whether the Acting Secretary or Secretary's decision to terminate TPS was supposed to have taken effect by that date."
8. Similarly, on October 9, 2018, the Chief of USBP issued a memorandum to all Chief Patrol Agents and all Directorate Chiefs, also entitled "Guidance on Injunction Against Temporary Protected Status Termination." This memorandum is substantially similar to OFO's memorandum and contains the same guidance quoted above.

I declare under penalty of perjury that the foregoing is all true and correct to the best of my knowledge, information, and belief.


Robert E. Perez
Acting Deputy Commissioner
Washington, DC
U.S. Customs and Border Protection

Date: 10-17-18

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

CRISTA RAMOS, et al.,

Plaintiffs,

Case No.: 18-cv-01554-EMC

v.

KIRSTJEN NIELSEN, et al.,

Defendants.

DECLARATION OF JOSEPH D SIMON

Pursuant to 28 U.S.C. § 1746, I, Joseph D Simon, declare and state as follows:

1. I am the Acting Deputy Chief of Staff in the Office of the Director at U.S. Immigration and Customs Enforcement (ICE) within the U.S. Department of Homeland Security. I have served in this position since January 2018. Before that, I served as Acting Deputy Chief of Staff in the Office of the Executive Associate Director for Enforcement and Removal Operations, and prior to that, as a Detention and Deportation Officer. I have been employed with ICE since September 2009.

2. As Acting Deputy Chief of Staff, I support the Office of the Director and the ICE leadership team in the day-to-day operations, leading approximately 20,000 employees, including more than 12,000 officers and agents. I make this declaration based on personal knowledge of the subject matter acquired by me in the course of the performance of my official duties, and information provided to me by ICE personnel.

3. ICE consists of three core operational programs: Enforcement and Removal Operations (ERO), which handles civil immigration enforcement; Homeland Security Investigations (HSI), which handles criminal investigations; and the Office of Professional Responsibility (OPR), which is responsible for investigating allegations of misconduct involving employees of ICE, and overseeing ICE detention functions, ensuring that facilities adhere to the agency's detention standards. I am generally aware of the operational activities of each of these operational programs.

4. I am aware that on Wednesday October 3, 2018, the United States District Court for the Northern District of California issued an order granting the Plaintiffs' motion for a Preliminary Injunction (PI) in *Ramos v. Nielsen*, No. 3:18-cv-01554 (N.D. Cal. filed Mar. 12, 2018). I understand that the PI prevents the Government from effectuating the termination of Temporary Protected Status (TPS) for Sudan, Haiti, El Salvador, and Nicaragua, pending resolution of the underlying litigation by a) enjoining and restraining the Government from engaging in, committing, or performing, directly or indirectly, by any means whatsoever, implementation and/or enforcement of the decisions to terminate TPS for Sudan, Haiti, El Salvador, and Nicaragua pending resolution of the case on the merits, and b) ordering the Government to take all administrative actions needed to preserve the status quo pending completion of discovery and a ruling on the merits of the action, including all steps needed to ensure the continued validity of documents that prove lawful status and employment authorization for TPS holders.

5. In order to ensure that the ICE work force was aware of this PI, each operational office – ERO, HSI, and OPR – issued guidance to its law enforcement officers.

a. On October 5, 2018, ERO issued an email broadcast to all ERO personnel entitled "Guidance on Preliminary Injunction Against Termination of TPS Designations –

Ramos v. Nielsen, No. 18-01554 (N.D. Cal. filed Mar. 12, 2018).” This email broadcast is attached as Exhibit A.

b. On October 5, 2018, HSI issued an email broadcast to all HSI personnel entitled “Guidance on Preliminary Injunction Against Termination of TPS Designations – Ramos v. Nielsen, No. 18-01554 (N.D. Cal. filed Mar. 12, 2018).” This email broadcast is attached as Exhibit B.

c. On October 5, 2018, OPR issued an email broadcast to all OPR personnel entitled “Guidance on Preliminary Injunction Against Termination of TPS Designations.” This email broadcast is attached as Exhibit C.

9. I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

Executed this 17 day of October, 2018.



Joseph D. Simon
Acting Deputy Chief of Staff
Office of the Director
U.S. Immigration and Customs Enforcement

EXHIBIT A

From: ERO Taskings
Subject: Guidance on Preliminary Injunction Against Termination of TPS Designations – Ramos v. Nielsen, No. 18-01554 (N.D. Cal. filed Mar. 12, 2018)
Date: Friday, October 5, 2018 10:05:05 AM

The following message is sent on behalf of Nathalie R. Asher, Acting Executive Associate Director for Enforcement and Removal Operations:

To: All ERO Personnel

Subject: Guidance on Preliminary Injunction Against Termination of TPS Designations – *Ramos v. Nielsen*, No. 18-01554 (N.D. Cal. filed Mar. 12, 2018)

On Wednesday October 3, 2018, the U.S. District Court for the Northern District of California issued an order granting a Preliminary Injunction (PI), which prevents the Department of Homeland Security from implementing and enforcing decisions to terminate Temporary Protected Status (TPS) designations for Sudan, Haiti, El Salvador, and Nicaragua, pending resolution of the underlying litigation. The PI has two prongs: 1) the Government is enjoined and restrained from engaging in, committing, or performing, directly or indirectly, by any means whatsoever, implementation and/or enforcement of the decisions to terminate TPS for Sudan, Haiti, El Salvador, and Nicaragua pending resolution of the case on the merits; and 2) the Government shall take all administrative actions needed to preserve the status quo pending completion of discovery and a ruling on the merits of the action, including all steps needed to ensure the continued validity of documents that prove lawful status and employment authorization for TPS holders. The case is *Ramos v. Nielsen*, No. 18-01554 (N.D. Cal. filed Mar. 12, 2018).

Guidance

Unless and until instructed otherwise through superseding guidance, aliens with TPS from Sudan, Haiti, El Salvador, and Nicaragua, should continue to be treated as if the relevant TPS designations have not been terminated, regardless of whether the Secretary's decision or former Acting Secretary's decision to terminate TPS was scheduled to have taken effect by that date.

Officers and agents should continue to consult appropriate databases and documentary evidence to determine whether an individual alien has valid TPS. Any alien with TPS may not be removed from the United States during the period in which they possess such status, INA § 244(a)(1)(A), and may not be detained on the basis of their immigration status in the United States, INA § 244(d)(4). The decision in this case should not impact your normal operations. An alien from any of these countries with TPS should be treated like any other alien with TPS. The decision merely impacts the categories of aliens eligible for a grant of TPS by U.S. Citizenship and Immigration Services and the extension of such status. Accordingly, unless and until further notice, the following determinations by the Secretary or former Acting Secretary have been enjoined by the district court and should not be considered in any enforcement action.

- Acting Secretary Duke's decision to terminate Haiti's TPS designation as of July 22, 2019, was announced on January 18, 2018. 83 Fed. Reg. 2648, 2650 (Jan. 18, 2018).
- Acting Secretary Duke's decision to terminate Sudan's TPS designation as of November

2, 2018, was announced on October 11, 2017. 82 Fed. Reg. 47228, 47230 (Oct. 11, 2017).

- Acting Secretary Duke's decision to terminate Nicaragua's TPS designation as of January 9, 2019, was announced on December 15, 2017. 82 Fed. Reg. 59636, 69637 (Dec. 15, 2017).
- Secretary Nielsen's decision to terminate El Salvador's TPS designation as of September 9, 2019, was announced on January 18, 2018. 83 Fed. Reg. 2654, 2655-56 (Jan. 18, 2018).

Additional guidance will be provided as appropriate.

Limitation on the Applicability of this Guidance. This message is intended to provide internal guidance to the operational components of U.S. Immigration and Customs Enforcement. It does not, is not intended to, shall not be construed to, and may not be relied upon to create any rights, substantive or procedural, enforceable at law by any person in any matter, civil or criminal.

NOTICE: This communication may contain privileged or otherwise confidential information. If you are not an intended recipient or believe you have received this communication in error, please do not print, copy, retransmit, disseminate, or otherwise use this information. Please inform the sender that you received this message in error and delete the message from your system.

EXHIBIT B

From: [HSI EAD Message](#)
To: [#HSI-All Personnel](#)
Subject: Guidance on Preliminary Injunction Against Termination of TPS Designations – *Ramos v. Nielsen*, No. 18-01554 (N.D. Cal. filed Mar. 12, 2018)
Date: Friday, October 5, 2018 3:45:22 PM

HSI

HOMELAND SECURITY INVESTIGATIONS

Message from the Executive Associate Director



To: All HSI Personnel

Subject: Guidance on Preliminary Injunction Against Termination of TPS Designations – *Ramos v. Nielsen*, No. 18-01554 (N.D. Cal. filed Mar. 12, 2018)

On Wednesday October 3, 2018, the U.S. District Court for the Northern District of California issued an order granting a Preliminary Injunction (PI), which prevents the Department of Homeland Security from implementing and enforcing decisions to terminate Temporary Protected Status (TPS) designations for Sudan, Haiti, El Salvador, and Nicaragua, pending resolution of the underlying litigation. The PI has two prongs: 1) the Government is enjoined and restrained from engaging in, committing, or performing, directly or indirectly, by any means whatsoever, implementation and/or enforcement of the decisions to terminate TPS for Sudan, Haiti, El Salvador, and Nicaragua pending resolution of the case on the merits; and 2) the Government shall take all administrative actions needed to preserve the status quo pending completion of discovery and a ruling on the merits of the action, including all steps needed to ensure the continued validity of documents that prove lawful status and employment authorization for TPS holders. The case is *Ramos v. Nielsen*, No. 18-01554 (N.D. Cal. filed Mar. 12, 2018).

Guidance

Unless and until instructed otherwise through superseding guidance, aliens with TPS from Sudan, Haiti, El Salvador, and Nicaragua, should continue to be treated as if the relevant TPS designations have not been terminated, regardless of whether the Secretary's decision or former Acting Secretary's decision to terminate TPS was scheduled to have taken effect by that date.

Officers and agents should continue to consult appropriate databases and documentary evidence to determine whether an individual alien has valid TPS. Any alien with TPS may not be removed from the United States during the period in which they possess such status, INA § 244(a)(1)(A), and may not be detained on the basis of their immigration status in the United States, INA § 244(d)(4). The decision in this case should not impact your normal operations. An alien from any of these countries with TPS should be treated like any other alien with TPS. The decision merely impacts the

categories of aliens eligible for a grant of TPS by U.S. Citizenship and Immigration Services and the extension of such status. Accordingly, unless and until further notice, the following determinations by the Secretary or former Acting Secretary have been enjoined by the district court and should not be considered in any enforcement action.

- Acting Secretary Duke's decision to terminate Haiti's TPS designation as of July 22, 2019, was announced on January 18, 2018. 83 Fed. Reg. 2648, 2650 (Jan. 18, 2018).
- Acting Secretary Duke's decision to terminate Sudan's TPS designation as of November 2, 2018, was announced on October 11, 2017. 82 Fed. Reg. 47228, 47230 (Oct. 11, 2017).
- Acting Secretary Duke's decision to terminate Nicaragua's TPS designation as of January 9, 2019, was announced on December 15, 2017. 82 Fed. Reg. 59636, 69637 (Dec. 15, 2017).
- Secretary Nielsen's decision to terminate El Salvador's TPS designation as of September 9, 2019, was announced on January 18, 2018. 83 Fed. Reg. 2654, 2655-56 (Jan. 18, 2018).

Additional guidance will be provided as appropriate.

Limitation on the Applicability of this Guidance. This message is intended to provide internal guidance to the operational components of U.S. Immigration and Customs Enforcement. It does not, is not intended to, shall not be construed to, and may not be relied upon to create any rights, substantive or procedural, enforceable at law by any person in any matter, civil or criminal.



*Derek N. Benner
Deputy Executive Associate Director and Senior Official Performing the Duties of
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EXHIBIT C

From: OPR-Broadcast
To: #OPR-All Personnel
Subject: Guidance on Preliminary Injunction Against Termination of TPS Designations –
Date: Friday, October 5, 2018 11:19:57 AM

This message is being disseminated to all ICE program personnel at the request of agency leadership:

On Wednesday October 3, 2018, the U.S. District Court for the Northern District of California issued an order granting a Preliminary Injunction (PI), which prevents the Department of Homeland Security from implementing and enforcing decisions to terminate Temporary Protected Status (TPS) designations for Sudan, Haiti, El Salvador, and Nicaragua, pending resolution of the underlying litigation. The PI has two prongs: 1) the Government is enjoined and restrained from engaging in, committing, or performing, directly or indirectly, by any means whatsoever, implementation and/or enforcement of the decisions to terminate TPS for Sudan, Haiti, El Salvador, and Nicaragua pending resolution of the case on the merits; and 2) the Government shall take all administrative actions needed to preserve the status quo pending completion of discovery and a ruling on the merits of the action, including all steps needed to ensure the continued validity of documents that prove lawful status and employment authorization for TPS holders. The case is *Ramos v. Nielsen*, No. 18-01554 (N.D. Cal. filed Mar. 12, 2018).

Guidance

Unless and until instructed otherwise through superseding guidance, aliens with TPS from Sudan, Haiti, El Salvador, and Nicaragua, should continue to be treated as if the relevant TPS designations have not been terminated, regardless of whether the Secretary's decision or former Acting Secretary's decision to terminate TPS was scheduled to have taken effect by that date.

Officers and agents should continue to consult appropriate databases and documentary evidence to determine whether an individual alien has valid TPS. Any alien with TPS may not be removed from the United States during the period in which they possess such status, INA § 244(a)(1)(A), and may not be detained on the basis of their immigration status in the United States, INA § 244(d)(4). The decision in this case should not impact your normal operations. An alien from any of these countries with TPS should be treated like any other alien with TPS. The decision merely impacts the categories of aliens eligible for a grant of TPS by U.S. Citizenship and Immigration Services and the extension of such status. Accordingly, unless and until further notice, the following determinations by the Secretary or former Acting Secretary have been enjoined by the district court and should not be considered in any enforcement action.

- Acting Secretary Duke's decision to terminate Haiti's TPS designation as of July 22, 2019, was announced on January 18, 2018. 83 Fed. Reg. 2648, 2650 (Jan. 18, 2018).
- Acting Secretary Duke's decision to terminate Sudan's TPS designation as of November 2, 2018, was announced on October 11, 2017. 82 Fed. Reg. 47228, 47230 (Oct. 11, 2017).
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