UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

SUHA AMIN ABDULLAH ABUSHAMMA,

Petitioner,

-against-

DONALD TRUMP, President of the United States; U.S. DEPARTMENT OF HOMELAND SECURITY ("DHS"); U.S. CUSTOMS AND BORDER PROTECTION ("CBP"); JOHN KELLY, Secretary of DHS; KEVIN K. MCALEENAN, Acting Commissioner of CBP; and JAMES T. MADDEN, New York Field Director, CBP,

Respondents.

No. 1:17-cv-00488-CBA

DECLARATION OF DAVID WOLFE LEOPOLD

I, David Wolfe Leopold, declare, pursuant to 28 U.S.C. § 1746 and subject to penalty of perjury, that that following is true and correct:

1. My name is David Wolfe Leopold, and I am a member of the State Bar of Ohio. I am the principal of Leopold & Associates Co., LPA. I have personal knowledge of the events described herein, and could testify to them if called to do so.
2. My practice focus is immigration, visa and citizenship law and in that capacity I represent Health Care Institutions including the Cleveland Clinic.
3. On Saturday January 28, 2017, at 5:33 pm Eastern Time I received a text to my iPhone from an individual who identified herself as Suha Abushamma, a Sudanese physician at the Cleveland Clinic.
4. I was expecting Dr. Abushamma to contact me. Several times prior to that I had been contacted by individuals on her behalf including two Cleveland Clinic employees who

were concerned about Dr. Abushamma and wanted me to represent her which I was prepared to do.

5. I was able to text with Dr. Abushamma sporadically while she was being held but I was never able to speak with her.
6. Dr. Abushamma texted me that she wanted to stay in the U.S. but that CBP officials had told her that:
    1. It not possible;
    2. She must depart the U.S. that night; and
    3. That her only option was to withdraw her application for admission or depart subject to an order of Expedited Removal (she did not use these words but as an immigration lawyer, I understood that to be the substance of what she was being told) .
7. I became alarmed that CBP officers appeared to be coercing Dr. Abushamma into withdrawing her application for admission by threatening her with an order of Expedited Removal pursuant to INA § 235 thereby subjecting her to a 5 year ground of inadmissibility pursuant to INA § 212(a)(9)(A)(i); 8 U.S.C. § 1182(a)(9)(A)(i).
8. It was further clear to me that Dr. Abushamma was confused as to the nature of the options being presented to her by CBP; at one point expressing apparent fear that if she did not voluntarily depart the U.S. that evening CBP officers would use force;
9. I advised Dr. Abushamma via text to tell the CBP officers that:
    1. She was represented by counsel;
    2. Counsel were were working to file a habeas corpus petition on her behalf;
    3. There was a hearing scheduled in the [Darweesh] case for approximately 7:30 PM ET that evening; and

4. Her lawyer advises that they should not place her on the flight to Saudi Arabia scheduled to depart at 8:30 PM;

10. I advised Dr. Abushamma to give the CBP officers my name and telephone number.

11. At 6:48 PM Dr. Abushamma texted me "I'm going. I don't have a choice" to which I responded "You have a choice. They can't do this to you. We have a hearing in an hour."

12. At 6:52 PM Dr. Abushamma texted, referring to CBP officers, "They said you have till 7:30." This was untrue, however.

13. At 6:58 PM I asked Dr. Abushamma to offer the CBP officer, whom she identified as Officer T. Lam, her cell phone and ask him to speak with me directly.

14. At 7:02 PM she responded "He doesn't want too."

15. At 7:17 PM Dr. Abushamma texted "I do not have the option to stay. They are NOT giving me that option. It's leave voluntarily or by force that's all".

16. At no time did any CBP officer call me, speak to me or in any way initiate communications with me. Nor was I allowed to speak with Dr. Abushamma. We were communicating only through text.

17. At 8:25 PM Dr. Abushamma texted, "I'm on the plane. Thanks David."

18. Pursuant to 28 U.S.C. § 1746, I hereby verify that the information contained herein is true and correct to the best of my information and belief.

Executed this 31st day of January, 2017, at Shaker Heights, Ohio.

David W. Leopold

1-31-2017