

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

DOMINGO ARREGUIN GOMEZ, et al.,
Plaintiffs,

v.

DONALD J. TRUMP, President of the United States of
America, et al.,
Defendants.

Civil Action No. 1:20-cv-01419

DECLARATION OF TESS HELLGREN

I, Tess Hellgren, declare upon my personal knowledge, under penalty of perjury pursuant to 28 U.S.C. § 1746, as follows:

1. I am a Staff Attorney at Innovation Law Lab and counsel of record in *Gomez v. Trump*, No. 1:20-cv-01419. I am a member in good standing of the Oregon and Florida state bars. I have personal knowledge of the following facts and, if called to testify thereto, I would and could competently do so.

2. On February 3 and February 4, 2021, I worked cooperatively with my co-counsel in the *Gomez* action to develop an online form designed to collect information from *Gomez* class members who are facing imminent expiration of their already-issued 2020 Diversity Visas. The form may be accessed at <https://innovation-law-lab.typeform.com/to/rN5syOI2>.

3. On February 4, 2021, Innovation Law Lab sent the form by e-mail directly to over 4,000 potential class members whose contact information our organization had collected, including through a sign-up form for class members that class counsel shared through online channels following this Court's September 30 Order. This sign-up form can be accessed at <https://innovationlawlab.org/press-release/litigation/dv-2020-winners-class-member->

information-signup/. In our February 4 e-mail, we provided a link to the survey and asked *Gomez* class members to take the survey if they had been issued diversity visas that had expired or were set to expire before March 10, 2021. A copy of the February 4 class update e-mail is attached at Exhibit A.

4. On February 9, 2021, Innovation Law Lab sent a second update e-mail to class members. This e-mail again provided the link to our survey and expanded our request to solicit information from “all *Gomez* class members who have been issued diversity visas.” A copy of the February 9 class update e-mail is attached at Exhibit B.

5. On February 10, 2021, Innovation Law Lab and Justice Action Center both posted the link to the questionnaire on their social media accounts.

6. On February 10, 2021, Innovation Law Lab also sent a third update e-mail to class members. This e-mail again provided the link to our survey and asked for responses from *Gomez* class members who had already been issued a DV-2020 visa. A copy of the February 10 class update e-mail is attached at Exhibit C.

7. The class survey is designed to actively screen out (1) represented parties, unless they have their attorney’s explicit permission to participate, and (2) individuals who are not members of the *Gomez* DV-2020 class, as defined in this Court’s September 30 Order.

8. When an individual accesses the survey, the individual is provided with background about the case. They are also told that any information they share may be used in this case. If they accept the terms and proceed with the survey, the individual is then asked “Are you currently represented by a lawyer regarding your Diversity Visa application, including as a named plaintiff in another lawsuit?” If they answer, “No,” they may proceed to the next question. If they answer, “Yes,” they may not proceed to answer any additional questions unless they confirm that they have spoken with their lawyer, and their lawyer has given them permission to provide information about

their Diversity Visa through this survey.

9. Individuals who proceed past the representation screen are then asked questions to confirm their membership in the *Gomez* DV-2020 class. First, individuals are asked whether they are a Diversity Visa 2020 winner. Only individuals who answer “Yes” are able to continue with the survey. These individuals are then asked whether their 2020 Diversity Visa was issued on or before April 23, 2020. Only individuals who answer “No” are able to continue with the survey as self-identified class members.

10. Respondents who continue the survey are asked to provide their name, e-mail address, DV-applicant confirmation number (optional), country, and number of derivatives included in their application.

11. Respondents are then asked questions about the dates and expiration of their Diversity Visa. Respondents are asked on what date their Diversity Visa was issued; whether their Diversity Visa has already expired; whether their Diversity Visa will otherwise expire before March 10, 2021; and what the expiration date for their Diversity Visa is.

12. Respondents are then asked “If the Proclamations were revoked today, and you were able to enter the United States on your Diversity Visa, approximately how long do you think it would take you (and your derivative family members, if applicable) to make the necessary travel arrangements to come to the U.S.?” In response to that question, a respondent may select (a) “Less than a week,” (b) “1-2 weeks,” (c) “2-3 weeks,” (d) “3-4 weeks,” (e) “More than a month,” or (f) “I don’t know.”

13. Respondents are then asked if they have ever requested a National Interest Exception to the Proclamation and, if yes, on what date they requested the National Interest Exception.

14. Finally, respondents are asked “Is there anything else you would like to tell us about

how your inability to enter the United States has impacted you or your family?”

15. On February 11 and February 12, 2021, I personally reviewed the survey results that Innovation Law Lab has received to date through the above-described form. I worked with another Innovation Law Lab staff member to organize the data and summarize the survey results, based on the data that we had received as of approximately 3:00pm EST on February 11, 2021.

16. As of the time I reviewed the results, there had been 2954 unique responses to the survey. Working with my colleague, we removed responses from individuals who indicated that they were represented by an attorney and had not received permission to participate, and from individuals who indicated that they were not a *Gomez* class member, and thus did not provide additional information. We then removed duplicates to the best of our ability, where identical visa numbers and names appeared, and restricted the data to respondents who reported that their 2020 Diversity Visas were issued between September 5 and September 30, 2020. After taking these steps, our dataset contained 1480 unique responses from self-identified *Gomez* class members who reported being issued 2020 Diversity Visas following this Court’s September 4 Order. Of those 1480 respondents, 799 respondents (54.0%) reported that their Diversity Visas were issued between September 25 and September 30, 2020.

17. These 1480 respondents reported their 2020 Diversity Visa expiration dates as follows:

- (a) 7 respondents (0.5%) reported that their 2020 Diversity Visas expired before February 12, 2021.
- (b) 10 respondents (0.7%) reported that their 2020 Diversity Visas will expire between February 13 and February 28, 2021.
- (c) 1425 respondents (96.3%) reported that their 2020 Diversity Visas will expire between March 1 and March 31, 2021. Of these 1425 respondents, 29 reported that

their 2020 Diversity Visas will expire between March 1 and March 9, 2021.

- (d) The remaining 38 respondents (2.6%) provided expiration dates that were excluded for unreliability (for example, a reported expiration date predating the reported date of visa issuance).

18. When asked how long it would take them to make necessary travel arrangements to the United States, these 1480 respondents answered as follows:

- (a) 672 respondents (45.4%) reported that it would take them “Less than a week” to make the necessary travel arrangements.
- (b) 518 respondents (35.0%) reported that it would take them “1-2 weeks” to make the necessary travel arrangements.
- (c) 163 respondents (11.0%) reported that it would take them “2-3 weeks” to make the necessary travel arrangements.
- (d) 71 respondents (4.8%) reported that it would take them “3-4 weeks” to make the necessary travel arrangements.
- (e) 34 respondents (2.3%) reported that it would take them “More than a month” to make the necessary travel arrangements.
- (f) Of the remaining 22 respondents (1.5%), 20 respondents reported “I don’t know” and 2 respondents left the question blank.

19. 53 respondents reported that they had requested a National Interest Exception to the Proclamations.

20. Many of the respondents provided information in response to the last question, which asked “Is there anything else you would like to tell us about how your inability to enter the United States has impacted you or your family?” Below are a handful of examples, which are a representative sample of the other responses we received.

- (a) Edward Gezin, 2020EU17107, from Sweden, reports that he and his wife gave up their jobs and housing to travel to Mexico, to quarantine in advance of the anticipated December 31, 2020, sunset of the Proclamation. They have now been stranded in Mexico for almost two months. They have lost over \$15,000 due to the ban on entry, and are currently paying rent on an apartment in San Francisco because they both have firm job offers with U.S. companies there. The National Interest Exception that he and his wife applied for on January 22, 2021, was not even processed by the U.S. embassy in Stockholm. He reports that his 2020 Diversity Visa was issued on September 23, 2020, and will expire on March 3, 2021.
- (b) Yiwen Chen, 2020AS00010374, from Taiwan, reports that she and her husband had resided in Houston, Texas, for more than six years on student visas. Yiwen was working at Methodist Hospital and her husband obtained employment after completing his PhD in Biomedical Engineering. They left their home temporarily to complete the DV process, and have since been unable to return to their home and careers because of the Proclamations. She reports that her 2020 Diversity Visa was issued on September 29, 2020, and will expire on March 9, 2021.
- (c) Karolina Vukojicic, 202021598, from Serbia, reports being “exhausted, anxious, tired and disappointed.” Her husband, a derivative on her petition, was a PhD student at a U.S. university; his student visa was canceled because of their pursuit of the diversity visa and he cannot return to the United States to continue his studies. She reports that her 2020 Diversity Visa was issued on September 22, 2020, and will expire on March 17, 2021.

- (d) Jodie Fairclough, 2020OC1758, from Australia, reports that she and her husband resigned from their jobs, gave notice to vacate their rental property, and purchased flights to the United States that they could not use. They also missed their son's wedding, "a loss that can never be replaced," which had been scheduled around their anticipated travel to the United States. After all of this, she describes feeling "heartbroken." She reports that her 2020 Diversity Visa was issued on September 30, 2020, and will expire on March 18, 2021.
- (e) Lucy Ebude Nzo Nnoko, 2020AF2296, from Cameroon, reports that she resigned from her job in anticipation of immigrating and looked forward to reuniting with her teenage son, a lawful permanent resident of the United States from whom she has been separated for ten years. She explained that "I am still sick knowing my dream of reuniting with my son may come [to] an end next month. He will be 15 this year and needs me most at this time of his life. We can't stop crying over the phone." She reports that her 2020 Diversity Visa was issued on September 28, 2020, and will expire on March 22, 2021.
- (f) Darneshia Pratt-Lloyd, 2020NA28*****, from the Bahamas, reports that she and her husband sold their business, and her husband left his job of 11 years with the Royal Bahamas Police Force, in anticipation of immigrating to the United States. Their family had to move in with a relative and is living off of their savings, which "is being chipped away." The family also needs to seek medical treatment for their 2-year-old U.S. citizen daughter, who has a medical condition, because their local hospital was badly

damaged by Hurricane Dorian. She reports that her 2020 Diversity Visa was issued on September 29, 2020, and will expire on March 28, 2021.

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

Executed at Gainesville, Florida, on February 12, 2021.

A handwritten signature in black ink, appearing to read "Tess Hellgren", written over a horizontal line.

Tess Hellgren

EXHIBIT A

From: **Gomez v Trump Litigation Team via ActionNetwork.org** <no-reply@innovationlawlab.org>

Date: Thu, Feb 4, 2021 at 11:20 AM

Subject: Gomez v. Trump: Update

Dear *Gomez* Diversity Class Members,

You are receiving this email from counsel in *Gomez v. Trump* because you responded to a call for plaintiffs from BritSimonSays.com or contacted us directly as a DV-2020 selectee and/or an individual acting on their behalf. If you are a FY2020 Diversity Visa Selectee who did not receive a diversity visa on or before April 23, 2020, you are a class member in the certified *Gomez* class.

We are writing to provide an update on the *Gomez* case and recent developments that may affect the class.

On Tuesday, President Biden signed an [Executive Order](#) directing a review of agency actions that are inconsistent with the administration's policy that "immigration processes and other benefits are delivered effectively and efficiently." However, neither this Executive Order nor others signed by President Biden this week rescind or make any explicit reference to the immigrant visa ban (Presidential Proclamation 10014) or nonimmigrant visa ban (Presidential Proclamation 10052). These Proclamations thus remain in effect and continue to prevent certain immigrants (including DV-2020 selectees) from entering the United States through March 31, 2021. This means that, for now, DV-2020 selectees are still not allowed to travel to and enter the United States.

We do not know if the Biden administration will rescind the Proclamations before the expiration dates of DV-2020 visas that were issued in September 2020 pursuant to the Judge Mehta's September 4 [order](#). *Gomez* class counsel will thus be taking appropriate steps to seek to preserve the validity of these visas and to preserve the relief granted by the court. If you are a *Gomez* class member who was issued a diversity visa and your visa has already expired, or your visa is scheduled to expire before March 10, 2021, please contact class counsel [through this link](#).

Meanwhile, briefing for summary judgment continues before Judge Mehta in the *Gomez* case. On January 20, the government filed its [Motion for Partial Summary Judgment](#). Yesterday, *Gomez* class counsel filed Plaintiffs' opposition to the government's motion, along with our own summary judgment motion. You can read our filing [here](#). The government now has until February 17, 2021, to oppose and reply to Plaintiffs' filing, and Plaintiffs have until March 3, 2021 to reply to the government's opposition. As per the court's order, summary judgment briefing is limited to claims regarding the Administrative Procedure Act, mandamus, and related claims concerning visa adjudication and issuance.

At the same time, *Gomez* Plaintiffs continue to pursue their appeal of the district court's decision that the Proclamations are not unlawful. *Gomez* class counsel argued this appeal before the D.C. Circuit on January 14, 2021, and the appeal remains pending before that court. You can listen to audio of that argument [here](#).

Sincerely,

American Immigration Lawyers Association

www.aila.org

Justice Action Center

www.justiceactioncenter.org

Innovation Law Lab

www.innovationlawlab.org

The Law Office of Laboni A. Hoq



Sent via Action Network, a free online toolset anyone can use to organize. [Click here to sign up](#) and get started building an email list and creating online actions today.

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EXHIBIT B

From: **Gomez Class Counsel via ActionNetwork.org** <jordan@innovationlawlab.org>
Date: Tue, Feb 9, 2021 at 5:57 PM
Subject: Gomez Case Update

Dear *Gomez* Diversity Class Members,

You are receiving this email from counsel in *Gomez v. Trump* because you responded to a call for plaintiffs from BritSimonSays.com or contacted us directly as a DV-2020 selectee and/or an individual acting on their behalf. If you are a FY2020 Diversity Visa Selectee who did not receive a diversity visa on or before April 23, 2020, you are a class member in the certified *Gomez* class.

We are writing to provide an update on the *Gomez* case and recent developments that may affect the class.

On February 2, 2021, *Gomez* counsel [advised](#) the D.C. Circuit panel of judges who are hearing the *Gomez* appeal that the Biden administration has decided to leave the immigrant visa ban (Presidential Proclamation 10014) or nonimmigrant visa ban (Presidential Proclamation 10052) in place for now. We requested that the panel issue a decision quickly. The federal government [replied](#) to this notice by saying that they did not have any information about whether the Biden administration would keep the bans in place or rescind them. Following the government's response on February 8, 2021, we filed a follow-up [notice](#) explaining that an order of the Court remains necessary to allow visa holders to enter the country.

Today (February 9, 2021), the D.C. Circuit [remanded](#) our case to the district court to allow the district court to consider whether it can grant interim relief to the class. The order also instructs the district court to determine whether the government intends to pursue enforcement of the Proclamation. While the district court takes these actions, the appeal will be temporarily placed on hold.

In response to this order, **the district court scheduled a status conference for tomorrow, February 10, 2021, at 4 PM Eastern Standard Time.** You may listen to the status

conference by dialing the court's toll-free public access line: (877) 848-7030, access code 321-8747.

Gomez class counsel is preparing to take appropriate steps to seek to preserve the validity of already-issued diversity visas and to preserve the relief granted by the court. We are therefore soliciting information from all *Gomez* class members who have been issued diversity visas. Please contact class counsel through this [link](#). If you have already completed the survey circulated in our February 4 email, you do not need to complete it a second time.

This information, and answers to other questions, is also available in our updated [Frequently Asked Questions](#) (FAQ) document.

Sincerely,

American Immigration Lawyers Association

www.aila.org

Justice Action Center

www.justiceactioncenter.org

Innovation Law Lab

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You can unsubscribe or update your email address or change your name and address by [changing your subscription preferences here](#).

EXHIBIT C

From: **Gomez Class Counsel via ActionNetwork.org** <jordan@innovationlawlab.org>
Date: Wed, Feb 10, 2021 at 8:49 PM
Subject: Gomez Case Update

Dear *Gomez* class member,

You are receiving this email from counsel in *Gomez v. Trump* because you responded to a call for plaintiffs from BritSimonSays.com or contacted us directly as a DV-2020 selectee and/or an individual acting on their behalf. If you are a FY2020 Diversity Visa Selectee who did not receive a diversity visa on or before April 23, 2020, you are a class member in the certified *Gomez* class.

We are writing to provide an update on the *Gomez* case and guidance for class members who have been issued visas that will expire soon.

Any member of the *Gomez* class whose visa was issued for less than six months and will soon expire should immediately apply for an extension for the full 6-month maximum duration of validity with the consulate who issued your original visa. Generally, the period of validity of an immigrant visa shall not exceed six months, beginning with the date of issuance. 22 C.F.R. § 42.72(a). However, the regulations provide anyone whose visa was issued for less than the six-month maximum with the opportunity to apply for an extension of the visa to the 6-month maximum from the date of issuance. 22 C.F.R. § 42.72(b) (“The consular officer may extend the validity of the visa up to but not exceeding the maximum period permitted.”). For members of the *Gomez* class whose visas were issued for less than six months and will soon expire, the regulations therefore provide the opportunity to apply for an extension immediately

Please note that if your visa was issued for the 6-month maximum, class counsel will need the court to order the government to reissue or extend the visa. *Gomez* counsel will file a motion for immediate relief on this matter on Friday, February 12. The court will hold a hearing on our request for relief on **Thursday, February 18 at 2 PM Eastern Standard Time**. You may listen to the hearing by dialing the court’s toll-free public access line: (877) 848-7030, access code 321-8747.

If you are a *Gomez* class member who has already been issued a DV-2020 visa and you have not yet completed our survey, please complete it at this [link](#) if you would like to provide class counsel with information about your case.

Sincerely,

American Immigration Lawyers Association

www.aila.org

Justice Action Center

www.justiceactioncenter.org

Innovation Law Lab

www.innovationlawlab.org

The Law Office of Laboni A. Hoq



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