

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

STATE OF HAWAII 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

**[PROPOSED] ORDER CONVERTING TEMPORARY RESTRAINING
ORDER TO A PRELIMINARY INJUNCTION**

This matter came before the Court on Plaintiffs' Motion to Convert Temporary Restraining Order to a Preliminary Injunction (the "Motion"). The Court has considered all papers filed by Plaintiffs and Defendants in support of and in opposition to the Motion, all papers filed by Plaintiffs and Defendants in support of and in opposition to Plaintiffs' prior Motion for Temporary Restraining Order, Plaintiffs' Second Amended Complaint for Declaratory and Injunctive Relief, and the arguments of counsel provided at a hearing held on March 29, 2017 at 9:30

a.m. Hawaii Standard Time. Having considered the foregoing, the Court hereby GRANTS Plaintiffs' Motion and finds and concludes as follows.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

In its Order of March 15, 2017, this Court found that Plaintiffs demonstrated a likelihood of success on the merits of their claim that the Executive Order issued by Defendant Donald J. Trump on March 6, 2017 (the "Executive Order") violated the Establishment Clause of the United States Constitution. Dkt. No. 219, at 30-40. This Court also found that Plaintiffs faced an imminent threat of irreparable harm if the Order were permitted to take effect on March 16, 2017, as scheduled. *Id.* at 2, 40. Accordingly, the Court issued a temporary restraining order, enjoining the Government from implementing Sections 2 and 6 of the Executive Order across the nation. *Id.* at 42.

The Court finds that the findings of fact and conclusions of law reflected in its Order of March 15, 2017 are still applicable today. The Executive Order, if implemented, will harm the State of Hawai'i through negative impacts upon its universities, economy, revenues, and students, as well as through the establishment of religion within the State, contrary to Hawaii's Constitution and its sovereign and quasi-sovereign interests. It will subject a portion of Hawaii's population, including Dr. Elshikh, his family, and members of his Mosque, to discrimination and second-class treatment on the basis of their religion. And it will disrupt the

ability of Dr. Elshikh and others to associate with family members and members of their religious community.

The foregoing harms are ongoing and significant.

A preliminary injunction against Defendants, in the manner set forth below, is necessary until a determination of the merits of Plaintiffs' claims may be held.

Plaintiffs made the following reasonable effort to provide sufficient notice to Defendants as to its intention to file the instant motion:

- a. Counsel for Plaintiffs conferred with counsel for Defendants on March 16, 17, 18, 19, and 20, in advance of Plaintiffs' Motion to Convert Temporary Restraining Order to a Preliminary Injunction;
- b. Plaintiffs served a copy of the parties' joint motion for entry of proposed briefing schedule for this Motion via CM/ECF on March 20, 2017; and
- c. Plaintiffs served a copy of their Motion papers through CM/ECF on March 21, 2017.

The Court has jurisdiction over Defendants and the subject matter of this case.

Plaintiffs reasonably and substantially complied with the requirements of Federal Rule of Civil Procedure 65.

No security bond is required under Federal Rule of Civil Procedure 65(c).

To obtain a preliminary injunction, Plaintiffs must establish: (1) a likelihood of success on the merits; (2) that irreparable harm is likely in the absence of preliminary relief; (3) that the balance of the equities tips in Plaintiff's favor; and (4) that an injunction is in the public interest. *Winter v. Nat'l Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008).

Based on the foregoing, and for the reasons set forth in the Court's Order Granting [Plaintiffs'] Motion for Temporary Restraining Order of March 15, 2017, there is a strong likelihood that Plaintiffs will succeed on the merits of their claims, irreparable injury is likely if the requested relief is not issued, the balance of the equities favors Plaintiffs, and the public interest favors entering temporary relief.

Accordingly, the Court GRANTS Plaintiffs' Motion to Convert Temporary Restraining Order to a Preliminary Injunction.

PRELIMINARY INJUNCTION

Now, therefore, it is hereby ADJUDGED, ORDERED, and DECREED that:

1. Defendants and all their respective officers, agents, servants, employees, and attorneys, and persons in active concert or participation with them who receive actual notice of this Order, hereby are enjoined fully from enforcing or implementing Sections 2 and 6 of the Executive Order across the Nation.

2. Enforcement of these provisions at all United States borders, ports of entry, and in the issuance of visas is prohibited, pending further orders from this Court.

DATED: Honolulu, Hawai‘i, _____.

Derrick K. Watson
U.S. District Judge

State of Hawai‘i, et al. v. Trump, et al., Civil Action No. 1:17-cv-00050-DKW-KSC; [Proposed] Order Granting Motion to Convert Temporary Restraining Order to a Preliminary Injunction.