

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

MUSLIM ADVOCATES
P.O. Box 34440
Washington, D.C. 20043

and

NAACP LEGAL DEFENSE & EDUCATIONAL
FUND, INC.
40 Rector St., 5th Floor
New York, NY 10006

Plaintiffs,

v.

UNITED STATES DEPARTMENT OF STATE
2201 C Street NW
Washington, D.C. 20530

and

UNITED STATES CUSTOMS AND BORDER
PROTECTION
1300 Pennsylvania Avenue NW
Washington, D.C. 20004

Defendants.

CASE NO. 1:20-cv-01143

**COMPLAINT FOR
DECLARATORY AND
INJUNCTIVE RELIEF**

COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

Plaintiffs Muslim Advocates and the NAACP Legal Defense & Educational Fund, Inc. (“LDF”) (collectively, “Plaintiffs”) bring this action under the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552 *et seq.*, for declaratory, injunctive, and other appropriate relief to compel the disclosure and release of documents from Defendants U.S. Department of State and U.S. Customs and Border Protection (collectively, “Defendants”).

NATURE OF THIS ACTION

1. Plaintiffs Muslim Advocates and LDF are not-for-profit legal advocacy and educational organizations. On February 25, 2020, Plaintiffs submitted a FOIA Request (the “Request”) for materials related to the waiver provisions set forth in President Donald Trump’s January 31, 2020 Proclamation 9983, titled “Improving Enhanced Vetting Capabilities and Processes for Detecting Attempted Entry” (hereinafter “Proclamation 9983”) and the worldwide review undertaken in 2019 that purportedly resulted in the enactment of Proclamation 9983. *See* Ex. A, Muslim Advocates and LDF FOIA Request (Feb. 25, 2020). This Request was submitted to Defendant U.S. Department of State (“DOS”), U.S. Department of Homeland Security (“DHS”), and Defendant U.S. Customs and Border Protection (“CBP”).

2. Extending the limitations in Presidential Proclamation 9645 (“Proclamation 9645”), which banned nationals of seven countries, five of which are predominantly Muslim, from entry into the U.S., thus becoming known more commonly as the Muslim Ban, Proclamation 9983 bars individuals from Eritrea, Myanmar, Kyrgyzstan, and Nigeria from receiving immigrant visas to travel to the United States. It further prevents individuals from Tanzania and Sudan from receiving diversity visas to travel to the United States. In doing so, Proclamation 9983 targets nationals of African and Asian countries for travel restrictions; most of these countries—Eritrea, Kyrgyzstan, Nigeria, Tanzania, and Sudan—have significant or majority Muslim populations. All of these countries are majority non-white.

3. Under both Proclamation 9645 and Proclamation 9983, individuals who are otherwise banned can only enter the United States by being granted a waiver on a case-by-case basis.

4. Proclamation 9983 targets approximately one-quarter of the entire population of Africa, including Africa's most populous country, Nigeria, for disfavored treatment. It likewise targets for disfavored treatment an additional 180 million Muslims worldwide beyond the 130 million Muslims already targeted by Presidential Proclamation 9645.

5. Proclamation 9983 came into effect on February 21, 2020 and will remain in effect indefinitely.

6. The documents and information Plaintiffs seek are of utmost concern to the public. Plaintiffs' Request sets out the compelling and urgent need for clarity regarding the continuing implementation of the waiver process with its expanded purview under Proclamation 9983. In light of serious questions about the waiver process under Proclamation 9645, Muslim Advocates previously submitted a FOIA request related to Proclamation 9645 and filed a lawsuit raising its concerns that the federal government's implementation of the waiver process violates the Administrative Procedure Act, the Equal Protection Clause of the Fifth Amendment, and the Due Process Clause of the Fifth Amendment. *See Emami v. Nielsen*, 18-cv-01587-JD (N.D. Cal. Mar. 30, 2018). That lawsuit is ongoing. In the meantime, tens of thousands of individuals are being denied entry or waivers on otherwise valid visas due to Proclamation 9645 and now, Proclamation 9983.

7. In addition to information regarding the waiver process being implemented under Proclamation 9983's expanded ban, Plaintiffs are seeking information regarding the worldwide review undertaken by DHS pursuant to Proclamation 9645. This worldwide review purportedly undergirds the restriction on entry from nationals of the countries listed in Proclamation 9983. The information requested related to the "worldwide review" is essential to understanding how and why the countries selected for inclusion in Proclamation 9983 were chosen, why other countries

in allegedly similar circumstances were not included, and whether the government was improperly motivated by race, religion, or national origin in selecting certain counties for additional exclusion under Proclamation 9983.

8. Defendants have failed to comply with their obligations under FOIA. As of the date of this filing, Defendants have not issued a final determination in response to Plaintiffs' Request, and have yet to produce any documents. Defendants had previously failed to respond to Plaintiff Muslim Advocates' January 23, 2018 FOIA request and June 27, 2017 FOIA request seeking similar information about the waivers provision in Proclamation 9645 and Executive Order 13780 (the "Second Executive Order") respectively. Those requests are the subject of ongoing litigation in this Court. *See Muslim Advocates v. Dep't of State*, 17-02080-TSC (D.D.C. Feb. 20, 2018); *Muslim Advocates, et al. v. Dep't of State, et al.*, 18-01546-TSC (D.D.C. June 27, 2018).

9. Plaintiffs bring this action to compel Defendants to immediately process and release to Plaintiffs all responsive records that they have unlawfully withheld.

JURISDICTION AND VENUE

10. This Court has original jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1346.

11. This Court has personal jurisdiction over all parties pursuant to 5 U.S.C. § 552(a)(4)(B).

12. Venue is proper in this District pursuant to 5 U.S.C. § 552(a)(4)(B) and 28 U.S.C. § 1391(e), because a substantial portion of the events giving rise to this action occurred in this District, and because Defendants maintain records and information subject to the Request in this District.

PARTIES

13. Plaintiff Muslim Advocates is a nonprofit corporation located in Washington, D.C. that works to ensure civil rights for Americans of all faiths through national legal advocacy, litigation, policy engagement, and civic education. Muslim Advocates also regularly disseminates information to the public through its website, social media platforms, and email distribution lists. Muslim Advocates submitted the Request that is the subject of this action and is a “person” within the meaning of 5 U.S.C. § 551(2).

14. Plaintiff NAACP Legal Defense & Educational Fund, Inc. is a nonprofit 501(c)(3) corporation established under the laws of the State of New York. Plaintiff is the nation’s oldest civil and human rights law organization, founded in 1940 by Thurgood Marshall. Since its inception, LDF has used legal, legislative, public education, and advocacy strategies to promote full and equal rights for Black people in the United States. In furtherance of its mission, LDF has litigated and filed amicus briefs in multiple cases challenging racial discrimination in our nation’s immigration policy, including *NAACP, et al., v. United States Dep’t of Homeland Security, et al.*, Civ. No. 18-0239 (D. Md.). LDF submitted the Request that is the subject of this action and is a “person” within the meaning of 5 U.S.C. § 551(2).

15. Defendant U.S. Department of State is an “agency” within the meaning of 5 U.S.C. § 552(f)(1). DOS is the executive department responsible for international relations and is an agency of the United States. DOS has possession of and control over the documents and information requested by Plaintiffs under FOIA.

16. Defendant Customs and Border Protection is a component agency of DHS and an “agency” within the meaning of 5 U.S.C. § 552(f)(1). CBP is the component agency of DHS that

manages the United States' borders. CBP has possession of and control over the documents and information requested by Plaintiffs under FOIA.

STATUTORY BACKGROUND

17. The Freedom of Information Act provides that any member of the public may request records from a United States agency. Upon receipt of a FOIA request, an agency must determine within 20 business days—or, in “unusual circumstances,” within 30 business days—whether it will comply with a request and notify the requestor of its determination and reasoning. 5 U.S.C. § 552(a)(6)(A)(i)-(B)(i). This determination must also timely indicate the scope of the documents the office intends to produce and the exemptions, if any, that it will apply to withhold documents.

18. In response to a FOIA request, an agency must disclose in a timely manner all records that do not fall within nine narrowly construed statutory exemptions after engaging in a reasonable search for responsive records, including of any field offices that may possess relevant materials. 5 U.S.C. § 552 (a)(3)(A), (C), (b)(1)-(9).

19. Although a requester under FOIA must typically appeal agency action administratively before commencing litigation, if the agency has failed to abide by its obligations and issue a determination within the statutory timeframe, the administrative appeals process is considered exhausted. 5 U.S.C. § 552(a)(6)(C)(i). Upon complaint, a district court can enjoin an agency from withholding records and order production of records improperly withheld. 5 U.S.C. § 552(a)(4)(B).

FACTUAL BACKGROUND

20. On January 27, 2017, one week after taking office, President Trump issued Executive Order 13769, titled “Protecting the Nation from Foreign Terrorist Entry into the United

States” (the “First Executive Order”). The First Executive Order banned the entry of individuals from seven predominantly Muslim countries—Iran, Iraq, Libya, Somalia, Sudan, Syria, and Yemen—into the United States for ninety days. It also suspended the entire United States Refugee Admissions Program for 120 days, indefinitely barred the entry of Syrian refugees, and included an exception for non-Muslim refugees. Exec. Order No. 13769 § 5(a)-(c), 82 Fed. Reg. 8977 (Jan. 27, 2017).

21. Following a series of successful legal challenges enjoining the First Executive Order, President Trump issued a new executive order on March 6, 2017, Executive Order No. 13780, which took effect on March 16, 2017. This Second Executive Order maintained the ban on six Muslim majority countries—Iran, Libya, Somalia, Sudan, Syria, and Yemen—for 90 days, removing Iraq from the list of targeted countries but subjecting Iraqis to specific enhanced-vetting requirements. Exec. Order No. 13780 § 2(c), 82 Fed. Reg. 13209 (Mar. 6, 2017). The Second Executive Order also provided for the grant of case-by-case waivers for individuals whose entry was otherwise suspended. *Id.*

22. After the Fourth and Ninth Circuits nationally enjoined the Second Executive Order, the Secretary of Homeland Security allegedly undertook a “worldwide review” to assess what “additional information would be needed from each foreign country to assess adequately whether their nationals seeking to enter the United States pose a security or safety threat.” *See* Pres. Procl. No. 9645 § 1(c), 82 Fed. Reg. 45161 (Sept. 24, 2017). This “worldwide review” ostensibly resulted in Proclamation 9645 on September 24, 2017. Proclamation 9645 indefinitely bars nationals of seven countries from entry into the U.S.: Chad, Iran, Libya, North Korea, Syria, Venezuela, and Yemen. *See id.* § 1(g). There was near-perfect overlap between the Muslim-majority countries whose nationals are banned before and after the “worldwide review.”

23. On June 26, 2018, the Supreme Court vacated preliminary injunctions by lower courts against Proclamation 9645, thereby allowing the ban on those countries, including of nationals of five predominantly Muslim countries, to remain in effect indefinitely. *See Trump v. Hawaii*, 138 S. Ct. 2392 (2018).

24. On January 31, 2020, the President issued Proclamation 9983 on Improving Enhanced Vetting Capabilities and Processes for Detecting Attempted Entry. Proclamation 9983 focuses on restricting entry of nationals of six Asian and African nations and countries with notable Muslim populations into the United States. Proclamation 9983 expands the restrictions of Proclamation 9645 by preventing nationals of Eritrea, Myanmar, Kyrgyzstan, and Nigeria from receiving immigrant visas to travel to the United States. It further bars nationals of Tanzania and Sudan from receiving diversity visas to travel to the United States.

25. Proclamation 9983's restrictions follow comments reportedly made by President Trump in late 2017 and early 2018 that Nigerians, after seeing the United States, would never "go back to their huts,"¹ asking in reference to African countries and Haiti, "Why do we want all these people from shithole countries coming here?," and suggesting that the U.S. should instead have more immigrants from countries like Norway.² Proclamation 9983 similarly follows the President's campaign promise for a "total and complete shutdown of all Muslims entering the United States."³

¹ Michael D. Shear & Julie Hirschfeld Davis, *Stoking Fears, Trump Defied Bureaucracy to Advance Immigration Agenda*, N.Y. TIMES (Dec. 23, 2017), https://www.nytimes.com/2017/12/23/us/politics/trump-immigration.html?_r=0.

² Ali Vitali, Kasie Hunt and Frank Thorp V, *Trump referred to Haiti and African nations as 'shithole' countries*, NBC NEWS (Jan. 11, 2018), <https://www.nbcnews.com/politics/white-house/trump-referred-haiti-african-countries-shithole-nations-n836946>.

³ Jessica Taylor, *Trump Calls For 'Total And Complete Shutdown Of Muslims Entering' U.S.*, NPR (Dec. 7, 2015), <https://www.npr.org/2015/12/07/458836388/trump-calls-for-total-and-complete-shutdown-of-muslims-entering-u-s>.

26. Trump administration officials have continued to refer to these travel restrictions as a “Muslim ban,” doing so as recently as March 2020, despite repeatedly claiming in litigation that the restrictions are race- and religion-neutral.⁴

27. Proclamation 9983 states that these additional travel restrictions were products of consultation with senior administration officials, including the Acting Secretary of Homeland Security, the Secretary of State, and the Secretary of Defense. *See* Pres. Procl. 9983, 85 Fed. Reg. 6699 (Feb. 5, 2020). Proclamation 9983 further states that the recommendations made by these officials in a January 2020 proposal relied on a “worldwide review” conducted by DHS pursuant to Proclamation 9645 from March 2019 until September 2019. *Id.*

28. The “worldwide review” assessed numerous countries’ compliance with certain DHS requirements related to identity-management information, willingness and ability to share national security and public-safety information, and ability to pass a security and public-safety risk assessment. *Id.*

29. The “worldwide review” identified twelve countries that had performed below the DHS requirements. *Id.* But the January 2020 proposal recommended entry restrictions on just six of these nations: Myanmar, Sudan, Tanzania, Kyrgyzstan, Nigeria, and Eritrea. *Id.* The January 2020 proposal further informed the President that the six other unnamed countries that had performed below the DHS requirements not be subjected to any travel restrictions.⁵ *Id.* The January 2020 proposal asserted that one of the unnamed countries “made exceptional progress in correcting deficiencies since the September 2019 report, such that it could no longer be characterized as a country that is among those posing the highest degree of risk.” *Id.*

⁴ Vivian Salama, *White House using legal lessons learned in travel ban fights in coronavirus travel restrictions*, CNN (Mar. 24, 2020, 6:42 AM), <https://www.cnn.com/2020/03/24/politics/white-house-counsels-office-coronavirus/index.html>.

⁵ Proclamation 9983 does not identify these five additional countries.

30. It is not apparent what facts and considerations led to that decision and how the conditions of the five other unnamed countries differed from the countries selected for coverage under Proclamation 9983. The January 2020 proposal vaguely concluded that “foreign policy interests warranted a different approach than recommended [in the worldwide review].” *Id.*

31. While the January 2020 report does not identify those other countries, reports suggest that at least one of those other countries was in Europe.⁶ Because the worldwide review and DHS reports were purportedly critical in selecting significantly Muslim African and Asian countries to be targeted by Proclamation 9983, those materials are crucial to evaluate the stated grounds for Proclamation 9983 and the countries that it was decided it would cover.

32. As under the Second Executive Order and Proclamation 9645, the only way for impacted nationals of the countries covered by Proclamation 9983 to travel to the United States is through a waiver grant as described in Proclamation 9645. *See id.* § 2. Although visa applicants bear the burden of establishing that they should be granted a waiver, the government has made limited information regarding the waiver process available to applicants. Much of that information has only been made public through FOIA disclosures, litigation, or congressional requests. Since a waiver grant is indefinitely the sole means by which a national of the countries banned by Proclamation 9983 may enter the United States on the covered visas, and since the government has proven reluctant to make this information available absent tools like FOIA, the records requested herein would provide information that is critically and urgently important to the public.

33. Since the implementation of Proclamation 9983, Muslim Advocates has received inquiries from individuals who were previously being considered or approved for immigrant and

⁶ Natasha Frost, *Belarus is perplexed by Trump’s proposed travel ban*, QUARTZ (Jan. 23, 2020), <https://qz.com/1789425/why-is-belarus-being-considered-for-a-us-travel-ban/>.

diversity visas and, after Proclamation 9983, have been denied waivers. Greater clarity on the waiver process is thus essential to advise such persons on how to navigate that process.

PLAINTIFFS' FOIA REQUEST

34. Plaintiffs submitted the Request to Defendant CBP, Defendant DOS, and DHS on February 25, 2020.

35. The Request seeks records that concern guidance, interpretation, implementation, or enforcement of Proclamation 9983 by DHS, CBP, DOS, or any component agency of the federal government. *See* Ex. A.

36. Broadly, the Request seeks cables, presentations, practices, policies, guidance, correspondence, and procedures responsive to the relevant timeframe that illuminate how individual waiver “requests”⁷ are accepted and assessed under Proclamation 9983, including how the factors laid out in Proclamation 9645 § 3(c) of “undue hardship,” “threat to national security,” and entry “in the national interest” (“the Three Waiver Prongs”) are evaluated and how waiver requests are accepted or adjudicated. The Request also seeks deidentified data from databases maintained by DOS like VOIS and CCD showing information about immigrant and diversity visa seekers from Eritrea, Myanmar, Kyrgyzstan, Nigeria, Tanzania, and Sudan, including whether individual applicants satisfied the Three Waiver Prongs, whether additional security processing was requested by a consular official for a visa applicant, and whether the consular official consulted with the countries-of-concern-inquiries@state.gov inbox set up by Main State to field questions about waiver “requests” before making a waiver determination.

37. The Request further seeks all correspondence between consular posts and the countries-of-concern-inquiries@state.gov inbox regarding waiver requests pursuant to

⁷ Under Proclamation 9645 and Proclamation 9983, there is no formal way for an impacted visa applicant to request or apply for a waiver.

Proclamation 9983 and practices, policies, guidance, internal correspondence, and procedures used by DOS employees managing the countries-of-concern-inquiries@state.gov inbox to assess whether a waiver request meets the undue hardship, national interest, and national security prongs of the waiver process under either Proclamation 9645 or Proclamation 9983.

38. Additionally, the Request sought records that concern the worldwide review undertaken by DHS pursuant to Proclamation 9645, which ostensibly resulted in Proclamation 9983. These records include DHS's 180-day reports on whether the interests of the United States require the suspension of or limitation on entry of certain classes of foreign nationals from September 24, 2017; a copy of the report referenced in Proclamation 9983 submitted on September 13, 2019 by the Acting Secretary of Homeland Security the suspension of, or limitation on, the entry of certain classes of nationals from certain countries; a copy the worldwide review referenced in Proclamation 9983 that DHS conducted pursuant to Proclamation 9645 between March 2019 and September 2019; all records relied upon by DHS in creating, or in connection with, the September 2019 worldwide review; and a copy of the January 2020 proposal referenced in Proclamation 9983 submitted to the President by senior officials that recommended visa restrictions on certain countries.

39. Finally, Plaintiffs sought records describing the processing of this Request, such as records sufficient to identify the search terms used and the search queries conducted and records sufficient to identify the locations and custodians searched.

40. Plaintiffs sought expedited processing pursuant to 5 U.S.C. § 552(a)(6)(E) due to the magnitude of public interest and the "compelling need" for greater transparency regarding government policies concerning implementation of Proclamation 9983, because the request

concerns the loss of substantial due process rights and is a matter of widespread public interest which implicates governmental integrity.

41. Plaintiffs also sought a fee waiver pursuant to 5 U.S.C. § 552(a)(4)(A)(ii)(II), (iii) on the basis that “disclosure of the request materials is in the public interest because it is likely to contribute significantly to the public understanding of the activities or operations of the government and is not primarily in the commercial interest” of Plaintiffs, and in light of Muslim Advocates’ role as a member of the news media.

42. On March 25, 2020, DHS, a non-Defendant recipient of the Request, sent a letter via email acknowledging receipt of Plaintiffs’ FOIA Request. Although CBP was named as a recipient of the Request, DHS issued a final determination referring the whole Request to Defendant CBP due to the “subject matter of your request.” *See* Ex. B, Letter from James Holzer, Deputy Chief FOIA Officer to Nimra H. Azmi, Staff Attorney (Mar. 25, 2020).⁸

AGENCY RESPONSE AND EXHAUSTION OF ADMINISTRATIVE REMEDIES

Defendant DOS’s Response

43. On March 26, 2020, Defendant DOS sent an email acknowledging receipt of the Request in their office on March 3, 2020. *See* Ex. C, Email from Nicholas J. Cormier, Chief, Requester Communications Branch to Nimra Azmi, Staff Attorney (Mar. 26, 2020). DOS deferred the decision regarding Plaintiffs’ request for a fee waiver to a “later date” and denied Plaintiffs’ request for expedited processing. *Id.* Broadly referencing 5 U.S.C. § 552(a)(6)(B)(i)-(iii), DOS

⁸ On March 30, 2020, Plaintiffs were informed via email that their fee waiver and expedited processing requests for FOIA Request No. CBP-2020-045581 had been denied, as a duplicate request. *See* Ex. D, Email from Admin@foiaonline.gov to Nimra Azmi, Staff Attorney (Mar. 30, 2020). CBP stated that it would process the FOIA request as referred from DHS. *See* Ex. E, Letter from U.S. Customs & Border Protection to Nimra Azmi, Staff Attorney (Mar. 30, 2020).

stated that it would not be able to respond within the statutorily required 20 days due to “unusual circumstances.” *Id.* Thus, DOS had 10 additional days to respond. *Id.*

44. Therefore, Defendant DOS was required to respond to Plaintiffs’ Request on or before April 13, 2020.

45. As of this filing, Plaintiffs have not received the required determination from Defendant DOS; nor have they received any responsive records or any other substantive reply to their Request. In fact, Plaintiffs have received no further correspondence from DOS since the March 26, 2020 email.

Defendant CBP’s Response

46. On March 3, 2020, Defendant CBP sent a letter and email acknowledging receipt of the Request in their office on March 3, 2020. *See* Ex. F, Letter from U.S. Customs and Border Protection to Nimra Azmi, Staff Attorney (Mar. 3, 2020). Pursuant to 5 U.S.C. § 552(a)(6)(B), CBP referenced a 10-day extension beyond the typical 20-day statutory limit to respond to Plaintiffs’ Request but did specifically not invoke it. *See id.* CBP’s response did not decide on Plaintiffs’ requests for a fee waiver or expedited processing. *Id.*

47. Between March 4, 2020 and April 21, 2020 Plaintiffs received four notices that their FOIA request to CBP had been assigned a new number. As of this filing, the latest and operative FOIA number for Plaintiffs’ Request to CBP is CBP-2020-039394. *See* Ex. G.

48. Without the 10-day extension, CBP’s final response to Plaintiffs was due on or before March 31, 2020. At the latest, even with the 10-day extension, which it did not expressly invoke, CBP’s final response was due on or before April 14, 2020.

49. As of this filing, Plaintiffs have not received the required determination from CBP; nor have they received any responsive records or any other substantive reply to their Request.

50. Moreover, while CBP's letter provided a tracking number to monitor the Request online as it was being processed by CBP, a search for the Request on the online FOIA portal shows that while the estimated date of completion for the request was March 31, 2020, the final disposition of the request was still undetermined as of the filing of this complaint. *See* Ex. H.

Exhaustion of Administrative Remedies

51. Despite their clear obligations under FOIA, Defendants have not provided any substantive determination in response to the Request nor released any records responsive to the Request within the statutory timeframe.

52. Because Defendants have not complied with the statutory time limits set forth in the FOIA statute, Plaintiffs' administrative remedies are considered exhausted under 5 U.S.C. § 552(a)(6)(C)(i).

CAUSE OF ACTION **Violation of the Freedom of Information Act** **5 U.S.C. § 552(a)**

53. Plaintiffs incorporate the above paragraphs as if set forth fully herein.

54. Defendants have violated 5 U.S.C. § 552(a)(6)(A)-(B) and applicable regulations promulgated thereunder by failing to determine whether to comply with Plaintiffs' Request and communicate such determination to Plaintiffs within 30 days.

55. Defendants' failure to timely release agency records in response to Plaintiffs' request has violated 5 U.S.C. § 552(a)(3)(A).

56. Defendants have violated 5 U.S.C. § 552(a)(3)(C)-(D) by failing to make reasonable efforts to search for records responsive to Plaintiffs' Request.

57. The failure of Defendants to grant Plaintiffs' request for a fee waiver violates 5 U.S.C. § 552(a)(4)(A)(iii).

58. 5 U.S.C. § 552(a)(4)(B) authorizes the grant of injunctive relief to Plaintiffs because Defendants continue to flout FOIA and improperly withhold agency records. Because Defendants' refusal to respond to Plaintiffs' Request prevents Plaintiffs from properly advising impacted individuals and educating the public about the ramifications of how the waiver process is being implemented under Proclamation 9983 and how the worldwide review resulted in Proclamation 9983, Plaintiffs will continue to suffer irreparable injury from Defendants' withholding of government documents subject to Plaintiffs' Request in defiance of FOIA mandates.

59. 28 U.S.C. § 2201 authorizes declaratory relief because an actual and justiciable controversy exists regarding Defendants' improper withholding of agency records in violation of FOIA.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs Muslim Advocates and LDF respectfully pray that the Court:

A. Enter judgment that Defendants' failure to determine within the statutorily appointed 30 days whether to comply with the Request and timely notify Plaintiffs of such determination and its reasoning violates FOIA;

B. Enter judgment that Defendants' unlawful withholding of the records requested violates FOIA;

C. Enter an order requiring Defendants to immediately release any and all responsive and not otherwise exempt records to Plaintiffs;

D. Enjoin Defendants from charging Plaintiffs search, review, or duplication fees for the processing of this Request;

E. Award Plaintiffs their reasonable costs and attorneys' fees pursuant to 5 U.S.C. § 552(a)(4)(E); and

F. Award such other further relief as the Court may deem just and proper.

DATED: May 1, 2020

/s/ Nimra H. Azmi

Nimra H. Azmi (DC Bar No.: 1614977)

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**pro hac vice* application forthcoming