

PII

From: PII
Sent: Tuesday, April 4, 2023 12:02 PM
To: PII/E-mail per ECF No. @inami.gob.mx
Cc: PII
Subject: Comisionado del Instituto Nacional de Migración, PII
Attachments: CBP_0013548.pdf; Dousa Order - Excerpts.pdf

Tracking:	Recipient	Delivery	Read
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	PII	Delivered: 4/4/2023 12:02 PM	Read: 4/4/2023 12:02 PM

Dear Comisionado,

I am forwarding the below communication on behalf of Deputy Executive Director PII .

Dear Comisionado del Instituto Nacional de Migración, PII

On March 21, 2023, a United States District Court ordered CBP to “fully and immediately rescind[] and revoke[]” a request made by a CBP employee in a December 10, 2018 e-mail from Saro Oliveri to PII PII @inami.gob.mx) concerning Kaji Rosa Spellman Dousa and other individuals. For your reference, a copy of the e-mail and the relevant portion of the Court’s Order is attached.

Accordingly, I write to fully and immediately rescind and revoke the attached e-mail and the request it communicated. Specifically, I rescind and revoke the e-mail’s request with respect to Kaji Rosa Spellman Dousa and all other individuals identified in the e-mail. Pursuant to the Court’s Order, the e-mail should be considered completely withdrawn.

Please ensure that this message is communicated to the appropriate officials in your office. Please contact me if you have any questions or require any additional information.

Estimado Comisionado del Instituto Nacional de Migración, PII

El 21 de marzo de 2023, un Tribunal de un Distrito Federal de los Estados Unidos ordenó a CBP que “rescindiera y revocara” de manera total e inmediata una solicitud realizada por un empleado de CBP mediante correo electrónico con fecha del 10 de diciembre de 2018, de Saro Oliveri a PII PII/E-mail per ECF No. @inami.gob.mx) acerca de Kaji Rosa Spellman Dousa y otras personas. Para su referencia, se adjunta una copia del correo electrónico y la parte pertinente a la Orden del Tribunal.

En consecuencia, escribo para rescindir y revocar total e inmediatamente el correo electrónico adjunto y la solicitud comunicada. Específicamente, rescindo y revoco la solicitud del correo electrónico con respecto a Kaji Rosa Spellman Dousa y todas las demás personas identificadas en correo electrónico. De conformidad con la Orden del Tribunal, el correo electrónico y la solicitud implícita, debe considerarse completamente retirado.

Asegúrese de que este mensaje se comunique a los funcionarios correspondientes de su oficina. Por favor, póngase en contacto conmigo si tiene alguna pregunta o necesita cualquier información adicional.

Gracias,\

PII

Deputy Executive Director
Office of Field Operations
U.S. Customs and Border Protection

Gracias,

PII

(I) CBP Attaché / Agregado de Aduanas Y Protección Fronteriza
U.S. Embassy PII/LES / Embajada de los Estados Unidos República de Mexico
U.S. Cell PII/Phone per ECF No. 49
CBP email –PII/E-mail per ECF No. 49
State Email –PII/E-mail per ECF No. 49



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****** IMPORTANT ******

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From: OLIVERI, SARO < > E-mail per ECF No. 49
 E-mail per ECF No. 49
To: PII/LES/E-mail per ECF No. 49(gob.mx)
CC: PII
Sent: 12/10/2018 10:22:50 AM
Subject: Solicitud

Saludos PII ,

CBP ha identificado a los siguientes individuos como parte de los organizadores/instigadores de la caravana migrante que se encuentra actualmente en Tijuana. La mayoría de estas personas son ciudadanos de los Estados Unidos y existe una gran posibilidad de que no tengan la documentación adecuada para estar en México. CBP desea entrevistarlos a todos y respetuosamente solicita al INM que les niegue la entrada a México. Si se encuentra, por favor devuélvalos a los Estados Unidos para que CBP pueda proceder con la entrevista.

Su atención y asistencia es muy apreciada.

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9	Kaji Rosa Spellman DOUSA	PII	US	US
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Saro Oliveri

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

KAJI DOUSA,

Plaintiff,

v.

U.S. DEPARTMENT OF HOMELAND
SECURITY (“DHS”);
U.S. IMMIGRATION AND
ENFORCEMENT (“ICE”);
U.S. CUSTOMS AND BORDER
PROTECTION (“CBP”); ALEJANDRO
MAYORKAS, Secretary of DHS;
TAE D. JOHNSON, Acting Director of
ICE; CHRIS MAGNUS, Commissioner of
CBP; and SIDNEY AKI, Director of Field
Operations for CBP, San Diego,¹

Defendants.

Case No.: 19-CV-1255 TWR (KSC))

**STATEMENT OF FINDINGS OF
FACTS AND CONCLUSIONS OF
LAW FOLLOWING BENCH TRIAL**

(ECF Nos. 137–39)

Plaintiff Pastor Kaji Dousa initiated this action by filing her operative Complaint for Declaratory and Injunctive Relief on July 8, 2019, alleging four causes of action for

¹ Pursuant to Federal Rule of Civil Procedure 25(d), Secretary of DHS Alejandro Mayorkas is automatically substituted for Kevin K. McAleenan, Acting Director of ICE Tae D. Johnson for Matthew T. Albence, Acting Commissioner of CBP Troy A. Miller for Mark A. Morgan, and Director of Field Operations for CBP, San Diego (“DFO”) Sidney Aki for Peter Flores.

1 the United States in a proceeding for review of an agency action, unless the court finds
2 ‘that the position of the United States was substantially justified or that special
3 circumstances make an award unjust.’” *Costa v. Comm’r of Soc. Sec. Admin.*, 690 F.3d
4 1132, 1135 (9th Cir. 2012) (quoting 28 U.S.C. § 2412(d)(1)(A)).

5 26. Here, the Court finds that the CBP violated Dousa’s First Amendment rights
6 when Oliveri emailed the Mexican government on December 10, 2018. *See supra* Sections
7 II–IV. Dousa is therefore entitled to at least some of her reasonable costs and attorneys’
8 fees. What proportion of her costs and attorneys’ fees Dousa is entitled to recover depends
9 on the resolution of two questions: “First, did the plaintiff fail to prevail on claims that
10 were unrelated to the claims on which he succeeded? Second, did the plaintiff achieve a
11 level of success that makes the hours reasonably expended a satisfactory basis for making
12 a fee award?” *See Hensley v. Eckerhart*, 461 U.S. 424, 434 (1983). The Court therefore
13 defers ruling on the amount of Dousa’s award of reasonable costs and attorneys’ fees
14 pending the receipt of additional briefing from the Parties, as discussed below.

15 CONCLUSION AND RULING

16 27. Ultimately, the Court concludes that Dousa has established that the CBP
17 unlawfully retaliated against her for her protected First Amendment activity, violated her
18 Free Exercise right to minister to migrants in Mexico, and violated the RFRA when Oliveri
19 emailed Mexican authorities on December 10, 2018, that “there exist[ed] a great possibility
20 that [she] d[id] not have adequate documentation to be in Mexico” and that she should be
21 “den[ied] . . . entry to Mexico” and “sen[t] . . . back to the United States.”


22 28. Accordingly, within fourteen (14) days of the date on which this Order is
23 electronically docketed, Defendants **SHALL COMMUNICATE** in writing to appropriate
24 Mexican immigration authorities that their request in Oliveri’s December 10, 2018 email
25 is fully and immediately rescinded and revoked as to Dousa. Defendants **SHALL**
26 **SUBMIT** a copy of such communication to the Court.

27 29. Pursuant to the EAJA, the Court **AWARDS** Dousa her reasonable costs and
28 attorneys’ fees as the prevailing party in this case. Dousa **MAY FILE** a properly supported

1 motion regarding her reasonable costs and attorneys' fees, including whether the fee award
2 should be reduced given Dousa's partial success, on or before April 24, 2023. Should
3 Dousa file a motion under the EAJA, Defendants **SHALL FILE** their opposition on or
4 before May 15, 2023, and Dousa **MAY FILE** an optional reply, if any, on or before
5 May 29, 2023. Upon completion of the briefing, the Court will take the matter under
6 submission without oral argument pursuant to Civil Local Rule 7.1(d)(1). If the Court later
7 determines that oral argument is necessary, it will set a hearing date.

8 **IT IS SO ORDERED.**

9 Dated: March 21, 2023

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11 Honorable Todd W. Robinson
12 United States District Judge
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PII

From: Microsoft Outlook
To: PII/E-mail per ECF No. 4 @inami.gob.mx
Sent: Tuesday, April 4, 2023 12:02 PM
Subject: Relayed: Comisionado del Instituto Nacional de Migración, PII

Delivery to these recipients or groups is complete, but no delivery notification was sent by the destination server:

PII @inami.gob.mx PII/E-mail per ECF No. 4 @inami.gob.mx)

Subject: Comisionado del Instituto Nacional de Migración, PII

PII

From: PII PII/E-mail per ECF No. 49 @inami.gob.mx>
Sent: Tuesday, April 4, 2023 12:17 PM
To: PII
Subject: Read: Comisionado del Instituto Nacional de Migración, PII
Attachments: Read: Comisionado del Instituto Nacional de Migración, PII

CAUTION: This email originated from outside of DHS. DO NOT click links or open attachments unless you recognize and/or trust the sender. If you feel this is a suspicious-looking email, please report by using the Report Phish button option.

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Instituto Nacional de Migración.
<https://

http pathway LES/PII

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