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**United States District Court
Southern District of Texas
FILED**

NOV 26 2014

David J. Bradley, Clerk of Court

US DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
BROWNSVILLE DIVISION

TAITZ,) Case # 14-cv-00119
V) HONORABLE ANDREW S. HANEN PRESIDING
JOHNSON, ET AL)

SUPPLEMENTAL MOTION FOR DECLARATORY RELIEF, STAY, INJUNCTIVE RELIEF DUE TO NEW RELEVANT FACTS

SUMMARY OF THE MOTION

On November 20, 2014, President Obama, defendant herein, announced in a televised address from the White House that he issued an executive order, which granted legal status to some five million illegal aliens, allowing these illegal aliens to take jobs of millions of law abiding US citizens and tax payers.

Dr. Orly Taitz, ESQ, Plaintiff herein, has done an extensive search in Federal Register of the National archives (Exhibit 1), WhiteHouse.gov and other sources and there is no executive order to be found anywhere. While typically one can obtain documents from Federal Agencies under FOIA 5 USC 552, the office of the President is exempt from FOIA and, as such, a court order is required to receive the actual order from the President, if it exists.

Plaintiff is seeking an order by this court instructing President Obama to Produce the actual executive order for examination of its' existence and its' legitimacy.

Until such order is produced by Defendant Obama, Plaintiff is seeking an emergency STAY and Preliminary injunction instructing defendants, Secretary of Homeland Security Jeh Johnson and Secretary of Health and Human Services

Sylvia Burwell, to STAY any actions in furtherance of this allegedly existing Presidential executive order.

Specifically, she is seeking an order of STAY to Jeh Johnson, Secretary of Homeland Security, defendant herein, from issuance of any work permits, visas or any other identification and legal status documents to illegal aliens until an alleged executive order is produced to the court and deemed by the court as valid, legal and constitutional.

Further, Plaintiff is seeking a STAY to be issued to Sylvia Burwell, Secretary of Health and Human Services (HHS), defendant herein, instructing her to stay issuance of Social Security cards to any and all illegal aliens until this court receives the order in question and deems it valid, legal and constitutional. Social Security cards are issued by the Social Security Administration (SSA), which is a part of HHS.

Additionally, Plaintiff is seeking a declaratory relief from this court. Even if such a Presidential Executive order exists, plaintiff petitions for a declaratory order deeming it null and void and illegal and unconstitutional, as this alleged order was issued by a fiat, without any constitutional basis and without any authorization by the U.S Congress.

ARGUMENT

Plaintiff filed legal action at hand as both a party, who was specifically affected by the actions by the defendants, and as a taxpayer. Plaintiff asserts that defendants are engaged in issuance and implementation of illegal and unconstitutional amnesties, originally DACA and now additional alleged Executive order of November 20-21 2014, orders, which illegally defer deportation of millions of illegal aliens, grant them jobs, which becomes a magnet and an incentive for an invasion, a stampede of illegal immigrants, which brings with it multiple infectious disease, crimes and trillions of dollars of damages to the taxpayers. If current executive order is not stayed, it will cause irreparable harm to the plaintiff and similarly situated taxpayers in the form of a complete collapse of the US economy and bankrupting of the US treasury.

TAXPAYER STANDING

Plaintiff herein is a U.S. taxpayer. She has a taxpayer status standing based on *Flast v Cohen* 392 U.S. 83 (1968) precedent. In *Flast*, Earl Warren, Chief Justice of the Supreme Court of the US wrote in the majority opinion:

" ...our point of reference in this case is the standing of individuals who assert only the status of federal taxpayers and who challenge the constitutionality of a federal spending program. Whether such individuals have standing to maintain that form of action turns on whether they can demonstrate the necessary stake as taxpayers in the outcome of the litigation to satisfy Article III requirements.

The nexus demanded of federal taxpayers has two aspects to it. First, the taxpayer must establish a logical link between that status and the type of legislative enactment attacked. Thus, a taxpayer will be a proper party to allege the unconstitutionality only of exercises of congressional power under the taxing and spending clause of Art. I, 8, of the Constitution. It will not be sufficient to allege an incidental expenditure of tax funds in the administration of an essentially regulatory statute. Secondly, the taxpayer must establish a nexus between that status and the precise nature of the constitutional infringement alleged. Under this requirement, the taxpayer must show that the challenged enactment exceeds specific constitutional limitations imposed upon the exercise of the congressional taxing and spending power and not simply that the enactment is generally beyond the powers delegated to Congress by Art. I, 8. When both nexuses are established, the litigant will have shown a taxpayer's stake in the outcome of the controversy and will be a proper and appropriate party to invoke a federal court's jurisdiction.

The taxpayer-appellants in this case have satisfied both nexuses to support their claim of standing under the test we announce today. Their constitutional challenge is made to an exercise by Congress of its power under Art. I, 8, to spend for the general welfare, and the challenged program involves a substantial expenditure of federal tax funds. In addition, appellants have alleged that the challenged

expenditures violate the Establishment and Free Exercise Clauses of the First Amendment"

So, using Flast, Taitz has standing as a taxpayer as Obama's actions are funded through the appropriations received by Obama and Federal agencies under the taxing and spending clause of Article 1,8 of the Constitution.

At the same time Obama's actions are flagrantly illegal and unconstitutional. Firstly, those actions were taken through an Executive order, which is yet to be seen, which was issued without any authorization of the U.S. Congress. Under Article 1,8 only Congress has plenary power on immigration.

Secondly, Obama's actions are flagrantly violative of Title 8, which expressly prohibits granting residence and employment to illegal aliens.

Based on the above Taitz has standing and the court should issue required injunctive relief.

Section 8 USC 1324(a)(1)(A)(iv)(b)(iii)

“Any person who . . . encourages or induces an alien to . . . reside . . . knowing or in reckless disregard of the fact that such . . . residence is . . . in violation of law, shall be punished as provided . . . for each alien in respect to whom such a violation occurs . . . fined under title 18 . . . imprisoned not more than 5 years, or both.”

Section 274 felonies under the federal Immigration and Nationality Act, INA 274A(a)(1)(A):

8 U.S. Code § 1226 (b)- Apprehension and detention of aliens

(a) Arrest, detention, and release

On a warrant issued by the Attorney General, an alien may be arrested and detained pending a decision on whether the alien is to be removed from the United States. Except as provided in subsection (c) of this section and pending such decision, the Attorney

General-

(1) may continue to detain the arrested alien; and

(2) may release the alien on-

(A) bond of at least \$1,500 with security approved by, and containing conditions prescribed by, the Attorney General; or

(B) conditional parole; but

(3) may not provide the alien with work authorization (including an "employment authorized" endorsement or other appropriate work permit), unless the alien is lawfully admitted for permanent residence or otherwise would (without regard to removal proceedings) be provided such authorization.(emphasis added).

**BASED ON THE INJUNCTIVE RELIEF REQUIREMENTS SET BY
THE FIFTH CIRCUIT, STAY SHOULD BE GRANTED**

As shown in the recent decision by the Fifth Circuit granting a stay in the Voter ID case *Voting for America, inc v Andrade* 488 Fed.Appx. 890, Fifth Circuit looks at four parameters:

(1) whether the stay applicant has made a strong showing that he is likely to succeed on the merits; (2) whether the applicant will be irreparably injured absent a stay; (3) whether issuance of the stay will substantially injure the other parties interested in the proceeding; and (4) where the public interest lies.

**STAY IS WARRANTED AS PLAINTIFF IS LIKELY TO SUCCEED ON
THE MERITS**

Plaintiff incorporates by reference all prior paragraphs as if fully pled herein.

On November 20, 2014 Obama announced his executive order in violation of Title 8 and Article 1, Section 8 of the Constitution to shielded from deportation

millions of illegal aliens and grant them work permits, whereby depriving millions of US citizens and taxpayers of jobs and trillions of dollars in total cost to taxpayers. The text of the announcement is in the link below¹, however the actual executive order is nowhere to be found. Taitz submits a true and correct printout of the Federal Register at the National archives, which lists all Executive orders and there is no Executive order from November 20 or 21, 2014 listed there. Plaintiff, who filed her legal action not only as a doctor, who was injured by lawless actions of defendant Obama, but also as a taxpayer, is seeking an order by the court instructing defendant Obama to provide to the court the actual executive order, he alleges he signed. Without having the actual order, taxpayers are deprived of their property, trillions of dollars of taxpayers moneys, their jobs and sources of income,

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Video and Transcript: Obama's immigration speech

http://www.washingtonpost.com/politics/transcript-obamas-immigration-speech/2014/11/20/14ba8042-7117-11e4-803f-800113000000_story.html

The White House

Office of the Press Secretary

For Immediate Release November 20, 2014

Remarks by the President in Address to the Nation on Immigration

Obama's Speech: NBC's New York Station Thumbs Nose At Network And Carries POTUS; Other Stations Follow Suit

<http://www.washingtonpost.com/news/energy-environment/wp/2014/11/20/obamas-speech-nbc-s-new-york-station-thumbs-nose-at-network-and-carries-potus-other-stations-follow-suit/>

without any due process, which is a flagrant violation of the Fifth and Fourteenth Amendment of the U.S. Constitution.

As argued previously, aforementioned executive order is illegal and unconstitutional, as it flagrantly violates Article 1, section 8 of the Constitution, which gives US Congress a plenary power in immigration. "All legislative Powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives." Article I, Section 1, of the U.S. Constitution. "The Congress shall have Power . . . To establish an uniform Rule of Naturalization," Article I, Section 8, of the U.S. Constitution. There is no legal or Constitutional authority for the US President to defer deportation of millions of illegal aliens and grant them work permits depriving millions of Americans of Jobs and depriving taxpayers of their taxpayer monies.

As stated previously such executive order is flagrantly violative of Title 8, specifically 8USC 1226 which expressly forbids granting job permits to illegal aliens.

PLAINTIFF WILL SUFFER IRREPARABLE HARM

As a taxpayer she is greatly affected by such a major executive order. Some of the ways plaintiff, as a taxpayer, will be affected:

a. Millions of American citizens will be thrown out of work as a result of this executive order. Instead of being taxpayers, they will become recipients of the taxpayer dollars. This is a flagrant theft of taxpayer dollars.

b. Obama's pronounced shield from deportation of millions of illegals, also, translates into a theft of billions of taxpayer dollars, which will be spent on education of illegal aliens instead of deportation.

c. Obama's pronounced shield from deportation translates into billions that will be spent by emergency rooms of hospitals and other health care facilities on care of millions of illegal aliens, who are allowed to stay in the U.S. instead of being deported. Taxpayers, as Taitz, are affected twofold: the hospitals are getting federal grants to care for indigent patients, which includes illegals. Additionally, taxpayers are forced to pay much higher fees for their health care and hospital treatment to offset care of illegals, many of whom simply walk out of the hospital emergency rooms without paying a cent. As an example, 70% of birth in Los Angeles county last year were births of children of illegal aliens. Most of the cost of those births were dumped on U.S. taxpayers. Recently, Taitz was in the emergency room and received nearly a \$10,000 bill for about 2 hours in the emergency room. Such exorbitant bill reflects padding by the hospitals of bills sent to US citizens and taxpayers in order to cover lack of payment by illegals.

d. Many illegals participated in mortgage schemes, buying multiple properties with NINJA loans (no income, no job, no asset verification loans). Later banks dumped those loans on federal agencies, such as Freddie Mac and Fannie Mae and taxpayers were left holding the bag. Additionally, many taxpayer were forced out of the real estate market by speculative hike in prices or were forced to pay inflated prices or ended in bankruptcies and foreclosures as a result of these schemes. Obama's shield from deportation assures that such schemes will continue.

e. Based on Obama's pronounced executive order (which is yet to be seen), illegals will be receiving work permits. Under this scheme, not only they will be taking American jobs, they will also get unemployment benefits, if they can't find jobs, which robs taxpayers yet again.

f. Obama announced that illegals will pay taxes, however vast majority of them are indigent, have large families, have low income jobs, which means, that most of them will not pay any taxes but will actually get tax credits paid to them, which is further theft of taxpayer dollars.

These but a few ways in which taxpayers are affected by Obama's pronounced executive order.

According to Stephen Moore, Chief Economist at Heritage Foundation, taxpayers will lose yearly tens of billions of dollars. According to Charles Payne, financial

analyst for FOX news, if Obama defers deportation of 5 million illegals, the ultimate cost to taxpayers will be 6 trillion.

Additionally, reinvigorated stampede of illegal aliens will mean more crime and more infectious diseases brought into this country, which will further place her as a health care provider at risk.

Due to the fact that this executive order affects the plaintiff, she is seeking an order by the court ordering Defendant Obama to produce to the court this specific executive order with full wording, which explains specific steps Obama is seeking to undertake and explains under which legal and constitutional authority, is he issuing such an order.

BALANCE OF HARDSHIPS IS IN FAVOR OF THE PLAINTIFF

OBAMA'S CLAIM OF PROSECUTORIAL DISCRETION IS OF NO MERIT

Obama claims that he has prosecutorial discretion to shield millions of illegal aliens from deportation and grant them work permits. There is no basis to such assertion.

"Contrary to contention that President had "inherent" power to be exercised in public interest, the president's power to issue Executive Order directing Secretary

of Commerce to take possession of plants of steel companies involved in labor dispute would have to stem either from an act of Congress or from the Constitution itself." Youngstown Sheet & Tube Co. v. Sawyer Supreme Court of the United States June 2, 1952 343 U.S. 579 72 S.Ct. 863 30 L.R.R.M. (BNA) 2172

This very court in US v Nava Martinez wrote that one cannot claim prosecutorial discretion in flagrantly not following the law or outright engaging in illegal actions:

“...Finally, the Court is aware that prosecutors and law enforcement officers, including those here on the border, frequently use their discretion to defer the prosecution or arrest of individuals. This Court is not opposed to the concept of prosecutorial discretion, if that discretion is exercised with a sense of justice and common sense. Nevertheless, it is not aware of any accepted legal principle, including prosecutorial discretion, that not only allows the Government to decline prosecution, but further allows it to actually complete the intended criminal mission. The DHS should enforce the laws of the United States-not break them.” 13-cr-00441 US v Nava-Martinez USDC Southern District of TX.

Obama's argument that he has prosecutorial discretion not to deport millions of illegals, is as reasonable and sane as an argument of a district attorney, who states that he will use a prosecutorial discretion and will not prosecute all thieves, robbers, burglars and rapists because he wants to concentrate on other crimes. Such dereliction of duty and violation of an oath of office to defend and protect the Constitution, represents treason against the constitution and violation of civil rights of victims of crimes under the color of authority, which is a criminal offense in itself punishable by incarceration. When millions of illegals are illegally shielded from deportation and given permits, this represents a Clear violation of civil rights of the taxpayers under 18 USC 242, as these taxpayers are deprived of their due process right under 5th and 14th Amendment of the US Constitution, they are deprived of millions of taxpayer dollars without any due process and in case of the plaintiff herein, she was not only deprived of her taxpayer dollars, but also of her health.

Obama does not have either constitutional authority or a congressional consent to violate current immigration laws or change current immigration laws or make up immigration laws for millions of people. As such, Obama and secretaries of departments, who are following his orders, cannot show any harm if the stay is granted, as they never had any authority to either issue or implement an unlawful executive orders in the first place.

REQUESTED STAY BENEFITS PUBLIC POLICY AND PUBLIC INTERESTS

Jeff Sessions, incoming Chair of Senate Budget Committee, as well as former US Attorney and former Attorney General of Alabama best described the benefit of such a stay for the public in general:

“On Election Day, Americans roared in protest against the President’s open-borders extremism. They rallied behind candidates who will defend the rule of law and put the needs of American workers and families first.

Exit polls were unequivocal. More than 3 in 4 voters cited immigration as an important factor in their vote, believed that U.S. workers should get priority for jobs, and opposed the President’s plans for executive amnesty. These voters were right and just in their demands.

But President Obama made clear that he would attempt to void the election results—and our laws—by moving forward with his executive amnesty decree.

This decree would operate much like his unlawful “Deferred Action”: conferring work permits, photo IDs, and Social Security numbers to millions of individuals illegally present in the U.S.—allowing them to take jobs and benefits directly from struggling American workers. It is a scheme the Congress has explicitly refused to pass.

The President will arrogate to himself the sole and absolute power to decide who can work in the U.S., who can live in the U.S., and who can claim benefits in the U.S.—by the millions. His actions will wipe out the immigration protections to which every single American citizen is lawfully entitled. And his actions will ensure—as law enforcement officers have cried out in repeated warnings—a “tidal wave” of new illegal immigration.

He must be stopped.... Obama’s immigration orders will have a crushing impact on the jobs, wages, schools, hospitals, police departments, and communities of our constituents. The consequences will be swift, profound, and catastrophic.... We cannot yield to open borders. We cannot let one executive edict erase the immigration laws of an entire nation. If we believe America is a sovereign country, with enforceable boundaries, and a duty to protect its own people, then we have no choice but to fight and to win.”

<http://www.politico.com/magazine/story/2014/11/no-surrender-on-immigration-112766.html#ixzz3ItGrXYUV>

Prayer for relief:

1. Order to defendant Obama to produce a true and correct copy of the Presidential executive order, which allegedly was issued on November 20, 2014 and signed by Defendant Obama on November 21, 2014, which grants legal status and work

permits to as many as five million illegal aliens and which was issued without any congressional authorization.

2. Order of STAY to Jeh Johnson, Secretary of Homeland Security, defendant herein, from issuance of any work permits, visas or any other identification, immigration and legal status documents to any and all illegal aliens until alleged executive order, authorizing such actions, is produced to the court by the Defendant Obama and deemed by the court as valid, legal and constitutional.

3. Order of STAY to be issued to Sylvia Burwell, Secretary of Health and Human Services, defendant herein, instructing her to stay issuance of Social Security cards to any and all illegal aliens until this court receives the executive order in question and deems it valid, legal and constitutional.

4. A declaratory order that any and all grants of amnesty, legal status, Social Security cards and work permits by the President without congressional authorization, are null and void, illegal and unconstitutional.

5. Permanent Injunction barring President Obama from issuing any orders legalizing illegal aliens, granting Social Security cards and work permits to illegal aliens without express Congressional authorization.

6. Permanent injunction barring Jeh Johnson, Secretary of Homeland Security and Sylvia Burwell, Secretary of Health and Human Services from issuing any

identification and/or immigration documents to illegals aliens pursuant to executive orders, which were not authorized by the US Congress.

Respectfully submitted,

A handwritten signature in black ink, appearing to be 'Orly Taitz', written in a cursive style.

/s/ Dr. Orly Taitz, ESQ

11.24.2014