

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF KENTUCKY
LOUISVILLE DIVISION
CASE NO.: 3:18-CV-549-CRS

RICCY MABEL ENRIQUEZ-PERDOMO

PLAINTIFF,

vs.

RICARDO A. NEWMAN, et al.

DEFENDANTS.

DECLARATION OF MARK LANTERMAN

STATE OF MINNESOTA)
) ss.
COUNTY OF HENNEPIN)

Mark Lanterman, being first duly sworn, states as follows:

1. My name is Mark Lanterman. I am the Chief Technology Officer of Computer Forensic Services (“CFS”) in Minneapolis, Minnesota. CFS and I have been retained by counsel for Riccy Mabel Enriquez-Perdomo to assist with matters that involve electronically-stored information (“ESI”).

2. In summary, and consistent with my review of the records and documents that have been made available to me by Plaintiff’s counsel, I have concluded that Defendant Newman accessed a database that has an entry that tends to show that Plaintiff was not subject to removal proceedings.

Expert Background

3. Our firm specializes in the analysis of digital evidence in civil and criminal litigation. I have over 25 years of experience in computer forensics and cybersecurity. Prior to joining CFS, I was a sworn investigator for the United States

Secret Service Electronic Crimes Task Force and acted as its senior computer forensic analyst.

4. I am certified by the United States Department of Homeland Security as a “Seized Computer Evidence Recovery Specialist,” as well as certified in computer forensics by the National White-Collar Crime Center. Both federal and state court judges have appointed me as a neutral computer forensic analyst and Special Master.

5. I graduated from Upsala College in New Jersey with both a Bachelor of Science and a Master’s degree in computer science. I completed my post graduate work in cyber security at Harvard University.

6. I am currently adjunct faculty of computer science for the University of Minnesota Technological Leadership Institute’s Master of Science and Security Technologies program (MSST). I am also faculty at the Mitchell Hamline School of Law and a professor of cybersecurity at the University of St. Thomas School of Law in Minnesota. I am also faculty for the National Judicial College in Reno, Nevada and the Federal Judicial Center in Washington, D.C.

7. I have previously provided training or delivered keynote addresses for the United States Supreme Court; the Eleventh Circuit Federal Judicial Conference; the Eighth Circuit Federal Judicial Conference; the Kentucky Judicial Conference; the Southern District of Georgia; the Western District of Tennessee; and several state judicial conferences. I recently delivered the keynote address at

the Chief Justices' Conference in Newport, Rhode Island. I delivered the keynote address at Georgetown Law School's e-discovery conference.

8. I was appointed by the Minnesota Supreme Court to serve as a member of Minnesota's Lawyers Professional Responsibility Board (the "LPRB"). I currently serve as chairman of the LPRB's Opinion Committee.

9. I am a co-author of the Minnesota State Bar's e-Discovery Deskbook, and I also write monthly articles for *Minnesota Bench & Bar* magazine.

10. CFS is the exclusive, contracted computer forensic service provider for the Hennepin County Sheriff's Office; the Ramsey County Attorney's Office; the Washington County Attorney's Office in Minnesota; as well as the Metropolitan Airports Commission, also known as the Minneapolis/Saint Paul International Airport. CFS is also partnered with the U.S. Secret Service to assist with its electronic investigations.

Documents Reviewed

11. I am familiar with the general procedural history of this action, and the facts as alleged. Plaintiff's counsel has provided me with the following documents, which I have reviewed:

- a. The pleadings;
- b. Plaintiff's First Set of Interrogatories and Requests for Production of Documents to All Defendants, dated October 19, 2019;
- c. Declaration of John Korkin, dated February 28, 2019;
- d. Declaration of Ricardo Newman, dated February 28, 2019;
- e. Plaintiff's Notice of On-site Inspection and/or Inspection of Computers and ESI, dated October 19, 2019;

- f. Defendants' Production labelled 0001-0030;
- g. Defendants' Production labelled 0031-0061;
- h. Declaration of Kerry Legagneux, dated December 18, 2019;
- i. Declaration of Jeffrey A. Wilson, dated December 18, 2019;
- j. Defendants' Answers and Responses to Plaintiff's Discovery Requests, dated December 18, 2019;
- k. Amended Declaration of John Korkin, dated December 12, 2019;
- l. Amended Declaration of Ricardo Newman, dated December 18, 2019;
- m. January 30, 2020 Letter from USCIS and USICE;
- n. Plaintiff's Subpoena Duces Tecum, dated February 28, 2020;
- o. DOJ's May 2020 Production under Subpoenas Duces Tecum.

Analysis of Produced Data

12. While I have not had the opportunity to inspect the content of the databases (e.g. entries that relate to Plaintiff's citizenship status) directly, the government has produced screenshots of the various databases, as they exist(ed) at the time the government prepared the productions and as they are viewed through user interfaces. Put differently, Defendants produced representations of the various databases, to which Defendants had the ability to access.¹

13. Here, the most important example for the purposes of this declaration is Defendants' production denoted as 0061 ("Production #0061"). This production is described as "[s]creenshots from PCQS's second screen with the activities search results from [Enriquez-Perdomo's (A 098116152) person search

¹ Those databases are CIS, CLAIMS 3, CLAIMS 4, ELIS, ELIS 2 (through PCQS), and EARM.

criteria...with data from Claims 3, CIS, Claims 4, ELIS, and ELIS 2.]”. (See Defs’ Prod. 0060-0061).

14. Production 0061 contains a January 5, 2017 entry that describes an “Approval” status related to the activity “Renewal Request – Consideration of Deferred Action for Childhood Arrivals.” A partial representation of which is included below as Figure 1. (See Def’s Prod. 0061)

Source	Role	Activity	Description	Activity Date	Result
ELIS2	Primary Applicant	Renewal Request - Consideration of Deferred Action for Childhood Arrivals	IOE0901754904 Single-Applicant Case	01-05-2017	Approved
ELIS2	Primary Applicant	Renewal Request - Consideration of Deferred Action for Childhood Arrivals	IOE0901754904 Single-Applicant Case	01-05-2017	Approved

Figure 1

15. I understand that the “Activity Date” field “...shows the date on which the activity was recorded in the relevant system and then first able to be viewed in PCQS.” (See Legagneux Decl. ¶ 21). Here, the “relevant system” was the ELIS2 database, and the entry referencing Deferred Action for Childhood Arrivals was “first able to be viewed” on January 5, 2017.

16. In May 2020, I received the U.S. Department of Justice’s production, which included logged information about the access to various databases that were used by and available to Defendants in August 2017.

17. The produced log demonstrates that Defendant Newman accessed the aforementioned ELIS2 database, where Plaintiff’s DACA status was listed as of January 5, 2017, on August 17, 2017 at approximately 9:56 AM. (See also Legagneux Decl. ¶ 16, “At 9:56 a.m. Central Standard Time on August 17, 2017, Newman conducted a person and activity search of CIS, CLAIMS 3, CLAIMS 4,

ELIS and ELIS 2 using PCQS and Ms. Enriquez-Perdomo's A-number, '098116152").

18. Specifically, the produced log shows, in relevant part, the following:

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AuthenticatedUser...Ricardo.A.Newman@ice.dhs.gov,  
RequestDateTime...2017-08-17T09:56:38.129-05:00  
QueryTarget...ESB_ELIS2_READ  
PersonSearchByID...A098116152
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(See Defs' Prod., May 15, 2020, "EP00062.xlsx")

19. Notably, in both the Declaration and Amended Declaration of Ricardo Newman, he does not describe his access of the ELIS2 database, but only testified that "...I used PCQS to search CLAIMS 3, CLAIMS 4, and the Central Index System to confirm that Ms. Enriquez-Perdomo was subject to an existing removal order and that her Deferred Action for Childhood Arrivals expired in March 2017." (See Newman Amend. Decl. ¶ 6, *see also* Newman Decl. ¶ 9, "Ms. Enriquez-Perdomo insisted she had renewed her DACA, but I could not confirm that through my database searches.")

20. Therefore, the evidence that has been provided to me to date demonstrates that 1) Plaintiff's DACA status was available in at least one database (ELIS2) prior to her arrest, 2) the database could be accessed by Defendants, and 3) Defendant Newman in fact accessed that database.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed this 7th day of August 2020, in Hennepin County, Minnesota.

A handwritten signature in black ink, appearing to read "Mark Lanterman", with a stylized flourish at the end.

Mark Lanterman