

Honorable Marsha J. Pechman

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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

AURELIO DURAN GONZALEZ, et al.,

Plaintiffs,

v.

U.S. DEPARTMENT OF HOMELAND
SECURITY and JANET NAPOLITANO,
Secretary of the Department of Homeland
Security,

Defendants.

NO. C06-1411MJP

ORDER GRANTING IN PART
PLAINTIFF'S MOTION FOR A
TEMPORARY RESTRAINING ORDER

This matter comes before the Court on Plaintiffs' motion for provisional class certification, temporary restraining order, and preliminary injunction. (Dkt. No. 47.) For the reasons set forth below, the Court GRANTS IN PART Plaintiffs' motion.

On January 23, 2009 at 3:53 p.m. (PST), the Ninth Circuit issued its mandate in the above captioned matter. (Case No. 07-35021.) A few minutes later, at 4:00 p.m., this Court heard telephonic argument on Plaintiffs' motion. At argument counsel for both parties agreed that, absent a TRO, certain class members may risk deportation. The Court asked counsel for time to review the Plaintiffs' motion, Defendants' response, and Plaintiffs' reply. (See Dkt. Nos. 47, 49, 52.) Counsel for Government was unwilling to provide any assurances that it would not proceed with adjudicating class members' pending I-212 applications until after the Court had time to review the materials. In light of the irreparable harm Plaintiffs would endure and complex nature

1 of the issues presented, the Court believes a TRO is necessary for the careful and effective
2 adjudication of this dispute.

3 It is HEREBY ORDERED as follows:

- 4 1. Plaintiffs' motion (Dkt. No. 47) is GRANTED IN PART. The Court reserves ruling
5 on Plaintiffs' request for class certification and preliminary injunction.
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7 2. Defendants may not, with respect to any member of the class, (a) deny any pending I-
8 212 waiver applications or (b) give legal effect to any denied I-212 waiver application,
9 including treating as any denial as a final administrative decision.
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11 3. The Court makes no ruling on Plaintiffs' motion to amend the class. The class
12 continues to be defined by the Court's Order granting class certification and
13 preliminary injunction. (Dkt. No. 29.)

14 The clerk is directed to transmit a copy of this order to all counsel of record.

15 DATED this 23rd day of January, 2009.

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18 Marsha J. Pechman
19 United States District Judge
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