

TONY WEST  
Assistant Attorney General  
Civil Division

SANDRA M. SCHRAIBMAN  
Deputy Branch Director  
Federal Programs Branch

DIANE KELLEHER  
diane.kelleher@usdoj.gov  
AMY POWELL  
amy.powell@usdoj.gov  
U.S. Department of Justice  
Civil Division, Federal Programs Branch  
20 Massachusetts Avenue, N.W  
Washington, D.C. 20001  
Phone: (202) 514-4775  
Fax: (202) 616-8470  
*Attorneys for Defendant*

**UNITED STATES DISTRICT COURT**

**DISTRICT OF OREGON**

AYMAN LATIF, et al.,  <i>Plaintiffs,</i>	Case 3:10-cv-00750-BR
v.  ERIC H. HOLDER, JR., et al.,  <i>Defendants.</i>	<b>DEFENDANTS' MOTION TO DISMISS OR IN THE ALTERNATIVE FOR FOR SUMMARY JUDGMENT</b>

**DEFENDANTS' MOTION TO DISMISS OR IN THE ALTERNATIVE  
FOR SUMMARY JUDGMENT**

Pursuant to Rule 19 and Rule 56 of the Federal Rules of Civil Procedure, Defendants Eric H. Holder, Jr., Attorney General of the United States; Robert Mueller, Director of the Federal Bureau of Investigation; and Timothy Healy, Director of the Terrorist Screening Center, move to

dismiss or for summary judgment and ask this Court to grant judgment in their favor for the reasons stated in the accompanying memorandum. First, this matter should be dismissed, and judgment entered for Defendants, because the relief Plaintiffs seek requires the involvement of the Transportation Security Administration, an agency which cannot be sued in this Court. Moreover, the undisputed facts in this matter show that Plaintiffs' constitutional rights have not been violated, because they have not been denied the right to reenter and reside in the United States, nor have they been denied the ability to travel. In addition, to the extent Plaintiffs' liberty interest in travel has been curtailed, the existing government redress program, known as the Department of Homeland Security Traveler Inquiry Redress Program, provides them with sufficient notice and opportunity to be heard, thus satisfying the requirements of due process. Accordingly, judgment must be entered for Defendants.

In support of this motion, Defendants rely on the following:

1. Defendants' Memorandum of Law
2. The Parties' Stipulated Facts
3. Defendants' Concise Statement of Material Facts Not In Dispute
4. Declaration of Christopher Piehota, Deputy Director, Terrorist Screening Center
5. Declaration of Mark F. Giuliano, Assistant Director, Counterterrorism Division, Federal Bureau of Investigation
6. Declaration of James G. Kennedy, Jr., the Director of the Office of Transportation Security Redress (OTSR), Transportation Security Administration (TSA),
7. Declaration of Kevin K. McAleenan, Deputy Assistant Commissioner, Office of Field Operations, Customs and Border Protection

8. Declaration of Sharon Raya, Paralegal, Federal Programs Branch, Civil Division, Department of Justice
9. *Ex Parte, In Camera Material* lodged for submission with a Court Security Officer

These materials show that Defendants are entitled to summary judgment in their favor.

Dated: November 17, 2010

Respectfully submitted,

TONY WEST  
Assistant Attorney General

SANDRA SCHRAIBMAN  
Assistant Branch Director  
Federal Programs Branch

*\s\ Diane Kelleher*

---

DIANE KELLEHER  
AMY POWELL  
Attorneys  
U.S. Department of Justice  
Civil Division, Federal Programs Branch  
20 Massachusetts Avenue, N.W.  
Washington, D.C. 20001  
Tel: (202) 514-4775  
Fax: (202) 616-8470  
E-Mail: [diane.kelleher@usdoj.gov](mailto:diane.kelleher@usdoj.gov)  
E-mail: [amy.powell@usdoj.gov](mailto:amy.powell@usdoj.gov)

*Counsel for Defendants*