

EXHIBIT 5

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

GHASSAN ALASAAD, NADIA)
ALASAAD, SUHAIB ALLABABIDI, SIDD)
BIKKANAVAR, JÉRÉMIE DUPIN,)
AARON GACH, ISMAIL ABDEL-RASOUL)
AKA ISMA'IL KUSHKUSH, DIANE)
MAYE, ZAINAB MERCHANT,)
MOHAMMED AKRAM SHIBLY, AND)
MATTHEW WRIGHT,)

Plaintiffs,)

v.)

KIRSTJEN NIELSEN, SECRETARY OF)
THE U.S. DEPARTMENT OF HOMELAND)
SECURITY, IN HER OFFICIAL)
CAPACITY; KEVIN MCALEENAN,)
COMMISSIONER OF U.S. CUSTOMS)
AND BORDER PROTECTION, IN HIS)
OFFICIAL CAPACITY; AND RONALD)
VITIELLO, ACTING DIRECTOR OF U.S.)
IMMIGRATION AND CUSTOMS)
ENFORCEMENT, IN HIS OFFICIAL)
CAPACITY,)

Defendants.)

Civil Action No. 17-cv-11730-DJC

Hon. Denise J. Casper

DECLARATION OF PLAINTIFF JÉRÉMIE DUPIN

1. I am a journalist.
2. I am a lawful permanent resident of the United States.
3. I reside in Massachusetts.
4. On December 22, 2016, I flew from Port-au-Prince, Haiti, to Miami, Florida, where

I had a connecting flight to Montreal, Quebec, to visit my daughter and take her by bus to New York City for Christmas. I had a locked iPhone 5 smartphone with me that I used for both my work as a journalist and personal matters.

5. At the passport control area of the Miami airport, a U.S. Customs and Border Protection (“CBP”) officer directed me to a secondary inspection area. I waited there for more than two hours. Three officers then escorted me to a smaller room, where they asked me specific questions about my work as a journalist, including the names of the organizations and specific individuals within those organizations for whom I had worked. The officers also searched my wallet, and asked me questions about the business cards that were in my wallet.

6. During the questioning, the officers seized my phone and ordered me to provide the password to the phone. I provided the password.

7. I was coerced into providing the password to my phone. I was alone in an interrogation room with three CBP officers. I understood, based on the CBP officers’ tone and demeanor, that they were commanding me to disclose the password. When I had told a CBP officer that I was frustrated by the delay in my processing, the officer responded by putting his hand on the holster of his gun and ordering me to sit down and wait.

8. A CBP officer searched my phone for about two hours. During some of this time, I observed the officer manually searching my phone. At other times, the officer took my phone into another room and returned periodically to ask me questions about the contents of the phone, including my photos, emails, and contacts.

9. After I had spent about two hours in the smaller room, the officers returned my phone to me and told me I could leave.

10. Prior to the CBP search of my phone, my phone had worked both when I was in the United States and abroad. After the CBP search of my phone, my phone worked when I was in Canada and Haiti, but no longer made phone calls in the United States.

11. On December 23, 2016, I traveled by bus with my seven-year-old daughter from Montreal to New York City. I carried the same locked iPhone 5 smartphone with me.

12. My daughter and I arrived at the customs checkpoint at the U.S. border near midnight. A CBP officer directed me and my daughter to a secondary inspection area, where we waited and tried to sleep. CBP officers arrived and asked me some of the same questions officers had asked me in Miami.

13. During the questioning, the officers seized my phone and ordered me to provide the password to the phone. I provided the password to the phone.

14. I was coerced into unlocking my phone. I again understood, based on the CBP officers' tone and demeanor, that they were commanding me to disclose my password. It was the middle of the night, and the bus on which my daughter and I had been traveling had already departed. I did not know how or when I would be able to catch another bus to New York City. Additionally, I was traveling with my young daughter. When the officers ordered me to unlock my phone, my exhausted daughter was trying to sleep in my lap. I feared that if I refused to unlock my phone, the officers would escalate the encounter, which would upset and frighten my daughter.

15. A CBP officer took my phone into another room for about four hours. During this time, one or more CBP officers searched the phone. An officer periodically returned to ask me questions about the contents of the phone, including specific photos and emails.

16. After approximately seven hours of detention on the morning of Christmas Eve, officers returned the phone to me and told me that my daughter and I could catch another bus to New York City.

17. I felt like these searches violated my privacy. It felt like the CBP was prying into both my professional and personal life. The entire time that the CBP officers detained me at the border, I just tried to protect my daughter. She was only seven years old, and I didn't want her to be scared.

18. I regularly travel internationally for business and personal reasons, and carry electronic devices with me when I do so.

19. To the best of my knowledge, since January 1, 2013, I have returned to the United States from an international trip at least 21 times.

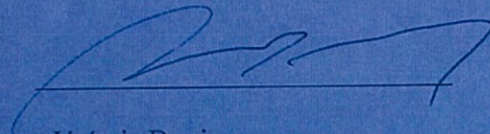
20. At the current time, I intend to continue traveling internationally for business and personal reasons.

21. My daughter lives in Montreal, Canada and I intend to travel to Canada to see her in April 2019.

22. I am a journalist and intend to travel internationally for my work in 2019. Specifically, I will likely travel to Haiti in May or June 2019 for business reasons. I also may travel to Venezuela during 2019 for business reasons.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: April 11th, 2019



Jérémie Dupin