

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

ROBERTO CARLOS DOMINGUEZ,)	
)	
Plaintiff,)	
)	Civ. No. 1:14-cv-13970-WGY
v.)	
)	
JOHN KERRY, Secretary,)	
U. S. Department of State,)	
)	
Defendant.)	
)	

**STATEMENT OF MATERIAL FACTS IN SUPPORT OF MOTION FOR SUMMARY
JUDGMENT**

Plaintiff Roberto Carlos Dominguez respectfully submits this statement pursuant to Local Rule 56.1 in support of his motion for summary judgment. The material facts as to which there is no genuine issue to be tried are as follows.

I. Facts Relating to Mr. Dominguez’s Birth

1. The city of Lawrence, Massachusetts issued a valid birth certificate describing the birth of Roberto Carlos Dominguez at Lawrence General Hospital on November 9, 1979. This certificate was issued on December 7, 1979. (Ex. A – J. Dominguez Dep. – 65:22 – 69:22; Ex. B – U.S. Birth Certificate). Defendant admits to the validity of this birth certificate. (Ex. C – Answers to Plaintiff’s First Set of Requests for Admissions #1, 2, 3).
2. Plaintiff’s mother, Juana Dominguez, born Juana Villavizar Quezada (“Juana”), confirms that she gave birth to Plaintiff at Lawrence General Hospital in Lawrence, Massachusetts

on November 9, 1979, as reflected on his United States birth certificate. (Ex. A 46:2 -12).

Juana personally registered his birth at Lawrence City Hall and was given a copy of his birth certificate in early December 1979. (Ex. A 66:7-23).

3. At the time of Mr. Dominguez's birth, Juana was using a permanent resident card ("green card") under the name of her husband's deceased sister, Patria Miledis Dominguez. (Ex. A 47: 14-22; Ex. D – B. Carrillo Dep. – 71:15-20). When Juana registered Plaintiff's birth in the Massachusetts hospital, she listed her name as Patria Dominguez to match the identification she had in her possession. (Ex. A, 65:4-6).
4. Defendant admits that it has no evidence showing the location of any individual who is not Plaintiff, and who is named Roberto Carlos Dominguez with the birth date of November 9, 1979 and the birthplace of Lawrence, Massachusetts. (Ex. E – Def.'s Amended Responses to Plaintiff's 2nd Set of Requests for Admission #13).

II. Facts Relating to Juana Dominguez's Pregnancy and Residence in the United States In 1978-1980

5. Juana Dominguez has three children: Juan Carlos, Yanette, and Roberto Dominguez, the last of whom is the Plaintiff. Juan Carlos was born in the Dominican Republic in 1973, and Yanette was born in the Dominican Republic in 1974. All of these children were fathered by Juana's husband, Juan Dominguez Ortiz. ("Juan") (Ex. A 30:8-12; 40:13-14; 43:2-13; Ex. B; Ex. F – Yanette Dominguez Birth Cert; Ex. G – Juan Carlos Dominguez Birth Cert.).

6. In or around 1978, Juan's parents, Luline and Juan Dominguez Sr. ("Luline" and "Juan Sr." respectively), petitioned for Juana's entry into the United States. (Ex. A 47:14-25; 48:1-11). Luline and Juan Sr. petitioned for Juana under the identity of their deceased daughter, Patria Miledis Dominguez ("Patria"). Patria had died at the age of nine in the Dominican Republic in 1960. (Ex. A. 48:5-13; Ex. H – Patria Dominguez Death Cert.).
7. A permanent resident card ("green card") was issued for Patria Miledis Dominguez, and using this card, Juana successfully entered the United States in 1978. (Ex. A 51: 5-9; 54:14-17). Her children, Juan Carlos and Yanette, stayed in the Dominican Republic under the care of their maternal grandparents. (Ex. A 59:4-5).
8. Upon entry to the United States, Juana and Juan lived in Lawrence, Massachusetts, where Luline and Juan Sr. were already living. (Ex. A 55:25 – 56:23).
9. While living at 70 Cross Street in Lawrence, Massachusetts, Juana became pregnant with Plaintiff in approximately February of 1979. (Ex. A 46:13-16, 24-25; Ex. D 60:10-16).
10. During 1979, Juana frequently socialized with members of Juan Dominguez's family, including Bartola Carrillo and Lillian Dominguez (Ex. A 61:7-10, 72:23 – 73:7, 133:7-14; Ex. D 58:11-14, 60:17-21). Bartola was the partner of Juan Dominguez's brother Rafael Dominguez. (Ex. I – B. Carrillo Aff.; Ex. D. 17:15 – 18:03). Lillian was the wife of Juan Dominguez's brother Pedro Antonio Dominguez. (Ex. A 22:9-19, Ex. D 38:8 – 39:17).
11. During 1979, Juana, Bartola, and Lillian all became pregnant with sons. (Ex. A 60:25 – 61:10; Ex. D 63:8 – 64:4, 12-16; Ex. J – L. Dominguez Aff.).

12. Juana never traveled outside of the United States while pregnant with Plaintiff. (Ex. A 59:23-25; Ex. D 61:12-16). She was photographed at various stages in her pregnancy with Plaintiff while living in Lawrence, Massachusetts in 1979. (Exs. K-P – Pregnancy Photographs).
13. When Juana was six or seven months pregnant with Plaintiff, she had a joint baby shower with Lillian in Lawrence, Massachusetts, at which family members took photographs. (Ex. A 60:22 – 61:6; Ex. L; Ex. P; Ex. Q – Lillian Dominguez Photograph). Lillian was pregnant, as was Cristina Perez, a sister of Plaintiff’s father who was also pregnant. (Ex. A 61:8-10; Ex. R – C. Perez Aff.; Ex. J; Ex. L; Ex. Q; Ex. P).
14. Juana, while pregnant with Plaintiff, visited Bartola Carrillo at Bon Secours Hospital in Methuen, Massachusetts, when Bartola gave birth to her son, Rafael Dominguez Jr. (“Rafael Jr.”). (Ex. D 27:10-22, 103:14-17, 103:22 – 104:4; Ex. K). Bon Secours Hospital is now called Holy Family Hospital. (Ex. D 27:10-17). Rafael Jr. was born on September 22, 1979. (Ex. D 22:25 – 23:7; Ex. S – Rafael Dominguez Documents). Bartola stayed in the hospital for nine days after the delivery due to complications with Rafael Jr.’s birth. (Ex. D 102:24 – 103:13). Juana, visibly pregnant, was photographed visiting Bartola in her hospital bed during this period in late September 1979. (Ex. K).
15. Juana gave birth to Plaintiff on November 9, 1979 at Lawrence General Hospital in Lawrence, Massachusetts. (Ex. A 63:15-16; Ex. B; Ex. D 57:7-20; Ex. T – Hospital Crib Tag).

16. When Juana gave birth to Plaintiff, she identified herself to hospital staff as Patria Miledis Dominguez. She gave the name Patria so as to match the identification documents she was using at the time. (Ex. A 65:4-8). For that reason, hospital staff wrote a nametag for Mr. Dominguez's hospital crib identifying her as "Patria," which she kept as a souvenir. (Ex. A 67:24 – 68:3; Ex. T).
17. Juana's immigration papers listed "Patria" as single. (Ex. A 65:11-12). Juana did not provide the hospital with a name for Mr. Dominguez's father. (Ex. A 65: 9-10).
18. After giving birth to the plaintiff, Juana returned to where she was living at the time: 70 Cross Street in Lawrence, Massachusetts. (Ex. A 74:11-13).
19. Many members of Juan's family came to visit Juana after Plaintiff's birth. (Ex. A 73:9-15; Ex. D 65:21 – 66:1). This included her sisters-in-law, who had also given birth that year. After the birth of Rafael Jr. on September 22, 1979, Cristina Perez gave birth to her daughter Iris Castro in Lawrence, Massachusetts on October 21, 1979, and Lillian Dominguez gave birth to her son Antoyne Dominguez ("Tony") in Methuen, Massachusetts on November 14, 1979. (Ex. A 61:11-17; Ex. D 63:13 – 64:16, 102:2-23; Ex. J; Ex. R; Ex. U – Tony Dominguez Birth Cert.).
20. Juana distributed a few birth announcement cards to close family members, which included a small hospital photo of Mr. Dominguez taken by Lawrence General Hospital. (Ex. A – 72:19 [Errata Sheet 158]); Ex. V – Plaintiff Birth Announcement).
21. Bartola Carrillo and Lillian Dominguez distributed birth announcement cards for the births of their sons Rafael Jr. and Tony in 1979 that included small hospital photos. (Ex.

J; Ex. I; Ex. W – Tony Dominguez Birth Announcement; Ex. X – Rafael Dominguez Birth Announcement).

22. Juana personally went to Lawrence City Hall to register Plaintiff's birth. She presented her green card, which listed her name as Patria Miledis Dominguez, as well as documentation from Lawrence General Hospital regarding Mr. Dominguez's birth on November 9, 1979. Juana was issued a copy of the birth certificate on December 7, 1979 that listed her name as her alias, Patria Miledis Dominguez, and correctly listed her address as 70 Cross Street, Lawrence, Massachusetts. (Ex. A 69:5-17; Ex. B).
23. Juana traveled to the Dominican Republic and brought Plaintiff with her as an infant on one or two occasions between 1980 and 1983. On these trips, she presented the "Patria Dominguez" green card for herself and presented her infant son's Massachusetts birth certificate to travel officials in lieu of a U.S. passport. (Ex. A 100:1-10; Ex. B).

III. Additional Facts Regarding Mr. Dominguez's Birth and Childhood

24. Mr. Dominguez was circumcised at birth by staff at Lawrence General Hospital. (Ex. A 73:16-17; Ex. Y – Plaintiff Doctor's Letter; Ex. C # 5). This was common practice in the United States at the time, but was unusual in the Dominican Republic. (Ex. A 74:5-10; Ex. Z – Literature on Circumcision). Juana's other son, Juan Carlos, who was born in the Dominican Republic, was not circumcised. (Ex. AA – Juan Carlos Dominguez Doctor's Note; Ex. C # 6).
25. Mr. Dominguez's was photographed on multiple occasions in the United States within the first few years of his life and prior to his reentry with Dominican documents in 1983. (Ex.

A 122:12-19). These pictures were taken by a combination of Juana, Juan, and various other family members. (Ex. A 121:25-122:1; 123:4-5; 124:15-18). These include photos of Mr. Dominguez as an infant in winter wear, at his joint first birthday party with his cousin Tony Dominguez, and with his mother or father outside 70 Cross Street or at other Lawrence locations. (Exs. CC-TT – Plaintiff Infant/Toddler Photographs; Ex. A 121:10 – 134:14).

26. Growing up in Lawrence, Mr. Dominguez always believed and represented himself to be a United States citizen. (Ex. TT – R. Dominguez Dep. – 42:19 – 43:6; 55:10-24; 88:3-6; 131:22-23).
27. As a child, Mr. Dominguez never used a birth date other than November 9, 1979, the birth date listed on his United States birth certificate. (Ex. TT 45:6-8). Mr. Dominguez and his family always celebrated his birthday on November 9, 1979. (Ex. TT 43:13-19). While in school, Mr. Dominguez represented his birthday as November 9, 1979. (Ex. TT 45:3-5; 50:15-25).
28. Mr. Dominguez is recorded on the birth certificate of his son, Roberto Anthony Dominguez, who was born at Lawrence General Hospital on July 21, 1995, as having himself been born in Lawrence, Massachusetts. (Ex. UU – Roberto Anthony Birth Cert.).
29. When Mr. Dominguez was arrested in 1997, his booking documents report his place of birth as Lawrence, Massachusetts and report that he is a U. S. citizen. (Ex. VV – 1997 Booking Report).

IV. Mr. Dominguez's 1999 Detention & Removal Proceedings

30. Mr. Dominguez served a criminal sentence at the Essex County Correctional Facility in Massachusetts between 1997 and 1999, when he was ages seventeen to nineteen. (Ex. WW – ICE Address Notice; Ex. XX – Sentence Information; Ex. TT 77:22 – 78:1).
31. In 1999, when Mr. Dominguez's sentence was completed, rather than being released to his family, the former Immigration and Naturalization Service ("INS") immediately took him into custody. (Ex. TT 78:2-13).
32. INS issued Mr. Dominguez a Notice to Appear, referring to Mr. Dominguez as "Roberto Carlos Dominguez Villavizar." The Notice alleged that Mr. Dominguez was subject to removal (deportation) because he was not a citizen or national of the United States but was a native and citizen of Dominican Republic and had committed criminal grounds of deportability. (Ex. ZZ – Notice to Appear).
33. After taking Mr. Dominguez into immigration custody in September 1999, INS transferred him to the Buffalo Federal Detention Facility in Batavia, New York. (Ex. YY – Notice of Hearing). The immigration facility was located hundreds of miles away from his hometown in Lawrence, Massachusetts, and his family was unable to visit him in detention. (Ex. TT 86:17-19).
34. At the time of his detained removal proceeding, Mr. Dominguez was nineteen years old. He had no legal counsel throughout his detention and removal proceedings. (Ex. TT 87:12-23).

35. During this time, Mr. Dominguez spoke only a handful of times with his older brother and sister, explaining “these people want to send me to the Dominican Republic.” (Ex. TT 85:9-13). Mr. Dominguez could not speak with his mother or father, who were unable to accept calls from the facility. (Ex. TT 85:25 – 86:19).
36. Mr. Dominguez did not understand why he was in INS custody or the meaning of deportation and its long-term consequences. (Ex. TT 82:19 – 83:16; 101:4-8, 19-22). Mr. Dominguez thought deportation was “like a probation sentence, meaning I’ll be sent out there because your parents were born over there. So since you behaved bad here in the United States, you still need to get punished for whatever crime I committed against Immigration.” *Id.* He did not understand the permanent consequences of deportation, or that deportation of a U.S. citizen would be illegal. *Id.*
37. In the Batavia detention facility, Mr. Dominguez repeatedly informed INS officials and the detention center staff that he was a United States citizen. (Ex. TT 89:25 – 90:5). Neither INS officials nor the detention center staff conducted any investigation of Mr. Dominguez’s nationality. *Id.*
38. On September 16, 1999 Mr. Dominguez appeared *pro se* before immigration judge John B. Reid at the Batavia Immigration Court. At the hearing, when asked if he was Roberto Carlos Dominguez Villavizar, Mr. Dominguez informed Judge Reid that he never uses the matriarchal surname “Villavizar” but only the surname “Dominguez.” (Ex. AAA – Transcript of Removal Hearings 3:17-21).

39. This first hearing was rescheduled so as to allow Mr. Dominguez approximately one week to find an attorney to represent him at his own expense in his removal proceedings. (Ex. AAA 7:2-5).
40. Mr. Dominguez did not hire an attorney, given the limited time constraint, that Mr. Dominguez had no money, and that he fundamentally misunderstood deportation and its permanent consequences. (Ex. TT 80:5 – 81:1; 82:17 – 84:24).
41. Mr. Dominguez’s misunderstanding of deportation was largely due to the counsel of the INS officials and detention center staff, who spoke to Mr. Dominguez about his case before and between his hearings. These officials repeatedly advised Mr. Dominguez to “[t]ell him that you want to sign your deportation and get out of here.” (Ex. TT 82:4-16; 84:17-24; 90:16-21). Mr. Dominguez was desperate and confused, 19 years of age, and felt as if he could trust the advice of the detention center staffers: “I tend to believe people right away . . . I believe the character of the person you are. So that person that I was speaking to, to help me out to give me advice, that’s what he had told me or explained to me to say or to do.” (Ex. TT 89:5-20).
42. The detention center staff advised Mr. Dominguez: “if they ask if you’re American, say no; if you want to get deported, say yes, and just ask for the paper for you to sign and get out, and you’ll get out of here right away; you don’t have to do another three more months in jails.” (Ex. TT 88:19 – 89:4, 90:16-21).
43. During the proceedings, INS provided Mr. Dominguez with a document relating to a 1983 immigrant visa that had been issued for him when he was three years old. (Ex. BBB –

1983 Visa Face Page). The visa was issued under the name Roberto Carlos Dominguez Villavizar and stated his place of birth as Santiago, Dominican Republic. (Ex. BBB; Ex. TT 98:11-24, 100:16-19).

44. On September 23, 1999, Mr. Dominguez once again appeared *pro se* before immigration judge John Reid. For a second time, Mr. Dominguez reiterated that he goes by Roberto Carlos Dominguez, and not the surname Dominguez Villavizar. (Ex. AAA 3:13-20).
45. Mr. Dominguez told Judge Reid that he wanted to “get deported as soon as possible.” (Ex. AAA 3:22 – 4:3; Ex. TT 82:4-16). Judge Reid asked Mr. Dominguez to answer the charges the INS had lodged against him. (Ex. AAA 4:21 – 5:4). At this time Mr. Dominguez agreed that he was a native and citizen of the Dominican Republic who had immigrated to the United States on or about February 18, 1983. *Id.*
46. At the end of this hearing, Mr. Dominguez expressed confusion about his case, referred to himself as having been a “citizen in the United States,” and asked Judge Reid if he could consider not deporting him. (Ex. AAA 11:2-22). Mr. Dominguez stated that when asked where he was born, Mr. Dominguez “would always tell them I was born here in the United States because that’s what I thought all my life. And two weeks ago now, I just found out I was born over there and I never had no problems with none of that.” (Ex. AAA 11:15-19).
47. Judge Reid did not address or inquire about these comments other than to tell Mr. Dominguez he was deportable based on his criminal history and to enter a final order of removal against him. (Ex. AAA 11:23-24, 12:2-18). The judge’s oral decision notes that

Mr. Dominguez “believed until recently that he was a citizen of the United States.” (Ex. AAA 15:7-9).

48. Throughout his removal proceedings, Mr. Dominguez did not entirely understand what was happening to him, and later commented: “I don’t know how the Judge could actually do that to someone that’s like 19 years of age You know, 19 years of age, I should have been still trying to get back into high school and continuing doing my American dream, you know. And here I am facing a Judge that I don’t even know what’s going on. And, you know, like 19 years of age, I don’t have \$30,000 in an account. I didn’t even have a job to save up money so I could, you know, think about my future [T]his is just ridiculous. They just took advantage of me.” (Ex. TT 83:17 – 84:16).

V. Mr. Dominguez’s Deportation to the Dominican Republic and His Return to the United States

49. INS officials deported Mr. Dominguez to the Dominican Republic on October 13, 1999. (Ex. CCC – ICE Summary; Ex. DDD – Deportation Travel Documents).
50. Mr. Dominguez resided at his family’s home in Santiago and found temporary work to sustain him during what he believed to be a probationary period in the country. (Ex. TT 97:6-11; 94:16-19; 98:1-6). His upbringing in the United States was an advantage in finding work, as he spoke fluent English. He worked in a tourist hotel that required English speaking employees and an American call center. (Ex. TT 94:16-21; 64:25 –65:2).
51. The INS had deported Mr. Dominguez without any identification except the papers they gave him in his removal hearing relating to the 1983 visa issued for him under the name Roberto Carlos Dominguez Villavizar. (Ex. TT 98:7-10, 22 – 99:8). Needing some type of

identification, Mr. Dominguez obtained a Dominican government-issued identification card using the documents the INS had given him, as he had no others. That identification reflected the information on the 1983 visa, and stated that his name was Roberto Carlos Dominguez Villavizar and that he was born November 4th, 1979 in the Dominican Republic. (Ex. TT 99:12-15; 100:1-22).

52. Mr. Dominguez lived in Santiago from October 1999 to September 2009. During the decade Mr. Dominguez spent in the Dominican Republic post-deportation, he never realized that his exile from the United States was permanent. He waited with increasing frustration for a probation officer to contact him. Eventually, he assumed the United States government forgot about him and that an officer would not be coming to lift his probation. (Ex. TT 101:4-8, 12-18).
53. After ten years of waiting, Mr. Dominguez felt that “[i]t just got to a point where I was fed up with life, and I just, I couldn’t picture my life being like this.” (Ex. TT 101:4-8). In 2008 his family in Massachusetts contacted a local attorney, Ivan Crnilovic, to assist Mr. Dominguez in returning to the United States. (Ex. TT 101:12-18, 23 – 102:1).
54. Mr. Crnilovic and Mr. Dominguez’s family obtained a new copy of Mr. Dominguez’s valid Massachusetts birth certificate from Lawrence City Hall on February 13th, 2009 and mailed it to him in the Dominican Republic. (Ex. TT 107:14-21; Ex. EEE – 2009 U.S. Birth Cert.).¹

¹ In Defendant’s Responses to Plaintiff’s First Set of Request for Admissions, Defendant admitted that the 2009 and 1979 issued birth certificates both record the birth of the same individual and are both validly issued birth certificates. (Ex. C #1 and 2).

55. Mr. Crnilovic sent Mr. Dominguez both a copy of the birth certificate and a nearly completed passport application form. When Mr. Dominguez received the form, all of the information was filled in with information except his emergency contact information and his signature. (Ex. TT 123:8-22). The biographical information on the application matched the information on Mr. Dominguez's U.S. birth certificate. (Ex. TT 109:10-22; 110:6-25).
56. In April 2009, Mr. Dominguez presented his U.S. birth certificate and passport application to the United States Embassy in Santo Domingo. (Ex. FFF – Notes from US Consulate). Upon request from the consular officials, he returned with a number of photographs of himself as a young child. (Ex. TT 117:20-25; Ex. FFF 000029). The photos show Mr. Dominguez “at the time of his birth” and “before the age of 5” playing in the snow and generally living in the United States. (Ex. FFF 000024, 000029). He also brought the hospital crib tag with the name of his mother which matched his birth certificate, and well as school records from the United States. (Ex. FFF 000029; Ex. T). He attempted, but was not able to produce medical records from Lawrence General Hospital. In accordance with Massachusetts law, his records were inaccessible, as they were more than 20 years old. (Ex. TT 118:1-16; Ex. FFF 000029; Ex. GGG – Hospital Records Response).
57. Persuaded by the evidence presented to them, the consulate officials determined Mr. Dominguez to be a United States citizen and issued him a United States passport on September 2, 2009. (Ex. FFF 000029; Ex. HHH – Revocation Letter).
58. Mr. Dominguez returned to the United States on September 19, 2009, shortly after receiving his new passport. (Ex. TT 74:25 – 75:1; Ex. III – 2009 U.S. Passport). He

immediately moved back to his old neighborhood in Lawrence, Massachusetts. (Ex. TT 129:10-16).

VI. State Department Investigation into Mr. Dominguez's Passport and Subsequent Passport Revocation

59. On October 05, 2011, the Haverhill Police arrested Mr. Dominguez on a controlled substances charge. (Ex. CCC). His fingerprints were taken and were accessed by Immigration and Customs Enforcement ("ICE"). Based on this information, ICE determined him to be a previously deported non-citizen improperly in the country. (Ex. CCC). ICE agents visited Mr. Dominguez in Essex County Jail to investigate his alienage. (Ex. JJJ – State Dept. Investigative Report 000014).
60. Mr. Dominguez told ICE officers that he was a U.S. citizen and offered his U.S. passport as proof. (Ex. JJJ 000013; Ex. LLL – D. Baldwin Dep. – 20:6-13).
61. ICE referred the case to the Diplomatic Security Service ("DSS"), the State Department agency responsible for conducting potential passport fraud investigations. Special Agent Douglas Baldwin opened an investigation into the validity of Mr. Dominguez's passport, and in effect, his claim of US citizenship. (Ex. JJJ 000013; Ex. LLL 16:19-23, 17:18 – 18:4).
62. Agent Baldwin received Mr. Dominguez's "A-file," or his immigration records, detailing his 1999 removal proceeding and documents associated with it, as well as Mr. Dominguez's 2009 U.S. passport application. The file included Mr. Dominguez's Massachusetts birth certificate. (Ex. JJJ 000014; Ex. LLL 23:8-23; Ex. KKK – Passport Application).

63. Agent Baldwin confirmed through fingerprints records and photographs that Plaintiff was the individual associated with the A-file in Agent Baldwin's possession. (Ex. JJJ 000014, 000015; Ex. LLL 27:10-17, 28:14-22; 56:24 – 57:5).
64. On October 13, 2011, Agent Baldwin conducted a field visit to Lawrence City Hall to personally verify the validity of the Massachusetts birth certificate Mr. Dominguez had used to obtain his U.S. passport. (Ex. JJJ 000014; Ex. LLL 29:14-17, 32:5-10). A City Hall clerk confirmed the document to be valid and describing the birth of a Roberto Carlos Dominguez on November 9, 1979 at Lawrence General Hospital in Lawrence, Massachusetts. (Ex. JJJ 000014; Ex. LLL 32:17-20).
65. Agent Baldwin believed Mr. Dominguez committed passport fraud throughout his fraud investigation. (Ex. LLL 65:19 – 65:1). Even after receiving confirmation of the validity of the U.S. birth certificate Mr. Dominguez had presented, Agent Baldwin continued to believe that Mr. Dominguez had committed fraud. (Ex. LLL 38:16-24). Agent Baldwin believed the Plaintiff's A-file described the legal deportation of a noncitizen, and thus, believed that Mr. Dominguez must have committed fraud in presenting himself as a U.S. citizen by birth. (Ex. LLL 40:15-22, 57:13-18; 58:24 – 59:15).
66. As explanation for the valid U.S. birth certificate in the file, Agent Baldwin suspected that the birth certificate belonged to another person named Roberto Carlos Dominguez, not Plaintiff, born on November 09, 1979 at Lawrence General Hospital in Lawrence, Massachusetts. He conducted a criminal history search and a check of other databases for proof of the existence of this other Mr. Dominguez. His searches did not produce any

records relating to this individual. (Ex. LLL 50:2-23, 51:10-17, 78:3-12, 19-21; *See* Ex. JJJ).

67. Agent Baldwin was unable to uncover evidence of the existence or location of another person named Roberto Carlos Dominguez whose birth the Massachusetts birth certificate described. (Ex. LLL 50:10-23, 52:13-17, 53:2-6; *See* Ex. JJJ). To this date, Defendant has no information about the location of another person named Roberto Carlos Dominguez to whom the Massachusetts birth certificate relates. (Ex. E #13).
68. Agent Baldwin did not speak or attempt to speak with the Plaintiff or any of the Plaintiff's family during his investigation, believing there would be no value in asking them if there was any explanation for the conflicting records pertaining to the Mr. Dominguez's birth and history. (Ex. LLL 61:10-22, 62:3-7, 64:10-16, 77:4-16; Ex. E #4-5).
69. Agent Baldwin concluded his investigation into Mr. Dominguez's potential passport fraud by finding that fraud had been committed and concluding that Mr. Dominguez had violated a number of federal criminal statutes, including making a false claim to United States citizenship, 18 U.S.C. § 911. (Ex. JJJ 000013, 000016; *See* Ex. LLL 46:1-20). In finding a violation of 18 U.S.C. § 911, Agent Baldwin determined Mr. Dominguez to not have been born in the United States. (*See* Ex. JJJ; *See* Ex. LLL 46:14-23).
70. Agent Baldwin forwarded his completed investigatory report with his findings to the Boston Passport Agency. (Ex. LLL74:18 – 75:1).
71. As a result of Agent Baldwin's finding of passport fraud, the U.S. Department of State Passport Services, Office of Legal Affairs issued a letter dated October 31, 2011,

informing Mr. Dominguez that his passport was revoked in accordance with 22 C.F. R. § 51.62(a)(2), in that it was obtained “illegally, fraudulently or erroneously.” (Ex. HHH). The Office of Legal Affairs produced an accompanying cover letter to the revocation letter, also dated October 31, 2011. Both letters were sent to Agent Baldwin, with the cover letter requesting that the underlying revocation letter be delivered to Mr. Dominguez. The cover letter states that Plaintiff “is not a U.S. national and is therefore not entitled to a U.S. passport.” (Ex. HHH).

72. Special Agent Baldwin faxed the passport revocation cover letter to Mr. Dominguez’s counsel in October 2011. (Ex. LLL 81:2-17).

VII. Plaintiff’s Discovery of His Family’s Immigration History

73. As a result of factual investigation by his attorneys, Plaintiff learned for the first time between 2011 and the present why an immigrant visa had been issued for him in 1983 and why the federal government had alleged that he was born in the Dominican Republic. (Ex. TT 131:17 – 132:9).

74. This factual investigation uncovered that Plaintiff’s father Juan had petitioned for immigrant visas (commonly known as green cards) for Juana and all three of their children when Mr. Dominguez was an infant. (Ex. A 76:2-16). In doing so, Juan Dominguez had filed paperwork representing that his three children, including Plaintiff, had been born in the Dominican Republic. (Ex. MMM – I-130 Petition for Plaintiff; Ex. QQQ – Visa Application for Plaintiff).

75. Juan and Juana had done this in order to have all three of their children listed under Juana's real identity instead of having one child, Plaintiff, registered under the Patria alias. (Ex. A 68:10 – 70:20; 82:2-4).
76. In furtherance of this plan, Juana had a friend register Mr. Dominguez's birth in the Dominican Republic in January 1980 as if it had occurred on November 4, 1979 in Santiago, Dominican Republic. (Ex. A 81:1-7, 82:2-4; 84:19-21). November 4 was not Mr. Dominguez's actual date of birth; this was a date Juana made up for use on the Dominican birth registration. (Ex. A 83:03 – 84:08). No documents or proof of birth in the Dominican Republic were required to register the birth. (Ex. A 81:19-20; 85:9-16). Juana obtained a birth registration document that listed her and Juan under their own names as Mr. Dominguez's parents. (Ex. OOO – Dominican Birth Registration).
77. After Mr. Dominguez's birth, Juana and Juan civilly married on December 31, 1979. (Ex. A 87:19-21). In March 1980, after Plaintiff's birth had been re-registered in the Dominican Republic, Juan petitioned for Juana and all three children using an I-130 family petition. (Ex. A 76:13-16; Ex. MMM; Ex. PPP – I-130 Group Approval). The family petitions were approved in November 1980, and Juan subsequently filed immigrant visa applications for his wife and three children. (Ex. PPP; Ex. QQQ).
78. All of the immigration paperwork Plaintiff's father filed for him in 1980 and after states that Plaintiff's father was living at 70 Cross Street in Lawrence, MA. (Ex. MMM; Ex. PPP; Ex. QQQ).

79. Juana's immigrant visa was approved first. She traveled to the Dominican Republic, where she left Plaintiff in the care of his grandparents and re-entered the United States under her own name. (Ex. A 93:23 – 94:1-2; Ex. QQQ). After Juana received her own green card, she never used the "Patria" identity again. (Ex. A 103:7-14).
80. In 1983, after the children's visas were approved, Luline Dominguez went to the Dominican Republic and brought her three grandchildren back with her to the United States. (Ex. A 79:5 – 80:15; 98:4-7). Plaintiff entered the United States on an immigrant visa in February 1983, at the age of three, with his visa stating that he would be residing at "70 Across St., Lawrence, Mass." (Ex. NNN).
81. After returning to the United States with her own green card, Juana registered Mr. Dominguez and her other children for school with the Dominican documents. (Ex. A 105:1-3, 19-23). Juana sought healthcare for Mr. Dominguez using the Dominican documents. (Ex. A 103:22 – 104:3). Juana used these documents because she thought it would be best to have all three children listed for official purposes under her true name. (Ex. A 70:4-20).
82. Until the initiation of his lawsuits, Plaintiff was not aware that his mother had used another identity to enter the United States prior to his birth in Lawrence, Massachusetts. (Ex. TT 60:17 – 61:13). Plaintiff was also never aware that his birth had been registered in the Dominican Republic after his birth in Lawrence, Massachusetts. (Ex. TT 127:20-24).
83. Mr. Dominguez is not angry at his parents for their actions or for keeping "family secrets" that he has only recently discovered, but has suffered immensely from the consequences,

including his deportation, ten years in the Dominican Republic, and revocation of his passport. “It’s awful, man. It’s awful. To this day, look where I am sitting. I’m supposed to be working, enjoying my life, trying to make it up to my kids that I missed ten years. It’s awful, [d]ude. It’s just awful.” (Ex. TT 132:13 – 133:7).

Respectfully submitted,

/s/ Andrea Saenz

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