

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

MATTHEW SMITH and AKILA
RADHAKRISHNAN,

Plaintiffs,

v.

DONALD J. TRUMP, in his official capacity as
President of the United States; U.S.
DEPARTMENT OF STATE; MARCO RUBIO, in
his official capacity as Secretary of State; U.S.
DEPARTMENT OF THE TREASURY; SCOTT
BESSENT, in his official capacity as Secretary of
the Treasury; U.S. DEPARTMENT OF JUSTICE;
PAMELA BONDI, in her official capacity as
Attorney General; OFFICE OF FOREIGN ASSETS
CONTROL; and LISA M. PALLUCONI, in her
official capacity as Acting Director of the Office of
Foreign Assets Control,

Defendants.

Civil Case No.: 1:25-cv-00158-NT

DECLARATION OF MATTHEW SMITH

I, Matthew Smith, hereby declare as follows:

1. I am a plaintiff in the above-captioned action.
2. I am the co-founder and Chief Executive Officer of Fortify Rights. I reside in Stockton Springs, Maine and am a citizen of the United States.
3. Fortify Rights is an award-winning nonprofit, nongovernmental organization. It investigates human rights violations, engages with officials and institutions regarding potential solutions to human rights concerns, and strengthens defenders of human rights. My work with Fortify Rights has exposed genocide, war crimes, crimes against humanity, multi-billion-dollar corruption, and other human rights violations.
4. For years, I have worked closely with victims and survivors of heinous crimes in Myanmar, including massacres, mass rape, mutilations, and other acts that constitute genocide and crimes against humanity. A major part of this work involves helping victims and survivors seek justice at the International Criminal Court (“ICC”), which requires me to communicate with the ICC’s Office of the Prosecutor (“OTP”).
5. I have met repeatedly with OTP employees, including at senior leadership levels, to give them guidance and information. These include the staff leading the Bangladesh/Myanmar investigation, international cooperation advisers, a Special Advisor to the Prosecutor, and a Country Expert.
6. I lead Fortify Rights’s work on investigative reports detailing atrocity crimes against the Rohingya population in Myanmar. I have provided these reports to OTP personnel to support the Bangladesh/Myanmar investigation. In fact, then-Prosecutor Bensouda cited one of these reports dozens of times in her successful request to the ICC Pre-Trial Chamber to authorize the Bangladesh/Myanmar investigation.

7. My colleagues and I gather direct evidence of atrocity crimes committed against the Rohingya, and I have shared this evidence with OTP personnel. Recently, in March 2023, I had two virtual meetings with a Special Advisor to the Prosecutor. During these meetings, I shared general information about my and my team's investigative work relating to Myanmar generals and others responsible for committing atrocity crimes in Myanmar. I also shared sensitive information about a large trove of official Myanmar documents. These included internal memos and notes from Myanmar Cabinet-level meetings that took place during the Rohingya genocide. A witness on the senior staff of Myanmar's head of state during the Rohingya genocide gave me this evidence personally, and expressed a willingness to cooperate with international justice mechanisms. At the time, the witness was in a precarious situation, living in hiding from the Myanmar junta on the Thailand-Myanmar border. I discussed with the Prosecutor's Advisor the importance of getting the witness to safety so that they could share evidence and cooperate with prosecutions in the future. The witness was subsequently resettled from Thailand to a third country.

8. In March 2024, I met virtually with senior OTP staff to share information about a high-ranking Myanmar military officer who had fled to Bangladesh. The officer was facing forced return to Myanmar by the Bangladeshi authorities. Fortify Rights had information that this officer was responsible for atrocities against Rohingya civilians in Myanmar in 2017. I asked the OTP to intervene, since the officer could potentially contribute to the ICC's evidence of atrocities committed by the Myanmar military. In less than 24 hours, ICC personnel told me that the OTP was actively addressing the matter.

9. In August 2024, I provided the OTP with evidence of the involvement of the non-state Arakan Army in atrocity crimes against Rohingya women, men, and children.

10. Going forward, in response to a request from the head of the OTP's Myanmar investigation, I planned to give the OTP information about our advocacy with States Parties that would help the OTP expand its jurisdiction to investigate ongoing atrocities in Myanmar, including information shared with me personally by the President of Timor-Leste. I had planned to give the OTP more evidence, including newly uncovered details of ongoing mass atrocity crimes committed by non-state actors in Myanmar. And I had planned to give the OTP information—known only to Fortify Rights—that identifies members of the Myanmar military junta who may be criminally liable for their role in deadly airstrikes against civilian targets. I have not shared these things with the OTP because of the Executive Order and designation of the Prosecutor.

11. In 2024, an OTP representative told me that a delegation from Myanmar would be helpful in explaining why the OTP's jurisdiction should expand to encompass more crimes being committed Myanmar. I had planned to organize such a delegation to The Hague this year, but because of the Executive Order and designation of the Prosecutor, I abandoned that plan.

12. On March 18, 2025, Fortify Rights and I published a report on widespread, heinous violence committed against Rohingya refugees in Bangladesh by Rohingya-led militant groups. That same day, Bangladeshi authorities arrested the leader of an armed group featured in the report. If not for the Executive Order and designation of the Prosecutor, I would have immediately communicated with OTP staff about liaising with local authorities in Dhaka, Bangladesh to help ensure that OTP could take custody of the arrested militant leader.

13. The threat of civil and criminal penalties for violations of the International Emergency Economic Powers Act has caused me to stop ongoing and planned communications with the OTP. If not for the Executive Order and designation of the Prosecutor, I would have engaged in these communications both in the United States and abroad, exchanging information

with people in other countries via the Internet or telephonically. I intend to immediately resume communicating with the OTP if the government is enjoined from enforcing Executive Order and designation of the Prosecutor, or if the Executive Order and designation of the Prosecutor are rescinded.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed in Stockton Springs, Maine on April 24, 2025.

A handwritten signature in black ink, appearing to read "Matthew Smith", written in a cursive style.

Matthew Smith