ABDIQAFAR WAGAFE, et al., on behalf of themselves and others similarly situated, Plaintiffs,

v.

JOSEPH R. BIDEN, President of the United States, et al., Defendants.

I, Jennifer Pasquarella, hereby declare:

1. I have personal knowledge of the facts stated below and am competent to testify regarding the same. I am one of the attorneys for Plaintiffs in this matter, Wagafe v. Biden, No. 17-cv-00094 RAJ.

2. Attached as Exhibit 101 is a true and correct copy of a document produced in this case with a Bates range of CAR000008-09.

3. Attached as Exhibit 102 is a true and correct copy of a document produced in this case with a Bates range of CAR000056-57.

4. Attached as Exhibit 103 are true and correct copies of excerpts from 11 bills introduced in the United States Congress but never enacted.

5. Attached as Exhibit 104 are true and correct copies of excerpts from the September 2, 2020 FRCP 30(b)(6) deposition of USCIS.
Attached as **Exhibit 105** is a true and correct copy of a document produced in this case with a Bates range of CAR001140-1336.

Attached as **Exhibit 106** is a true and correct copy of a document produced in this case with a Bates range of DEF-0093115-121.

Attached as **Exhibit 107** are true and correct copies of excerpts from the September 23, 2011 deposition of Roberto Osuna taken in *Hamdi v. USCIS*, No. ED CV 10-00894 VAP (DTBx) (C.D. Cal.).

Attached as **Exhibit 108** is a true and correct copy of Yliana Johansen-Méndez’s expert report.

Attached as **Exhibit 109** is a true and correct copy of Christopher Burbank’s expert report.

Attached as **Exhibit 110** are true and correct copies of excerpts from the October 8, 2020 deposition of Nadia Daud.

Attached as **Exhibit 111** are true and correct copies of excerpts from the September 30, 2020 deposition of Anthony Negrut-Calinescu.

Attached as **Exhibit 112** are true and correct copies of excerpts from the September 23, 2020 deposition of Kelley Costello.

Attached as **Exhibit 113** is a true and correct copy of an excerpt from a CARRP training produced through the Freedom of Information Act.

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

EXECUTED this 11th day of June, 2021, in Seattle, Washington.

/s/ Jennifer Pasquarella

Jennifer Pasquarella
EXHIBIT 101
Interoffice Memorandum

TO: FIELD LEADERSHIP
FROM: Don Neufeld
Acting Associate Director, Domestic Operations
DATE: APR 24 2008
RE: Operational Guidance for Vetting and Adjudicating Cases with National Security Concerns

Introduction

A central mission of United States Citizenship and Immigration Services (USCIS) is to protect the integrity of the U.S. immigration system and preserve the safety of our homeland. National security (NS) matters are a primary consideration in USCIS adjudications and measures must be adopted to ensure a consistent approach in resolving these concerns. In order to efficiently process cases with NS issues and mitigate potential risks to national security, USCIS is delegating decision-making authority to the field. This authority includes the responsibility for the vetting and adjudication of applications and petitions involving national security concerns.

Purpose

This memorandum and attached operational guidance provides instruction to USCIS Field Offices for vetting and adjudicating cases with national security concerns. Issuance of this memorandum implements the recently distributed policy memorandum entitled, "Policy for Vetting and Adjudicating Cases with National Security Concerns."
new policy establishes the Controlled Application Review and Resolution Program (CARRP), which consists of a four-step process of evaluating national security concerns.

Effective immediately, all Field Offices are directed to comply with the attached operational guidance and instructions when adjudicating applications or petitions with national security concerns.

**Training**

A train the trainer session has been scheduled from May 5-9 in Washington, DC for identified field officers. These new trainers, along with FDNS personnel, will then be deployed to provide training to additional staff from May 12-23.

The additional field officers who will be identified to receive this training will attend a one week training session during the week of May 12 or May 19. Training sites during the week of May 12 will be at the National Benefits Center, Texas Service Center, California Service Center and a location to be determined in the New York City area. Training sites during the week of May 19 will be at the 3 aforementioned centers.

Coordination of this training is being handled by Headquarters, Regional Office and Service Center representatives.

**Contact**

USCIS personnel with questions regarding this memorandum should raise them through the appropriate channels to the Office of Field Operations and Service Center Operations.

**Distribution List:**
Regional Directors  
District Directors  
Field Office Directors  
Service Center Directors

**Attachments:**
CARRP Policy Memorandum  
Operational Guidance  
KST Flowchart  
Non-KST Flowchart
EXHIBIT 102
Interoffice Memorandum

To: All Refugee Affairs Division Personnel

From: Barbara L. Strack, Chief, Refugee Affairs Division

Date: May 14, 2008

Re: Operational Guidance for Vetting and Adjudicating Refugee Cases with National Security Concerns

On April 11, 2008, USCIS Deputy Director Scharfen issued the memorandum “Policy for Vetting and Adjudicating Cases with National Security Concerns.” This policy, known as the Controlled Application Review and Resolution Program (CARRP), provides USCIS adjudicators instructions for identifying, vetting, and adjudicating cases with national security concerns. The policy outlines a four-step process for adjudicators to follow when analyzing and vetting national security information and assessing eligibility for cases when national security information is identified. This memorandum defines headquarters and field responsibilities and establishes the Fraud Detection and National Security - Data System (FDNS-DS) as the primary system for recording activities.

With the issuance of this memorandum, Refugee Affairs Division (RAD) is establishing procedures for all refugee status adjudications involving an applicant for whom national security information is identified. The attached operational guidance outlines the responsibilities at RAD headquarters and field level in identifying, vetting, and adjudicating refugee cases containing national security concerns. This guidance assigns to Headquarters RAD (HQRAD) Integrity Unit the responsibility for external vetting efforts (for non-Known or Suspected Terrorist (non-KST) cases), deconfliction activities, and coordination/communication with Headquarters FDNS (HQFDNS).

The guidance instructs the field to document identified national security information and adjudicator analysis of this information in the Refugee Application Assessment. It further describes the requirement for completion of the Background Check and Adjudicative Assessment (BCAA) and the case entry into FDNS-DS for 1) All KST cases; 2) cases where a national security concern has been confirmed and the application is

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Operational Guidance for Vetting and Adjudicating Refugee Cases with National Security Concerns

Page 2

recommended for approval; and 3) cases determined to present a tangible/imminent threat/risk to the US, even cases resulting in denial.

This operational guidance requires all refugee cases containing national security concerns to undergo supervisory review. Additional review and concurrence by HQRAD is required for the approval of any case containing an unresolved national security concern.

Questions

Questions related to this memorandum may be directed to Mary Margaret Stone, RAD Policy and Analysis Section.

Attachments: 1) USCIS memorandum of April 11, 2008, “Policy for Vetting and Adjudicating Cases with National Security Concerns”

2) Refugee Adjudication Standard Operating Procedures: Cases Involving National Security Concerns
EXHIBIT 103
EXHIBIT 103.A
H.R. 3938 (2005)
SEC. 120. COMPLETION OF BACKGROUND AND SECURITY CHECKS.

Section 103 of the Immigration and Nationality Act (8 U.S.C. 1103) is amended by adding at the end the following:

“(i) Notwithstanding any other provision of law, the Secretary of Homeland Security, the Attorney General, or any court may not—

“(1) grant or order the grant of adjustment of status to that of an alien lawfully admitted for permanent residence;

“(2) grant or order the grant of any other status, relief, protection from removal, or other benefit under the immigration laws; or

“(3) issue any documentation evidencing or related to such grant by the Attorney General, the Secretary, or any court,

until such background and security checks as the Secretary may in his discretion require have been completed to the satisfaction of the Secretary.”.

SEC. 121. DENIAL OF BENEFITS TO TERRORISTS AND CRIMINALS.

Chapter 4 of title III of the Immigration and Nationality Act (8 U.S.C. 1501 et seq.) is amended by adding at the end the following:

• HR 3938 IH
CONSTRUCTION

"SEC. 362. (a) Nothing in this Act or any other provision of law shall be construed to require the Secretary of Homeland Security, the Attorney General, the Secretary of State, the Secretary of Labor, or any other authorized head of any agency to grant any application, approve any petition, or grant or continue any status or benefit under the immigration laws by, to, or on behalf of—

"(1) any alien described in subparagraphs (A)(i), (A)(iii), (B), or (F) of sections 212(a)(3) or subparagraphs (A)(i), (A)(iii), or (B) of section 237(a)(4);

"(2) any alien with respect to whom a criminal or other investigation or case is pending that is material to the alien’s inadmissibility, deportability, or eligibility for the status or benefit sought; or

"(3) any alien for whom all law enforcement checks, as deemed appropriate by such authorized official, have not been conducted and resolved.

"(b) An official described in subsection (a) may deny or withhold (with respect to an alien described in subsection (a)(1)) or withhold pending resolution of the investigation, case, or law enforcement checks (with respect to an alien described in paragraph (2) or (3) of subsection
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(a)) any such application, petition, status or benefit on
such basis.”.

SEC. 122. REINSTATEMENT OF PREVIOUS REMOVAL OR-

DERS.

(a) IN GENERAL.—Section 241(a)(5) of the Immi-

gration and Nationality Act (8 U.S.C. 1231(a)(5)) is
amended to read as follows:

“(5) REINSTATEMENT OF PREVIOUS REMOVAL
ORDERS.—

“(A) REMOVAL.—The Secretary of Home-

land Security shall remove an alien who is an
applicant for admission (other than an admiss-
sible alien presenting himself or herself for in-
spection at a port of entry or an alien paroled
into the United States under section
212(d)(5)), after having been, on or after Sep-
tember 30, 1996, excluded, deported, or re-
moved, or having departed voluntarily under an
order of exclusion, deportation, or removal.

“(B) JUDICIAL REVIEW.—The removal de-
scribed in subparagraph (A) shall not require
any proceeding before an immigration judge,
and shall be under the prior order of exclusion,
deportation, or removal, which is not subject to
reopening or review. The alien is not eligible
EXHIBIT 103.B
H.R. 4313 (2005)
under section 244 of the Immigration and Nationality Act (8 U.S.C. 1254a), or having such a designation extended, before the date of the enactment of this Act, an alien who is a national of such state (or in the case of an alien having no nationality, is a person who last habitually resided in such state), and was unlawfully present in the United States on the date of such designation or extension, shall be subject to paragraph (2).

(2) ALIENS INELIGIBLE.—An alien described in paragraph (1) shall not be considered eligible for temporary protected status under section 244 pursuant to any initial or succeeding extension of a designation described in such paragraph that takes effect after the date of the enactment of this Act, unless a law to the contrary is enacted before such effective date, except that if the Congress is adjourned sine die on such effective date, the alien may be granted temporary protected status for a period of not more than 4 months.

SEC. 324. COMPLETION OF BACKGROUND AND SECURITY CHECKS.

Section 103 of the Immigration and Nationality Act (8 U.S.C. 1103) is amended by adding at the end the following new subsection:
“(i) Notwithstanding any other provision of law, the Secretary of Homeland Security, the Attorney General, or any court shall not—

“(1) grant or order the grant of adjustment of status to that of an alien lawfully admitted for permanent residence;

“(2) grant or order the grant of any other status, relief, protection from removal, or other benefit under the immigration laws; or

“(3) issue any documentation evidencing or related to such grant by the Attorney General, the Secretary, or any court, until such background and security checks as the Secretary may in his discretion require have been completed to the satisfaction of the Secretary.”.

SEC. 325. DENIAL OF BENEFITS TO TERRORISTS AND CRIMINALS.

Chapter 4 of title III of the Immigration and Nationality Act (8 U.S.C. 1501 et seq.) is amended by adding at the end the following new section:

“CONSTRUCTION

“Sec. 362. (a) Nothing in this Act or any other provision of law shall be construed to require the Secretary of Homeland Security, the Attorney General, the Secretary of State, the Secretary of Labor, or any other authorized head of any agency to grant any application, ap--
prove any petition, or grant or continue any status or benefit under the immigration laws by, to, or on behalf of—

“(1) any alien described in subparagraphs (A)(i), (A)(iii), (B), or (F) of sections 212(a)(3) or subparagraphs (A)(i), (A)(iii), or (B) of section 237(a)(4);

“(2) any alien with respect to whom a criminal or other investigation or case is pending that is material to the alien’s inadmissibility, deportability, or eligibility for the status or benefit sought; or

“(3) any alien for whom all law enforcement checks, as deemed appropriate by such authorized official, have not been conducted and resolved.

“(b) An official described in subsection (a) may—

“(1) with respect to an alien described in subsection (a)(1), deny or withhold any such application, petition, status, or benefit on such basis; or

“(2) with respect to an alien described in paragraph (2) or (3) of subsection (a), withhold pending resolution of the investigation, case, or law enforcement checks any such application, petition, status, or benefit on such basis.”.

SEC. 326. REPEAL OF SECTION 245(i).

Section 245(i) of the Immigration and Nationality Act (8 U.S.C. 1255(i)) is repealed.
EXHIBIT 103.C
S. 2611 (2006)
nocent third parties from the threats posed by armed criminals. The Secretary shall ensure that the policies of the Department authorize all agents to carry weapons that are suited to the potential threats that they face.

(c) Uniforms.—The Secretary shall ensure that all agents are provided with all necessary uniform items, including outerwear suited to the climate, footwear, belts, holsters, and personal protective equipment, at no cost to such agents. Such items shall be replaced at no cost to such agents as they become worn, unserviceable, or no longer fit properly.

SEC. 165. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary such sums as may be necessary for each of the fiscal years 2007 through 2011 to carry out this subtitle.

TITLE II—INTERIOR ENFORCEMENT

SEC. 201. REMOVAL AND DENIAL OF BENEFITS TO TERRORIST ALIENS.

(a) Asylum.—Section 208(b)(2)(A)(v) (8 U.S.C. 1158(b)(2)(A)(v)) is amended by striking “or (VI)” and inserting “(V), (VI), (VII), or (VIII)”.

(b) Cancellation of Removal.—Section 240A(c)(4) (8 U.S.C. 1229b(c)(4)) is amended—
(1) by striking “inadmissible under” and inserting “described in”; and

(2) by striking “deportable under” and inserting “described in”.

(c) VOLUNTARY DEPARTURE.—Section 240B(b)(1)(C) (8 U.S.C. 1229c(b)(1)(C)) is amended by striking “deportable under section 237(a)(2)(A)(iii) or section 237(a)(4)” and inserting “described in paragraph (2)(A)(iii) or (4) of section 237(a)”.

(d) RESTRICTION ON REMOVAL.—Section 241(b)(3)(B) (8 U.S.C. 1231(b)(3)(B)) is amended—

(1) in clause (iii), by striking “or” at the end;

(2) in clause (iv) by striking the period at the end and inserting “; or”;

(3) by inserting after clause (iv) the following:

“(v) the alien is described in section 237(a)(4)(B) (other than an alien described in section 212(a)(3)(B)(i)(IV) if the Secretary of Homeland Security determines that there are not reasonable grounds for regarding the alien as a danger to the security of the United States).”;

and

(4) in the undesignated paragraph, by striking “For purposes of clause (iv), an alien who is de-
scribed in section 237(a)(4)(B) shall be considered to be an alien with respect to whom there are reasonable grounds for regarding as a danger to the security of the United States.”.

(e) RECORD OF ADMISSION.—Section 249 (8 U.S.C. 1259) is amended to read as follows:

“SEC. 249. RECORD OF ADMISSION FOR PERMANENT RESIDENCE IN THE CASE OF CERTAIN ALIENS WHO ENTERED THE UNITED STATES PRIOR TO JANUARY 1, 1972.

“A record of lawful admission for permanent residence may be made, in the discretion of the Secretary of Homeland Security and under such regulations as the Secretary may prescribe, for any alien, as of the date of the approval of the alien’s application or, if entry occurred before July 1, 1924, as of the date of such entry if no such record is otherwise available, if the alien establishes that the alien—

“(1) is not described in section 212(a)(3)(E) or in section 212(a) (insofar as it relates to criminals, procurers, other immoral persons, subversives, violators of the narcotics laws, or smugglers of aliens);

“(2) entered the United States before January 1, 1972;
EXHIBIT 103.D
S. 2612 (2006)
(f) SUPPLEMENT NOT SUPPLANT.—Amounts appropriated for grants under this section shall be used to supplement and not supplant other State and local public funds obligated for the purposes provided under this title.

SEC. 154. ENFORCEMENT OF FEDERAL IMMIGRATION LAW.

Nothing in this subtitle shall be construed to authorize State or local law enforcement agencies or their officers to exercise Federal immigration law enforcement authority.

TITLE II—INTERIOR ENFORCEMENT

SEC. 201. REMOVAL AND DENIAL OF BENEFITS TO TERRORIST ALIENS.

(a) ASYLUM.—Section 208(b)(2)(A)(v) (8 U.S.C. 1158(b)(2)(A)(v)) is amended by striking “or (VI)” and inserting “(V), (VI), (VII), or (VIII)”.

(b) CANCELLATION OF REMOVAL.—Section 240A(c)(4) (8 U.S.C. 1229b(c)(4)) is amended—

(1) by striking “inadmissible under” and inserting “described in”; and

(2) by striking “deportable under” and inserting “described in”.

(e) VOLUNTARY DEPARTURE.—Section 240B(b)(1)(C) (8 U.S.C. 1229c(b)(1)(C)) is amended by striking “deportable under section 237(a)(2)(A)(iii) or
section 237(a)(4)’’ and inserting ‘‘described in paragraph (2)(A)(iii) or (4) of section 237(a)’’.

(d) Restriction on Removal.—Section 241(b)(3)(B) (8 U.S.C. 1231(b)(3)(B)) is amended—

(1) in clause (iii), by striking ‘‘or’’ at the end;

(2) in clause (iv) by striking the period at the end and inserting ‘‘; or’’;

(3) by inserting after clause (iv) the following:

‘‘(v) the alien is described in section 237(a)(4)(B) (other than an alien described in section 212(a)(3)(B)(i)(IV) if the Secretary of Homeland Security determines that there are not reasonable grounds for regarding the alien as a danger to the security of the United States).’’;

and

(4) in the undesignated paragraph, by striking ‘‘For purposes of clause (iv), an alien who is described in section 237(a)(4)(B) shall be considered to be an alien with respect to whom there are reasonable grounds for regarding as a danger to the security of the United States.’’.

(e) Record of Admission.—Section 249 (8 U.S.C. 1259) is amended to read as follows:
“SEC. 249. RECORD OF ADMISSION FOR PERMANENT RESIDENCE IN THE CASE OF CERTAIN ALIENS WHO ENTERED THE UNITED STATES PRIOR TO JANUARY 1, 1972.

“A record of lawful admission for permanent residence may be made, in the discretion of the Secretary of Homeland Security and under such regulations as the Secretary may prescribe, for any alien, as of the date of the approval of the alien’s application or, if entry occurred before July 1, 1924, as of the date of such entry if no such record is otherwise available, if the alien establishes that the alien—

“(1) is not described in section 212(a)(3)(E) or in section 212(a) (insofar as it relates to criminals, procurers, other immoral persons, subversives, violators of the narcotics laws, or smugglers of aliens);

“(2) entered the United States before January 1, 1972;

“(3) has resided in the United States continuously since such entry;

“(4) is a person of good moral character;

“(5) is not ineligible for citizenship; and

“(6) is not described in section 237(a)(4)(B).”.

(f) EFFECTIVE DATE AND APPLICATION.—The amendments made by this section shall—
(1) take effect on the date of the enactment of this Act; and

(2) apply to any act or condition constituting a ground for inadmissibility, excludability, or removal occurring or existing on or after the date of the enactment of this Act.
EXHIBIT 103.E
S. 2454 (2006)
partment, there are authorized to be appropriated to the
Office, to enable the Office to carry out this section—
(1) for fiscal year 2007, not less than 5 percent
of the overall budget of the Office for such fiscal
year;
(2) for fiscal year 2008, not less than 6 percent
of the overall budget of the Office for such fiscal
year; and
(3) for fiscal year 2009, not less than 7 percent
of the overall budget of the Office for such fiscal
year.

TITLE II—INTERIOR
ENFORCEMENT

SEC. 201. REMOVAL AND DENIAL OF BENEFITS TO TER-
RORIST ALIENS.
(a) ASYLUM.—Section 208(b)(2)(A)(v) (8 U.S.C.
1158(b)(2)(A)(v)) is amended by striking “or (VI)” and
inserting “(V), (VI), (VII), or (VIII)”.
(b) CANCELLATION OF REMOVAL.—Section
240A(c)(4) (8 U.S.C. 1229b(c)(4)) is amended—
(1) by striking “inadmissible under” and insert-
ing “described in”; and
(2) by striking “deportable under” and insert-
ing “described in”.

•S 2454 PCS
(c) **VOLUNTARY DEPARTURE.**—Section 240B(b)(1)(C) (8 U.S.C. 1229c(b)(1)(C)) is amended by striking "deportable under section 237(a)(2)(A)(iii) or section 237(a)(4)" and inserting "described in paragraph (2)(A)(iii) or (4) of section 237(a)".

(d) **RESTRICTION ON REMOVAL.**—Section 241(b)(3)(B) (8 U.S.C. 1231(b)(3)(B)) is amended—

(1) in clause (iii), by striking "or" at the end;

(2) in clause (iv) by striking the period at the end and inserting "; or";

(3) by inserting after clause (iv) the following:

"(v) the alien is described in section 237(a)(4)(B) (other than an alien described in section 212(a)(3)(B)(i)(IV) if the Secretary of Homeland Security determines that there are not reasonable grounds for regarding the alien as a danger to the security of the United States)."; and

(4) in the undesignated paragraph, by striking "For purposes of clause (iv), an alien who is described in section 237(a)(4)(B) shall be considered to be an alien with respect to whom there are reasonable grounds for regarding as a danger to the security of the United States.".
(e) RECORD OF ADMISSION.—Section 249 (8 U.S.C. 1259) is amended to read as follows:

"SEC. 249. RECORD OF ADMISSION FOR PERMANENT RESIDENCE IN THE CASE OF CERTAIN ALIENS WHO ENTERED THE UNITED STATES PRIOR TO JANUARY 1, 1972.

“A record of lawful admission for permanent residence may be made, in the discretion of the Secretary of Homeland Security and under such regulations as the Secretary may prescribe, for any alien, as of the date of the approval of the alien’s application or, if entry occurred before July 1, 1924, as of the date of such entry if no such record is otherwise available, if the alien establishes that the alien—

“(1) is not described in section 212(a)(3)(E) or in section 212(a) (insofar as it relates to criminals, procurers, other immoral persons, subversives, violators of the narcotics laws, or smugglers of aliens);

“(2) entered the United States before January 1, 1972;

“(3) has resided in the United States continuously since such entry;

“(4) is a person of good moral character;

“(5) is not ineligible for citizenship; and

“(6) is not described in section 237(a)(4)(B)."."
(f) Effective Date and Application.—The amendments made by this section shall—

(1) take effect on the date of the enactment of this Act; and

(2) apply to—

(A) any aliens in a removal, deportation, or exclusion proceeding pending on or after the date of the enactment of this Act; and

(B) any act or condition constituting a ground for inadmissibility, excludability, or removal occurring or existing before, on, or after the date of the enactment of this Act.

SEC. 202. DETENTION AND REMOVAL OF ALIENS ORDERED REMOVED.

(a) In General.—

(1) Amendments.—Section 241(a) (8 U.S.C. 1231(a)) is amended—

(A) by striking “Attorney General” the first place it appears and inserting “Secretary of Homeland Security”;

(B) by striking “Attorney General” any other place it appears and inserting “Secretary”;

(C) in paragraph (1)—
“(3) issue any documentation evidencing or re-
related to such grant by the Secretary, the Attorney
General, or any court.”.

(b) EFFECTIVE DATE.—The amendment made by
subsection (a)(1) shall take effect on the date that is 90
days after the date of the enactment of this Act.

SEC. 217. DENIAL OF BENEFITS TO TERRORISTS AND
CRIMINALS.

(a) IN GENERAL.—Chapter 4 of title III (8 U.S.C.
1501 et seq.) is amended by adding at the end the fol-
lowing:

“SEC. 362. CONSTRUCTION.

“(a) IN GENERAL.—Nothing in this Act or in any
other provision of law shall be construed to require the
Secretary of Homeland Security, the Attorney General,
the Secretary of State, the Secretary of Labor, or any
other authorized head of any Federal agency to grant any
application, approve any petition, or grant or continue any
status or benefit under the immigration laws by, to, or
on behalf of—

“(1) any alien described in subparagraph (A)(i),
(A)(iii), (B), or (F) of section 212(a)(3) or subpara-
graph (A)(i), (A)(iii), or (B) of section 237(a)(4);

“(2) any alien with respect to whom a criminal
or other investigation or case is pending that is ma-
terial to the alien's inadmissibility, deportability, or eligibility for the status or benefit sought; or

“(3) any alien for whom all law enforcement checks, as deemed appropriate by such authorized official, have not been conducted and resolved.

“(b) DENIAL; WITHHOLDING.—An official described in subsection (a) may deny or withhold (with respect to an alien described in subsection (a)(1)) or withhold pending resolution of the investigation, case, or law enforcement checks (with respect to an alien described in paragraph (2) or (3) of subsection (a)) any such application, petition, status, or benefit on such basis.”.

(b) CLERICAL AMENDMENT.—The table of contents is amended by inserting after the item relating to section 361 the following:

“Sec. 362. Construction.”.

SEC. 218. STATE CRIMINAL ALIEN ASSISTANCE PROGRAM.

(a) REIMBURSEMENT FOR COSTS ASSOCIATED WITH PROCESSING CRIMINAL ILLEGAL ALIENS.—The Secretary of Homeland Security shall reimburse States and units of local government for costs associated with processing undocumented criminal aliens through the criminal justice system, including—

(1) indigent defense;
(2) criminal prosecution;
(3) autopsies;
EXHIBIT 103.F
S. 2368 (2006)
(e) Procedure for Granting Immigrant Status.—Section 204 of such Act (8 U.S.C. 1154) is amended—

(1) by striking subsection (a)(1)(I); and

(2) in subsection (e), by striking ``(a), (b), or (c)'' and inserting ``(a) or (b)''.

(d) Effective Date.—The amendments made by this section shall take effect on October 1, 2006.

SEC. 304. COMPLETION OF BACKGROUND AND SECURITY CHECKS.

Section 103 of the Immigration and Nationality Act (8 U.S.C. 1103) is amended by adding at the end the following new subsection:

“(i) Notwithstanding any other provision of law, the Secretary of Homeland Security, the Attorney General, or any court shall not—

“(1) grant or order the grant of adjustment of status to that of an alien lawfully admitted for permanent residence;

“(2) grant or order the grant of any other status, relief, protection from removal, or other benefit under the immigration laws; or

“(3) issue any documentation evidencing or related to such grant by the Attorney General, the Secretary, or any court,
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1 until such background and security checks as the Sec-
2 retary may in his discretion require have been completed
3 to the satisfaction of the Secretary.”.

4 SEC. 305. NATURALIZATION AND GOOD MORAL CHAR-
5 ACTER.

6 (a) NATURALIZATION REFORM.—

7 (1) BARRING TERRORISTS FROM NATURALIZA-
8 TION.—Section 316 of the Immigration and Nation-
9 ality Act (8 U.S.C. 1427) is amended by adding at
10 the end the following new subsection:

11 “(g) No person shall be naturalized who the Sec-
12 retary of Homeland Security determines, in the Sec-
13 retary’s discretion, to have been at any time an alien de-
14 scribed in section 212(a)(3) or 237(a)(4). Such determina-
15 tion may be based upon any relevant information or evi-
16 dence, including classified, sensitive, or national security
17 information, and shall be binding upon, and unreviewable
18 by, any court exercising jurisdiction under the immigra-
19 tion laws over any application for naturalization, regard-
20 less whether such jurisdiction to review a decision or ac-
21 tion of the Secretary is de novo or otherwise.”.

22 (2) CONCURRENT NATURALIZATION AND RE-
23 MOVAL PROCEEDINGS.—The last sentence of section
24 318 of such Act (8 U.S.C. 1429) is amended—
ing “inserting after paragraph (8) and before the undesignated paragraph at the end”.

(4) EFFECTIVE DATES.—

(A) IN GENERAL.—The amendments made by paragraphs (1) and (2) shall take effect on the date of the enactment of this Act, shall apply to any act that occurred before, on, or after such date, and shall apply to any application for naturalization or any other benefit or relief or any other case or matter under the immigration laws pending on, or filed on or after, such date; or

(B) INTELLIGENCE REFORM AND TERRORISM PREVENTION ACT OF 2004.—The amendments made by paragraph (3) shall take effect as if included in the enactment of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458; 118 Stat. 3638).

SEC. 306. DENIAL OF BENEFITS TO TERRORISTS AND CRIMINALS.

(a) IN GENERAL.—Chapter 2 of title II of the Immigration and Nationality Act (8 U.S.C. 1181 et seq.) is amended by adding at the end the following new section:
“SEC. 219A. PROHIBITION ON PROVIDING IMMIGRATION BENEFITS TO CERTAIN ALIENS.

“Nothing in this Act or any other provision of law shall permit the Secretary of Homeland Security, the Attorney General, the Secretary of State, the Secretary of Labor, or any other authorized head of any agency to grant any application, approve any petition, or grant or continue any status or benefit under the immigration laws by, to, or on behalf of—

“(1) any alien described in subparagraphs (A)(i), (A)(iii), (B), or (F) of sections 212(a)(3) or subparagraphs (A)(i), (A)(iii), or (B) of section 237(a)(4);

“(2) any alien with respect to whom a criminal or other investigation or case is pending that is material to the alien’s inadmissibility, deportability, or eligibility for the status or benefit sought; or

“(3) any alien for whom all law enforcement checks, as deemed appropriate by such authorized official, have not been conducted and resolved.”.

(b) INADMISSIBILITY ON SECURITY AND RELATED GROUNDS.—Section 212(a)(3)(B)(ii)(I) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)(ii)(I)) is amended by inserting “is able to demonstrate, by clear and convincing evidence, that such spouse or child” after “who”.

S 2368 IS
EXHIBIT 103.G
S. 2377 (2006)
(c) Procedure for Granting Immigrant Status.—Section 204 of such Act (8 U.S.C. 1154) is amended—

(1) by striking subsection (a)(1)(I); and

(2) in subsection (e), by striking "(a), (b), or (c)" and inserting "(a) or (b)".

(d) Effective Date.—The amendments made by this section shall take effect on October 1, 2006.

SEC. 304. COMPLETION OF BACKGROUND AND SECURITY CHECKS.

Section 103 of the Immigration and Nationality Act (8 U.S.C. 1103) is amended by adding at the end the following new subsection:

"(i) Notwithstanding any other provision of law, the Secretary of Homeland Security, the Attorney General, or any court shall not—

"(1) grant or order the grant of adjustment of status to that of an alien lawfully admitted for permanent residence;

"(2) grant or order the grant of any other status, relief, protection from removal, or other benefit under the immigration laws; or

"(3) issue any documentation evidencing or related to such grant by the Attorney General, the Secretary, or any court,
until such background and security checks as the Secretary may in his discretion require have been completed to the satisfaction of the Secretary.”.

SEC. 305. NATURALIZATION AND GOOD MORAL CHARACTER.

(a) NATURALIZATION REFORM.—

(1) BARRING TERRORISTS FROM NATURALIZATION.—Section 316 of the Immigration and Nationality Act (8 U.S.C. 1427) is amended by adding at the end the following new subsection:

“(g) No person shall be naturalized who the Secretary of Homeland Security determines, in the Secretary’s discretion, to have been at any time an alien described in section 212(a)(3) or 237(a)(4). Such determination may be based upon any relevant information or evidence, including classified, sensitive, or national security information, and shall be binding upon, and unreviewable by, any court exercising jurisdiction under the immigration laws over any application for naturalization, regardless whether such jurisdiction to review a decision or action of the Secretary is de novo or otherwise.”.

(2) CONCURRENT NATURALIZATION AND REMOVAL PROCEEDINGS.—The last sentence of section 318 of such Act (8 U.S.C. 1429) is amended—
ing “inserting after paragraph (8) and before the
undesignated paragraph at the end”.

(4) EFFECTIVE DATES.—

(A) IN GENERAL.—The amendments made
by paragraphs (1) and (2) shall take effect on
the date of the enactment of this Act, shall
apply to any act that occurred before, on, or
after such date, and shall apply to any applica-
tion for naturalization or any other benefit or
relief or any other case or matter under the im-
migration laws pending on, or filed on or after,
such date; or

(B) INTELLIGENCE REFORM AND TER-
RORISM PREVENTION ACT OF 2004.—The
amendments made by paragraph (3) shall take
effect as if included in the enactment of the In-
telligence Reform and Terrorism Prevention Act
3638).

SEC. 306. DENIAL OF BENEFITS TO TERRORISTS AND
CRIMINALS.

(a) IN GENERAL.—Chapter 2 of title II of the Immi-
gration and Nationality Act (8 U.S.C. 1181 et seq.) is
amended by adding at the end the following new section:
SEC. 219A. PROHIBITION ON PROVIDING IMMIGRATION BENEFITS TO CERTAIN ALIENS.

“Nothing in this Act or any other provision of law shall permit the Secretary of Homeland Security, the Attorney General, the Secretary of State, the Secretary of Labor, or any other authorized head of any agency to grant any application, approve any petition, or grant or continue any status or benefit under the immigration laws by, to, or on behalf of—

“(1) any alien described in subparagraphs (A)(i), (A)(iii), (B), or (F) of sections 212(a)(3) or subparagraphs (A)(i), (A)(iii), or (B) of section 237(a)(4);

“(2) any alien with respect to whom a criminal or other investigation or case is pending that is material to the alien’s inadmissibility, deportability, or eligibility for the status or benefit sought; or

“(3) any alien for whom all law enforcement checks, as deemed appropriate by such authorized official, have not been conducted and resolved.”.

(b) INADMISSIBILITY ON SECURITY AND RELATED GROUNDS.—Section 212(a)(3)(B)(ii)(I) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)(ii)(I)) is amended by inserting “is able to demonstrate, by clear and convincing evidence, that such spouse or child” after “who”.

S 2377 IS
EXHIBIT 103.H
S. 330 (2007)
such agents as they become worn, unserviceable, or no
longer fit properly.

SEC. 155. AUTHORIZATION OF APPROPRIATIONS.
There are authorized to be appropriated to the Sec-
retary such sums as may be necessary for each of the fis-
cal years 2008 through 2012 to carry out this subtitle.

TITLE II—INTERIOR
ENFORCEMENT

SEC. 201. REMOVAL AND DENIAL OF BENEFITS TO TERRORIST ALIENS.

(a) ASYLUM.—Section 208(b)(2)(A)(v) (8 U.S.C.
1158(b)(2)(A)(v)) is amended by striking “or (VI)” and
inserting “(V), (VI), (VII), or (VIII)”.

(b) CANCELLATION OF REMOVAL.—Section
240A(c)(4) (8 U.S.C. 1229b(c)(4)) is amended—
(1) by striking “inadmissible under” and insert-
ing “described in”; and
(2) by striking “deportable under” and insert-
ing “described in”.

(c) VOLUNTARY DEPARTURE.—Section
240B(b)(1)(C) (8 U.S.C. 1229c(b)(1)(C)) is amended by
striking “deportable under section 237(a)(2)(A)(iii) or
section 237(a)(4)” and inserting “described in paragraph
(2)(A)(iii) or (4) of section 237(a)”.
(d) RESTRICTION ON REMOVAL.—Section 241(b)(3)(B) (8 U.S.C. 1231(b)(3)(B)) is amended—

(1) in clause (iii), by striking "or" at the end;

(2) in clause (iv) by striking the period at the end and inserting "; or";

(3) by inserting after clause (iv) the following:

"(v) the alien is described in section 237(a)(4)(B) (other than an alien described in section 212(a)(3)(B)(i)(IV) if the Secretary of Homeland Security determines that there are not reasonable grounds for regarding the alien as a danger to the security of the United States).";

and

(4) in the undesignated paragraph, by striking "For purposes of clause (iv), an alien who is described in section 237(a)(4)(B) shall be considered to be an alien with respect to whom there are reasonable grounds for regarding as a danger to the security of the United States.".

(e) RECORD OF ADMISSION.—Section 249 (8 U.S.C. 1259) is amended to read as follows:
EXHIBIT 103.I
S. 1348 (2007)
SEC. 155. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary such sums as may be necessary for each of the fiscal years 2008 through 2012 to carry out this subtitle.

TITLE II—INTERIOR ENFORCEMENT

SEC. 201. REMOVAL AND DENIAL OF BENEFITS TO TERRORIST ALIENS.

(a) Asylum.—Section 208(b)(2)(A)(v) (8 U.S.C. 1158(b)(2)(A)(v)) is amended by striking “or (VI)” and inserting “(V), (VI), (VII), or (VIII)”.

(b) Cancellation of Removal.—Section 240A(c)(4) (8 U.S.C. 1229b(c)(4)) is amended—

(1) by striking “inadmissible under” and inserting “described in”; and

(2) by striking “deportable under” and inserting “described in”.

(c) Voluntary Departure.—Section 240B(b)(1)(C) (8 U.S.C. 1229c(b)(1)(C)) is amended by striking “deportable under section 237(a)(2)(A)(iii) or section 237(a)(4)” and inserting “described in paragraph (2)(A)(iii) or (4) of section 237(a)”.

(d) Restriction on Removal.—Section 241(b)(3)(B) (8 U.S.C. 1231(b)(3)(B)) is amended—

(1) in clause (iii), by striking “or” at the end;
(2) in clause (iv) by striking the period at the end and inserting "; or";

(3) by inserting after clause (iv) the following:

"(v) the alien is described in section 237(a)(4)(B) (other than an alien described in section 212(a)(3)(B)(i)(IV) if the Secretary of Homeland Security determines that there are not reasonable grounds for regarding the alien as a danger to the security of the United States).";

and

(4) in the undesignated paragraph, by striking "For purposes of clause (iv), an alien who is described in section 237(a)(4)(B) shall be considered to be an alien with respect to whom there are reasonable grounds for regarding as a danger to the security of the United States.".

(e) RECORD OF ADMISSION.—Section 249 (8 U.S.C. 1259) is amended to read as follows:

"SEC. 249. RECORD OF ADMISSION FOR PERMANENT RESIDENCE IN THE CASE OF CERTAIN ALIENS WHO ENTERED THE UNITED STATES PRIOR TO JANUARY 1, 1972.

"A record of lawful admission for permanent residence may be made, in the discretion of the Secretary of
Homeland Security and under such regulations as the Secretary may prescribe, for any alien, as of the date of the approval of the alien’s application or, if entry occurred before July 1, 1924, as of the date of such entry if no such record is otherwise available, if the alien establishes that the alien—

“(1) is not described in section 212(a)(3)(E) or in section 212(a) (insofar as it relates to criminals, procurers, other immoral persons, subversives, violators of the narcotics laws, or smugglers of aliens);

“(2) entered the United States before January 1, 1972;

“(3) has resided in the United States continuously since such entry;

“(4) is a person of good moral character;

“(5) is not ineligible for citizenship; and

“(6) is not described in section 237(a)(4)(B).”

(f) EFFECTIVE DATE AND APPLICATION.—The amendments made by this section shall—

(1) take effect on the date of the enactment of this Act; and

(2) apply to any act or condition constituting a ground for inadmissibility, excludability, or removal occurring or existing on or after the date of the enactment of this Act.
(d) **Administrative Appeals.**—Motions to reconsider, and administrative appeals of, a denial of a permanent labor certification application, shall be decided by the Secretary of Labor not later than 60 days after the date of the filing of such motion or such appeal.

(e) **Applications Under Previous System.**—Not later than 180 days after the date of the enactment of this Act, the Secretary of Labor shall process and issue decisions on all applications for permanent alien labor certification that were filed prior to March 28, 2005.

(f) **Effective Date.**—The provisions of this section shall take effect 90 days after the date of enactment of this Act, whether or not the Secretary of Labor has amended the regulations at part 656 of title 20, Code of Federal Regulation to implement such changes.

**SEC. 531. COMPLETION OF BACKGROUND AND SECURITY CHECKS.**

Section 103 (8 U.S.C. 1103) is amended by adding at the end the following:

“(i) **Requirement for Background Checks.**—Notwithstanding any other provision of law, until appropriate background and security checks, as determined by the Secretary of Homeland Security, have been completed, and the information provided to and assessed by the official with jurisdiction to grant or issue the benefit or docu-
mentation, on an in-camera basis as may be necessary
with respect to classified, law enforcement, or other infor-
mation that cannot be disclosed publicly, the Secretary of
Homeland Security, the Attorney General, or any court
may not—

“(1) grant or order the grant of adjustment of
status of an alien to that of an alien lawfully admit-
ted for permanent residence;

“(2) grant or order the grant of any other sta-
tus, relief, protection from removal, or other benefit
under the immigration laws; or

“(3) issue any documentation evidencing or re-
lated to such grant by the Secretary, the Attorney
General, or any court.

“(j) REQUIREMENT TO RESOLVE FRAUD ALLEGATIONS.—Notwithstanding any other provision of law, until
any suspected or alleged fraud relating to the granting of
any status (including the granting of adjustment of sta-
tus), relief, protection from removal, or other benefit
under this Act has been investigated and resolved, the Sec-
retary of Homeland Security and the Attorney General
may not be required to—

“(1) grant or order the grant of adjustment of
status of an alien to that of an alien lawfully admit-
ted for permanent residence;
“(2) grant or order the grant of any other status, relief, protection from removal, or other benefit under the immigration laws; or

“(3) issue any documentation evidencing or related to such grant by the Secretary, the Attorney General, or any court.

“(k) PROHIBITION OF JUDICIAL ENFORCEMENT.—Notwithstanding any other provision of law, no court may require any act described in subsection (i) or (j) to be completed by a certain time or award any relief for the failure to complete such acts.”.

SEC. 532. VISA REVALIDATION.

(a) IN GENERAL.—Section 222 (8 U.S.C. 1202) is amended by adding at the end the following:

“(i) The Secretary of State shall permit an alien granted a nonimmigrant visa under subparagraph E, H, I, L, O, or P of section 101(a)(15) to apply for a renewal of such visa within the United States if—

“(1) such visa expired during the 12-month period ending on the date of such application;

“(2) the alien is seeking a nonimmigrant visa under the same subparagraph under which the alien had previously received a visa; and

“(3) the alien has complied with the immigration laws and regulations of the United States.”.
EXHIBIT 103.J
S. 2294 (2007)
(1) any act that occurred before, or, or after the date of the enactment of this Act;

(2) all aliens who are required to establish admissibility on or after such date; and

(3) all removal, deportation, or exclusion proceedings that are filed, pending, or reopened, on or after such date.

SEC. 233. REMOVAL AND DENIAL OF BENEFITS TO TERRORIST ALIENS.

(a) ASYLUM.—Section 208(b)(2)(A) (8 U.S.C. 1158(b)(2)(A)) is amended—

(1) by inserting “or the Secretary of Homeland Security” after “if the Attorney General”; and

(2) by amending clause (v) to read as follows:

“(v) the alien is described in subparagraph (B)(i) or (F) of section 212(a)(3), unless the alien is described in section 212(a)(3)(B)(i)(IX) and the Attorney General or the Secretary of Homeland Security determines that there are not reasonable grounds for regarding the alien as a danger to the security of the United States; or”.

by striking “(VII) of clause (i) does” and inserting “(IX)
of clause (i) shall”.

(c) CANCELLATION OF REMOVAL.—Section 240A(c)(4) (8 U.S.C. 1229b(c)(4)) is amended—

(1) by striking “inadmissible under” and inserting “described in”; and

(2) by striking “deportable under” and inserting “described in”.

(d) VOLUNTARY DEPARTURE.—Section 240B(b)(1)(C) (8 U.S.C. 1229c(b)(1)(C)) is amended by striking “deportable under section 237(a)(2)(A)(iii) or section 237(a)(4)” and inserting “described in paragraph (2)(A)(iii) or (4) of section 237(a)”.

(e) RESTRICTION ON REMOVAL.—Section 241(b)(3)(B) (8 U.S.C. 1231(b)(3)(B)) is amended—

(1) by inserting “or the Secretary of Homeland Security” after “Attorney General” each place such term appears;

(2) in clause (iii), by striking “or” at the end;

(3) in clause (iv), by striking the period at the end and inserting “; or”;

(4) by inserting after clause (iv) the following:

“(v) the alien is described in subparagraph (B)(i) or (F) of section 212(a)(3),

unless, in the case of an alien described in
section 212(a)(3)(B)(i)(IX), the Secretary of Homeland Security or the Attorney General determines that there are not reasonable grounds for regarding the alien as a danger to the security of the United States."; and

(5) in the undesignated matter at the end, by striking "For purposes of clause (iv), an alien who is described in section 237(a)(4)(B) shall be considered to be an alien with respect to whom there are reasonable grounds for regarding as a danger to the security of the United States.".

13 SEC. 234. USE OF 1986 IRCA LEGALIZATION INFORMATION FOR NATIONAL SECURITY PURPOSES.

(a) SPECIAL AGRICULTURAL WORKERS.—Section 210(b)(6) (8 U.S.C. 1160(b)(6)) is amended—

(1) by striking “Attorney General” each place such term appears and inserting “Secretary of Homeland Security”;

(2) in subparagraph (A), by striking “Justice” and inserting “Homeland Security”;

(3) by redesignating subparagraphs (C) and (D) as subparagraphs (D) and (E), respectively;

(4) by inserting after subparagraph (B) the following:
EXHIBIT 103.K
(1) any act that occurred before, or, or after the date of the enactment of this Act;

(2) all aliens who are required to establish admissibility on or after such date; and

(3) all removal, deportation, or exclusion proceedings that are filed, pending, or reopened, on or after such date.

SEC. 233. REMOVAL AND DENIAL OF BENEFITS TO TERRORIST ALIENS.

(a) ASYLUM.—Section 208(b)(2)(A) (8 U.S.C. 1158(b)(2)(A)) is amended—

(1) by inserting “or the Secretary of Homeland Security” after “if the Attorney General”; and

(2) by amending clause (v) to read as follows:

“(v) the alien is described in subparagraph (B)(i) or (F) of section 212(a)(3), unless the alien is described in section 212(a)(3)(B)(i)(IX) and the Attorney General or the Secretary of Homeland Security determines that there are not reasonable grounds for regarding the alien as a danger to the security of the United States; or”.

by striking "(VII) of clause (i) does" and inserting "(IX)
of clause (i) shall".

(c) CANCELLATION OF REMOVAL.—Section 240A(c)(4) (8 U.S.C. 1229b(c)(4)) is amended—

(1) by striking "inadmissible under" and inserting "described in"; and

(2) by striking "deportable under" and inserting "described in".

(d) VOLUNTARY DEPARTURE.—Section 240B(b)(1)(C) (8 U.S.C. 1229c(b)(1)(C)) is amended by striking "deportable under section 237(a)(2)(A)(iii) or section 237(a)(4)" and inserting "described in paragraph (2)(A)(iii) or (4) of section 237(a)".

(e) RESTRICTION ON REMOVAL.—Section 241(b)(3)(B) (8 U.S.C. 1231(b)(3)(B)) is amended—

(1) by inserting "or the Secretary of Homeland Security" after "Attorney General" each place such term appears;

(2) in clause (iii), by striking "or" at the end;

(3) in clause (iv), by striking the period at the end and inserting "; or";

(4) by inserting after clause (iv) the following:

"(v) the alien is described in subpara-
graph (B)(i) or (F) of section 212(a)(3),
unless, in the case of an alien described in
section 212(a)(3)(B)(i)(IX), the Secretary of Homeland Security or the Attorney General determines that there are not reasonable grounds for regarding the alien as a danger to the security of the United States.

(5) in the undesignated matter at the end, by striking “For purposes of clause (iv), an alien who is described in section 237(a)(4)(B) shall be considered to be an alien with respect to whom there are reasonable grounds for regarding as a danger to the security of the United States.”.

SEC. 234. USE OF 1986 IRCA LEGALIZATION INFORMATION FOR NATIONAL SECURITY PURPOSES.

(a) SPECIAL AGRICULTURAL WORKERS.—Section 210(b)(6) (8 U.S.C. 1160(b)(6)) is amended—

(1) by striking “Attorney General” each place such term appears and inserting “Secretary of Homeland Security”;

(2) in subparagraph (A), by striking “Justice” and inserting “Homeland Security”;

(3) by redesignating subparagraphs (C) and (D) as subparagraphs (D) and (E), respectively;

(4) by inserting after subparagraph (B) the following:
EXHIBIT 104
FILED UNDER SEAL
EXHIBIT 106
FILED UNDER SEAL
EXHIBIT 107
UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA

TAREK HAMDI, )
   ) Plaintiff,
 )
 VS. ) Case No.
 ) ED CV 10-00894
UNITED STATES CITIZENSHIP AND ) VAP (DTBx)
IMMIGRATION SERVICE, et al., )
 )
Defendants. )

Deposition of ROBERTO OSUNA, taken on behalf of the
Plaintiff, at 2140 West Chapman Avenue, Suite 209, Orange,
California, commencing at 9:29 a.m., Friday, September 23,
2011, before Cheryl Sletta, Registered Professional
Reporter, Certified Shorthand Reporter No. 7354.
APPEARANCES:

FOR PLAINTIFF:

ACLU FOUNDATION OF SOUTHERN CALIFORNIA
BY: BELINDA ESCOBOSA HELZER, ESQ.
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ALSO PRESENT:

JENNIFER F. CHIN

CLAUDIA GONZALEZ
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## WITNESS EXAMINATION

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## BY MS. HELZER

## EXHIBITS

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(8-19-09 Appointment Notification to Tarek Hamdi with Attached Decision Attachment to Form N-335, Bates No. GOV000009 through GOV000012)

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INSTRUCTION NOT TO ANSWER

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ORANGE, CALIFORNIA; FRIDAY, SEPTEMBER 23, 2011

9:29 A.M.

ROBERTO OSUNA,
called as a witness on behalf of the Plaintiff, having
been first duly placed under oath, was examined and
tested as follows:

EXAMINATION

BY MS. HELZER:

Q  Good morning, Mr. Osuna.
A  Good morning.

Q  My name is Belinda Escobosa Helzer, and I'm an
attorney that represents the plaintiff in this case,
Tarek Hamdi.

I know you've had your deposition taken before
in this case, particularly back on April 13th, and my
co-counsel in that case at the beginning of the
deposition gave you some ground rules on how the
deposition would work.

Are you familiar with those ground rules
still, or would you like me to go over them?
A  No, I'm familiar.

Q  Okay. If you have any questions about it
throughout the deposition, please let me know. Okay?
Now, in Mr. Caputo's declaration, there was a statement about the inability to confirm -- strike that. Let me get the actual language.

In Mr. Caputo's declaration that was in the file relating to Mr. Hamdi, there was an indication there that he was unable to rule out the possibility that Mr. Hamdi may be a threat to the security of the United States.

Do you remember seeing that?

A  Yes.

Q  Is that still true?

A  I believe so. I didn't speak to Mr. Caputo, but -- but it was, yes. At the time that I adjudicated the case, that was still true.

Q  Okay. And how does that statement, if it does, affect whether Mr. Hamdi is eligible for naturalization?

A  Well, it -- it doesn't make him statutorily ineligible, but because he is a -- he still has a national security concern, it affects whether or not we can approve him, and it's going to require more investigating, which is what we -- what we did.

Q  Okay. And why does it affect whether or not you can approve him?

A  Because he's -- because there's still a
national security concern.

Q    And although that doesn't make him ineligible statutorily, how does it make him ineligible otherwise?

A    Well, until -- until that national security concern is -- is resolved, he won't get approved.

Q    And how -- does that come from a body of law or policy?

A    Well, it comes from -- yes, it does.

Q    What body of law or policy does that come from?

A    That comes in the CARRP policy.

Q    Okay. Let me give you another exhibit, sir. This is Exhibit 82.

(The document was marked as Exhibit 82 for identification.)


Q    And Mr. Osuna, have you seen this document before?

A    Yes.

Q    And I believe there's -- there's more to the CARRP officer training than what's in Exhibit 82,
DEPOSITION OFFICER'S CERTIFICATE

STATE OF CALIFORNIA )
          )ss.
COUNTY OF ORANGE  )

I, CHERYL SLETTA, hereby certify:

I am a duly qualified Certified Shorthand
Reporter in the State of California, holder of Certificate
Number CSR 7354 issued by the Court Reporters Board of
California and which is in full force and effect. (Fed. R. Civ. P. 28(a)).

I am authorized to administer oaths or
affirmations pursuant to California Code of Civil
Procedure, Section 2093(b) and prior to being examined,
the witness was first duly sworn by me. (Fed. R. Civ. P.
28(a), 30(f)(1)).

I am not a relative or employee or attorney or
counsel of any of the parties, nor am I a relative or
employee of such attorney or counsel, nor am I
financially interested in this action. (Fed. R. Civ. P.
28).

I am the deposition officer that
stenographically recorded the testimony in the foregoing
deposition and the foregoing transcript is a true record

/ / /

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of the testimony given by the witness. (Fed. R. Civ. P. 30(f)(1)).

Before completion of the deposition, review of the transcript [XX] was [ ] was not requested. If requested, any changes made by the deponent (and provided to the reporter) during the period allowed, are appended hereto. (Fed. R. Civ. P. 30(e)).

Dated: October 7, 2011,

[Signature]

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EXHIBIT 108

FILED UNDER SEAL
EXHIBIT 110
Publicly Filed
Redacted Version
UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

ABDIQAFAR WAGAFE, et al., on behalf of themselves and others similarly situated,
Plaintiffs,

vs.

DONALD TRUMP, President of the United States, et al.,
Defendants.

** CONFIDENTIAL - SUBJECT TO PROTECTIVE ORDER **

VIDEOTAPED DEPOSITION
of
NADIA R. DAUD

OCTOBER 8, 2020

MAGNA LEGAL SERVICES
(866) 624-6221
www.MagnaLS.com
File No. 641652
REPORTED REMOTELY BY: Karen M. Grant, WA CCR No. 2155
APPEARANCES

(All parties appearing remotely via Zoom videoconference)

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Also Present:
Caitlin Miller - U.S. CIS and U.S. DHS
Matt Adams - Northwest Immigrant Rights Project
Jessica Schau Nelson - U.S. CIS
Drew Brinkman - U.S. DOJ
Leon B. Taranto - U.S. DOJ
Brendon Moore

Videographer:
Daniel Katz - Magna Legal Services
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--oOo--

EXHIBIT INDEX

NO: MARKED: DESCRIPTION:
BE IT REMEMBERED that on Thursday, October 8, 2020, at 8:12 a.m., before Karen M. Grant, CCR 2155, appeared Nadia R. Daud, the witness herein;

WHEREUPON, the following proceedings were had, to wit:

--oOo--

VIDEograPHer: We are now on the record. This begins Video 1 in the deposition of Nadia R. Daud in the matter of "Abdiqafar Wagafe, et al., vs. Donald Trump, President of the United States, et al.," in the United States District Court, Western District of Washington at Seattle.

Today is Thursday, October 8th, 2020. Time is 8:12 a.m. This deposition is being taken remotely at the request of Perkins Coie, LLP.

The videographer is Daniel Katz, the court reporter is Karen Grant, both of Magna Legal Services. All counsel and parties present will be noted on the stenographic record.

Will the court reporter please swear in the witness.

///

///

///
NADIA R. DAUD,

witness herein, having been first duly sworn on oath,

was examined and testified as follows:

EXAMINATION

BY MS. WHIDBEE:

Q. Good morning. My name is Paige Whidbee, and I represent the plaintiff. Thank you for taking the time to meet with us today.

Have you ever been deposed before?

A. No.

Q. Okay. So just to start, I wanted to go over some general instructions for the deposition today.

First off, the court reporter is writing down everything that we're saying today, so it's important that we try to avoid talking over each other. So I'll do my best to wait until you're done answering a question to start asking my next question, and in return I'll ask that you please wait until I'm done asking my question to give your answer. Does that sound fair?

A. Yes.

Q. Great.

And for the same reason, it's really important that we give our answers verbally. So instead of nodding for "Yes" or shaking your head for "No," just say "Yes" or...
A. Oh, they would be on everything. And I was so new, I couldn't -- I was new and I was dealing with my mom, that I couldn't -- I just didn't even care, to be honest. I didn't care.

Q. And have you received any nondetermination training as a part of your job at USCIS in the Seattle office?

A. I want to say we get like a yearly computer -- I feel like we get one of those yearly computer ones that we all do that we just, you know, push the button on, but at the moment I can't think which one of those that is, and I'm sure I just did it recently.

If we're talking all time at USCIS, I'm -- I'm fairly certain USC-- or Refugee Affairs Division did a few things separate, and I know Department of State did before going to Baghdad.

Q. Okay --

A. (Inaudible.)

Q. Oh, pardon me. Go ahead.

A. That's all I can think of, but I -- nothing.

Q. The yearly computer training you were just mentioning that you take in your current position, is that training mandatory?

A. Yes. But I also can't remember it, which is not very good.
Q. And is it mandatory in all offices or just in the Seattle office?

A. They're all -- whatever we're taking is probably mandatory in all offices. But the only one that I can remember is sexual harassment and trafficking, and I can't remember any of the rest of them.

Q. (By Ms. Whidbee) Okay. And can you remember the key take-aways from that yearly anti-discrimination training that you were describing on the computer?

A. No, not at all.

Q. Do you recall receiving something called cultural sensitivity training?

A. No.

MS. WHIDBEE: Okay. I'm going to share my screen here. I'm going to share some images with you that were -- are screen shots of training materials that Defendants produced in discovery.

For the court reporter, I'll ask that we mark this as Exhibit 1.

(Plaintiffs' Exhibit 1 marked.)

Q. (By Ms. Whidbee) Do you recognize this training?

A. I don't, actually.

Q. Okay. So this was not the computer training that you were discussing previously?
A. No, unless I just wasn't paying attention.

Q. Okay. I'm going to pull up one more site to see if you recognize it. Do you recognize this slide discussing the differences between high- and low-context cultures?

A. I don't.

Q. Okay. I will stop sharing the screen.

As a part of your job in the Seattle office, have you received any training on different country conditions, organizations, groups, cultural practices and religion in other countries?

A. In Seattle?

Q. Mm-hm.

A. So I've arranged trainings in Seattle for the office, and I'm trying to think if any were done outside of that. I heard that I missed one for Eritrea, but -- and I arranged one for Iran and Iraq. No, not -- I don't think besides that, though.

Q. Okay. And you mentioned that you gave a training about Iran; is that right?

A. I arranged for somebody else to give it.

Q. Do you remember when that was?

A. Yes. October 2019.

Q. And to who was that -- to whom was that training given?

A. It was offered to the whole office and FDNS, but I
1 don't know if everybody was there, though.
2
3 Q. Okay. So it was not mandatory, then?
4 A. I mean --
5
6 MS. BRAGA: Sorry. Objection; foundation.
7 A. It was mandatory, but people weren't -- you know, people were on leave, people had leave, so -- because after it, I had many people contact me to see if they could get -- get it again, because they wanted it, but I couldn't arrange it again.

8 Q. (By Ms. Whidbee) Okay. And did you also say you arranged for training on Iraq?
9 A. So Iraqi, I've just done, in smaller groups, more impromptu. And it wasn't like in a massive "for the whole office," more as-needed.

10 Q. Okay. And how often have you arranged those meetings?
11 A. Seems like every time an Iraqi case comes up.

12 Q. And do officers request those kinds of trainings, or are they just given on a regular basis?
13 A. They want it. They want it.

14 Q. And are you able to arrange a training each time an officer requests such a training?
15 A. Yeah. And sometimes it's easier to do the one-on-ones, because then I can help with that particular case better.
Q. Okay. Shifting gears a little, have you ever heard any of your colleagues at USCIA - S, pardon me - make disparaging statements about applications for immigration benefits?
A. About --

MS. BRAGA: Sorry. Objection; form, vague.
A. What do you mean by "about application"?
Q. (By Ms. Whidbee) Pardon me. I meant about applicants' immigration benefits.
A. Yeah.

Q. What kind of statements?
A. I mean, I've worked in there a long time, so I don't know at what point you want me to --
Q. Sure. So in your work in the Seattle office, have you heard disparaging statements about applicants for immigration benefits?
A. Yeah. We had one officer recently get in trouble. I can't remember his exact words, but he came to me with a
question, and he referred to his applicant in a derogatory term.

Q. What derogatory term would that be?

A. I can't even remember how he referred to the applicant. The applicant was Mexican. And he said it twice in two different ways, and I reported him immediately. I would have to look at my phone to even remember, because I wrote it down. But I don't remember it.

Q. Who did you report the statements to?

A. My supervisor.

Q. And do you know if anything was done as a consequence of the report?

A. Yeah --

MS. BRAGA: Objection --

THE WITNESS: Oh, go ahead.

MS. BRAGA: Sorry.

Objection; foundation.

A. I don't know everything that was discussed with him, but I know that it was addressed with him immediately. I also know he had to apologize to the other co-worker that was next to me, who was Latina. He claims he apologized to me too, but he never did. He just avoided me forever.

And I don't know what went on his record or anything. I have no idea.
Q. (By Ms. Whidbee) And is he still working at USCIS?
A. Nope. He's with ICE.
Q. Do you know if he had to leave USCIS as a consequence of your report?

MS. BRAGA: Objection; foundation.
A. No, I don't. I don't know what happened.
Q. (By Ms. Whidbee) Okay. Have you heard any other disparaging statements about applicants for immigration benefits while at your job in the Seattle office?
A. We had one officer recently, and I couldn't tell if he was purposely saying this wrong or trying to be funny or being derogatory, so I did not report him. I just asked him to knock it off. He kept referring to his applicants very loudly in the hall as "Arab" instead of -- well, (a), he didn't need to refer to their race at all. But... I don't really know how to explain how he was doing it, but it was extremely annoying. I'm Arab American myself, so it was almost like a dagger every time he said it.

So I probably should have said something higher up, but I really couldn't tell if he -- I couldn't tell why he was doing it, so I just made it uncomfortable for him, and he stopped.
Q. And can you recall any other disparaging statements you've heard for applicants for immigration

1 benefits while in your current position in Seattle?
   A. In Seattle, no, not about applicants.
   Q. Okay. Have you heard -- and do you recall ever hearing disparaging statements about applicants for immigration benefits in your previous careers at USCIS?
   A. D.C. was good. There was nothing there, ever. And I don't know if it was the job, the location, but there was never, ever anything.
   San Francisco, I started right after 9/11, directly after 9/11, so the January after 9/11. That was a terrible time in Immigration. It was a terrible time everywhere, but it was a terrible time in Immigration and a terrible time to be an Arab American in Immigration. I was one of very few. I didn't see any other Arab American names in our email boxes, ever. So the sentiment was pretty harsh at that time.
   So I know you asked if I heard anything about applicants. It was so common that I don't know how to, like, narrow that down. It was a time of NSEERS, which is when they were registering people from certain countries, which usually tended to be Arabs and Muslims, which they later canceled out. So that was happening, along with protesters outside the building because of NSEERS, and it was like hostile on kind of like both ends.
   I think it was the first two weeks of work, and
they asked me to -- I was working in the Oakland office, and
they asked me to go to the San Francisco office to -- at
that time, I think they were like -- I don't know if it was
like nationally they weren't doing this or -- I don't even
know -- I wasn't part of like the bigger picture at that
time.
But I know people were afraid to proceed with
Middle Eastern cases, so they asked me to go to the basement
and go through all these boxes of cases and pull out -- at
the time, they -- the actual quote was "Arabic-sounding
names." Like, I don't even know -- I feel like they were
I-130s, but at the time I didn't know documents. And there
were other people through, and they did not know who I was,
because I was brand-new. So people were definitely saying
derogatory things that entire -- I think we were there for
several days doing that, so anything said in those days were
horrendous. That's just an example.
Q. And what about after that? Did you continue to
hear disparaging statements about applicants after that as
well?
A. I would say the first year, year and a half was
bad. it got better. it got better.
Q. Did you continue to hear disparaging statements
about applicants for immigration benefits even after it got
better?
A. I'm sure -- let me think. I mean, things would be said in trainings. I mean, it could go on for a while. I'm not thinking of exact examples. I'm -- it's more the -- well, pardon me. I was thinking of examples. It took some time. By -- I will say this. By the time I left, they allowed me to have a speaker come in to -- to train the office on their cultural background and interviewing Arab applicants by the time I left, so San Francisco did get a training.

Q. And why --

MS. BRAGA: Sorry. Can I just interrupt for one second? Before you ask the next question, we're coming up to 90 minutes pretty soon, so (inaudible) a good place to stop for our first break?

MS. WHIDBEE: Sure. I'll get to a stopping point in just a couple minutes.

MS. BRAGA: Okay. Thank you.

Q. (By Ms. Whidbee) Why did you want to bring in that speaker that you just referenced to talk to the SF office?

A. Just I -- it wasn't -- for me, it wasn't just INS/USCIS that I had problems with. With my own background, I also had problems with Department of State. So -- and my mom knew this, and she kept saying, "You can leave and everything will stay the same, or you can stay and make a
difference." So I kept thinking: If I stay, I have to make a difference.

So I, with San Francisco, I joined their, we call it -- in the USCIS, we call it Special Emphasis Program Manager, which is like the people that do Women History Month and Black History Month, and, you know, there's no Arab History Month, but I forced one on them. And I was in charge of Women History Month, and so I snuck in -- on top of Women History Month, I snuck in the Arab training, partly because we had a very large Arab caseload in San Francisco, and so I thought --

Because towards -- towards the end of me leaving, I started being the person that everybody was coming to to say: "Is this normal in a, like, an Arab marriage? Is this normal with, in Islam, to have this in a marriage? Is this normal?" So I started being the person everybody was asking those cultural norms. I'm not necessarily an expert on all those things, but I was the closest thing they had, so I thought maybe we should get an expert.

Q. And could you describe a little bit the problems you mentioned you had with INS, USCIS, and DOS?
A. Well, starting with DOS, it was security clearance issues. I think any Arab in government would say: That's where we start with our problems, is security clearance issues, and DHS being the same. We just get checked a lot
more than anybody else, and our questions are different than anybody else's. Where some people get checked every five years, we get looked at more like yearly, which is fine. There's nothing to look at.

As for work, as I was seeing with the protesters, simple things. Like the protesters of NSEERS, that had nothing to do with me, but the head of the office would publicly accuse them of being my friends, multiple times in meetings and over cubicle walls.

What else. I mean, even my welcome to Seattle was an officer, who is clearly not my friend, showed up in my office and -- and I still don't understand what the point of this was. I think he knew my previous job was Refugee Affairs Division, and he -- I don't know if he was attacking that or attacking that I was Arab. I don't know which one it was, but -- and he was saying that all we brought was Muslim refugees, and we needed to stop doing that, and that we weren't bringing the Christians, and we should be bringing the Christian refugees. And then he left my office.

And then the next day, he shows up again, doing the same thing. So then I said -- oh. And the second day, he said -- he referred to them as Syrians, and I said: "Well, actually, I'm Syrian Christian. And my family's still there, and they actually don't want to leave." So I
I don't remember how that all happened, but that was the welcome to the office.

And then not too long after that, that same guy, in front of an entire training, pulled up pictures to prove that I wasn't Syrian. He pulled up pictures of refugees on boats and running from Syria to say that I didn't look Syrian, so I couldn't be Syrian. So unnecessary, but in front of a whole training. It was ridiculous.

So there's some weird stuff in different areas, and I don't know why. But none of that ever happened in D.C. That's a highlight.

Q. And did you report any of that person's statements that you were just talking about?

A. Yeah, I did. Not -- not what he did in the beginning, because it was like my first few days. I didn't even know who he was. But the -- in front of the training, yes, I did report it.

Q. And do you know if anything was done as a consequence of you reporting what happened?

MS. BRAGA: Objection; foundation.

A. I don't know. I just know that I never had to do a training with him again.

Q. (By Ms. Whidbee) And is that person still working at USCIS?

A. Yes.
MS. WHIDBEE: Okay. Okay. I think we're good to go off the record and take a break.

MS. BRAGA: Okay. Thank you.

VIDEOGRAPHER: The time is 9:45 a.m. We're off the record.

(Deosition at recess.)

VIDEOGRAPHER: 10:01 a.m., we're back on the record.

Q. (By Ms. Whidbee) Okay. I wanted to ask you a couple of follow-up questions about what we were just discussing. You were talking about the person who kind of greeted you when you first got to the Seattle office and gave that training that you reported him about. What is that person's position at USCIS?

A. He's with FDNS.

Q. And who is that person? What is their name?

A. (Blacked out)

Q. Okay. And you also mentioned NSEERS. Could you describe a little bit what NSEERS is, or was?

MS. BRAGA: Objection. To the extent that the response will call for third-agency law enforcement privileged information, I direct the witness not to answer. Otherwise, she can answer. Also foundation.

A. Well, NSEERS is a system or database or something that they use to get bio-- basically, at that time, they
1. asked to register any -- people from certain countries.
2. This was after 9/11, so at first it was people from certain countries. They would list out these certain countries that were not Green Card holders or citizens, that were in the U.S., and they asked them to come and get registered, and then they extended that list out. By registering, I believe they were fingerprinting and taking their photos.
3. One of the additional -- I wasn't allowed to work NSEERS, so I don't know all the details.
4. Q. And do you know why you weren't allowed to work NSEERS?
5. A. I was told it was because I was Arab.
6. MS. BRAGA: Sorry. Let me get my objections in.
7. THE WITNESS: Okay.
8. MS. BRAGA: Objection (inaudible).
9. COURT REPORTER: I didn't hear the objection.
11. COURT REPORTER: Thank you.
12. Q. (By Ms. Whidbee) And when you were working in, I think you said it was SF at the time, did you see that NSEERS had -- did it have any impact on immigration benefits that you were working on, applications for immigration benefits?
13. MS. BRAGA: Objection; foundation.
Q. (By Ms. Whidbee) Okay. And based on your knowledge of NSEERS, did you think it was productive or helpful for USCIS?

A. I really don't know.

Q. (By Ms. Whidbee) Okay. Did I think it was productive?

A. Did I think it was productive?

Q. (By Ms. Whidbee) Yes.

A. I don't really know enough on the real reasons for it.

Q. Okay. I want to ask you a little bit more too about -- you were talking about when you -- shortly after you first arrived in SF, and they had you go and looking at boxes; is that correct?

A. Yeah.

Q. And could you tell me a little bit more about what they told you you should be doing while you were doing that?

A. It was a long time ago, so I don't remember. This would be 2002. I don't remember everything. They just said I would be looking for Arab names and pulling those documents out, and they were applications.

Q. Do you know what happened to an application after you pulled it out for that reason?

A. No, I --
MS. BRAGA: Objection; foundation.

Q. (By Ms. Whidbee) Were you supposed to give those applications to somebody?

A. They were piled up.

Q. Okay. And do you know what happened to them after they were piled up?

MS. BRAGA: Objection; foundation.

A. I don't know.

Q. (By Ms. Whidbee) Okay. You also mentioned that, shortly before you left SF, you managed to arrange a training there. Could you tell me who did that training?

A. Without looking up her name, I wouldn't be able to. Her first name was Myah or Mia. Maya, I think. And El Ghazi or -- E-L -- I can't remember. It's G-H or G-A something.

Q. And do you know what their background was?

A. I can't remember how I found her. I was connected to the Arab American, in a community down there, so I found her somehow through that. And she gave trainings to offices. That's kind of what she did.

Q. (By Ms. Whidbee) And what was the focus of the training that she gave in SF?

A. It was like -- it was cultural sensitivity post-9/11, I believe. I think it was all -- and I want --
Q. Do you remember --

Oh. Go ahead.

A. It's okay. Go ahead.

Q. Okay. Do you remember what some of the kind of key take-aways of that training were?

A. I wish I did. I really don't.

MS. WHIDBEE: Bless you.

MS. BRAGA: Thank you.

Q. (By Ms. Whidbee) Did you think that the training made any difference in the office?

A. I heard that it did, from officers.

Q. What did you hear about it?

A. I had heard that they were glad to get it and that they wished they got training like that for other areas.

Q. What other areas would they -- did they say they would like to get training on?

A. San Francisco -- San Francisco population is primarily, like, Asian caseload, so that's what they would want.

Q. Okay. Did you get any negative feedback to the training at all?

A. I don't remember that, no.

Q. Okay.

Okay. You mentioned earlier that you received a federal law enforcement training when you were -- I believe
1 you said it was when -- for one of your previous jobs; is
2 that correct?
3      A.   Mm-hm.
4      Q.   Have you received any law enforcement-related
5 training for your current position?
6      A.   No.  That original law enforcement training covers
7 my current -- that first -- they now call it basic.  Back
8 then, they called it something else.  It's the same
9 training.
10      Q.   Okay.
11      A.   So they --
12      Q.   (Inaudible.)
13      A.   -- send me back for basic.
14      COURT REPORTER:  Can you repeat that?
15      THE WITNESS:  So they didn't send me -- so for
16 my current position, what I would have needed was basic
17 training, called basic.  And what I had before is the
18 equivalent of basic, so they did not send me back for the
19 same training I already had.
20      Q.   (By Ms. Whidbee)  And aside from trainings, can
21 you describe any experience in law enforcement
22 investigations you've had?
23      A.   I mean, the five years doing marriage-fraud
24 interviews and working somewhat with ICE, somewhat, is some
25 experience.
STATE OF WASHINGTON  
COUNTY OF PIERCE  

I, the undersigned certified court reporter, hereby certify that the foregoing deposition of NADIA R. DAUD was taken before me on OCTOBER 8, 2020, and thereafter transcribed under my direction; that the transcript of the deposition contains the full, true, and complete testimony of said witness, including all questions, answers, objections, motions, and exceptions of counsel; that the witness, before examination, was by me duly sworn to testify the truth, the whole truth, and nothing but the truth, and that the witness RESERVED the right of signature;

That I am neither attorney for, nor a relative or employee of, any of the parties to the action; further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially interested in the said action or the outcome thereof;

IN WITNESS WHEREOF, I have hereunto set my signature this 16th day of October, 2020.

______________________________  
KAREN M. GRANT  
Certified Court Reporter No. 2155  
(Certification expires 04/19/2021)
## ERRATA

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<td>an officer for</td>
<td>a Refugee officer for</td>
<td>correction</td>
</tr>
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<td>14</td>
<td>25</td>
<td>Refugee officer interviews</td>
<td>conducting refugee interviews around the world.</td>
<td>correction</td>
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<tr>
<td>15</td>
<td>4</td>
<td>I was the Middle</td>
<td>I was with the Middle</td>
<td>correction</td>
</tr>
<tr>
<td>15</td>
<td>8</td>
<td>on -- I'm still supervising.</td>
<td>on refugee circuit riders as an acting supervisor.</td>
<td>correction</td>
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<td>18</td>
<td>9</td>
<td>vetting.</td>
<td>vetting, after we applied for each officer's position.</td>
<td>correction</td>
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<td>19</td>
<td>11</td>
<td>happened, Turkey</td>
<td>happened, as it did in Turkey</td>
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<tr>
<td>16</td>
<td>16</td>
<td>touch a CARRP case.</td>
<td>touch a CARRP case in Seattle.</td>
<td>correction</td>
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<td>30</td>
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<td>nondetermination</td>
<td>nondiscrimination</td>
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<td>34</td>
<td>6-7</td>
<td>and Istans</td>
<td>and applicants from various &quot;istan&quot; countries</td>
<td>correction</td>
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<tr>
<td>38</td>
<td>15</td>
<td>as &quot;Arab&quot; instead</td>
<td>as &quot;A-rab&quot; instead</td>
<td>correction</td>
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<td>53</td>
<td>10</td>
<td>been (inaudible) years.</td>
<td>been one year.</td>
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<td>73</td>
<td>17</td>
<td>were on a CARRP team</td>
<td>were not on a CARRP team</td>
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<td>81</td>
<td>18</td>
<td>in other countries</td>
<td>in other offices</td>
<td>correction</td>
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Seven Penn Center
1635 Market Street – 8th Floor
Philadelphia, PA 19103

866-624-6221

11/22/2020
ACKNOWLEDGMENT OF DEponent

I, Nadia Daud, do hereby certify that I have read the foregoing pages, 1 - PGS, and that the same is a correct transcription of the answers given by me to the questions therein propounded, except for the corrections or changes in form or substance, if any, noted in the attached Errata Sheet.

WITNESS NAME: [Signature]  1/23/2020

Subscribed and sworn to before me this _____ day of ______________, 20____.

My commission expires: ______________

Notary Public
EXHIBIT 111
UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

ABDIQAFAR WAGAFE, et al., on behalf
of themselves and others similarly
situated,

Plaintiffs,

vs.

DONALD TRUMP, President of the United
States, et al.,
Defendants.

______________________________

VIDEOTAPED DEPOSITION OF
ANTHONY NEGRUT-CALINESCU

Taken on Behalf of the Plaintiffs

DATE TAKEN:   September 30, 2020
TIME:         9:12 AM - 5:34 PM
PLACE:        VIA ZOOM

MAGNA LEGAL SERVICES
(866) 624-6221
www.magnaLS.com
APPEARANCES:

Counsel for Plaintiffs:
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chogle@aclu.org

-and-

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Counsel for Plaintiffs
U.S. DEPARTMENT OF JUSTICE:
BY: BRENDAN MOORE, ESQ.
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brendan.t.moore@usdoj.gov

Also present: Daniel Katz, Magna videographer
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1 (DISCLAIMER: Words that are not fully spoken, words that are stuttered, words that are lost or cut off by technological difficulties, or words that are spoken over other words, may not be reflected in this written transcript, but may be captured on the videotaped portion of this record.)

2 THE VIDEOGRAPHER: We are now on the record. This begins video one in the deposition of Anthony Negrut-Calinescu in the matter of Abdiqafar Wagafe et al versus Donald Trump, president of the United States et al in the United States District Court Western District of Washington at Seattle. Today is Wednesday, September 30, 2020. The time is 9:12 a.m. The deposition is being take remotely at the request of the ACLU.

3 The videographer is Daniel Katz, and the court reporter is Michele Anzivino, both of Magna Legal Services.

4 Would counsel and all parties present state their appearances and whom they represent.

5 MR. HOGLE: All right. My name is Charlie Hogle, and I represent the plaintiffs.

6 MR. HANDEYSIDE: Hugh Handeyside. I represent the plaintiffs.

7 MR. MOORE: Brendan Moore. I represent the
defendants.

MS. BRAGA: Victoria Braga, represent the defendants.

MR. HOGLE: Okay. Great. And I think that is the universe of people who are potentially participating in today's deposition aside obviously from the star witness, Mr. Negrut-Calinescu. Am I stating that right?


MR. MOORE: So why don't we get started.

THE VIDEOGRAPHER: Will the court reporter please swear in the witness.

Thereupon,

ANTHONY NEGRUT-CALINESCU,

having been duly sworn or affirmed, was examined and testified as follows:

THE WITNESS: Yes, I swear.

DIRECT EXAMINATION BY MR. HOGLE:

Q. Okay. Thank you for that. And so as I said, Charlie Hogle. I represent the plaintiffs. I definitely want to thank you for taking the time to meet with us today. And also I know it's early for some people on this call so, you know, thanks for making it out or making it into this video room.
share my screen. All right. All right. And can you see --

A. Yes, I can see it.

BY MR. HOGLE:

Q. Okay. Great. So for the reporter, let's just mark that as Exhibit 1.

(Exhibit No. 1 marked for identification.)

BY MR. HOGLE:

Q. So I guess I want to let you know he that first of all these images here are screenshots. That are from training materials that defendants produced in discovery. And I'm wondering if this looks familiar to you.

A. I don't think it looks familiar to me.

Q. Okay. I'm going to scroll a little bit farther down a bit. I apologize if this is going too fast, but I am going to pull up a particular page here. This is a page of the same training.

A. You know, I don't know. I may have -- maybe we have these trainings that we have to do on a regular basis called PALMS courses. I may have taken one of these trainings, but I don't remember.

Q. Okay. Does the content of the slide look familiar to you?
A. I don't think so.

Q. Okay. All right. I'm going to stop sharing my screen now. Look at that.

Now, you mentioned a PALMS course. Is that an acronym?

A. Yes. It's another acronym, but I don't know what that one stands for.

Q. Okay. Could you spell out the acronym so we have it on the record?

A. It's P-A-L-M-S.

Q. Okay. Perfect. Great. And can you just describe what a PALMS training is?

A. There's many different types of training we received through this. It applies to all sorts of aspects of our job, but it's pretty general. For example, there was an active shooter training. What we should do if there's an active shooter. There's file management training. There's many different types of trainings.

Q. Okay. And did PALMS training include anything specific to processing applications for immigration benefits?

A. No. I don't believe so. The -- I think the closest to that was just being aware of confidentiality provisions of asylum applications.
CERTIFICATE OF REPORTER

STATE OF FLORIDA
COUNTY OF BROWARD

I, Michele Anzivino, Court Reporter, do hereby certify that I was authorized to and did stenographically report the deposition of ANTHONY NEGRUT-CALINESCU, that a review of the transcript was not requested; and that the foregoing transcript, pages 1 through 246, is a true and correct record of my stenographic notes.

I FURTHER CERTIFY that I am not a relative, employee, or attorney, or counsel of any of the parties, nor am I a relative or employee of any of the parties' attorney or counsel connected with the action, nor am I financially interested in the action.

DATED this 2nd day of October, 2020.

MICHELE ANZIVINO, Court Reporter
Notary Public - State of Florida
My Commission Expires: 02/23/2023
My Commission No.: GG-304081
ACKNOWLEDGMENT OF DEponent

I, Anthony Negrot, do hereby certify that I have read the foregoing pages, 1 - PGS, and that the same is a correct transcription of the answers given by me to the questions therein propounded, except for the corrections or changes in form or substance, if any, noted in the attached Errata Sheet.

[Signature]

WITNESS NAME

DATE

11/19/2020

Subscribed and sworn to before me this ____ day of __________, 20__.

My commission expires: ________

______________________________
Notary Public

Seven Penn Center
1635 Market Street – 8th Floor
Philadelphia, PA 19103

866-624-6221

[Signature]

11/19/2020
UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON AT SEATTLE

ABDIQAFAR WAGAFE, et al., on behalf of themselves and others similarly situated,

Plaintiffs,

vs.

DONALD TRUMP, President of the United States, et al.,

Defendants.

____________________________

VIDEO-RECORDED REMOTE DEPOSITION
OF KELLEY COSTELLO
TUSTIN, CALIFORNIA
WEDNESDAY, SEPTEMBER 23, 2020

STENOGRAPHICALLY REPORTED BY:

Valerie C. Rodriguez
CSR No. 12871 (orig 6980)
UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON AT SEATTLE

ABDIQAFAR WAGAFE, et al., on behalf of themselves and others similarly situated,
Plaintiffs,

vs.

DONALD TRUMP, President of the United States, et al.,
Defendants.

____________________________

VIDEO-RECORDED REMOTE DEPOSITION OF KELLEY COSTELLO,
taken on behalf of the plaintiff, in Tustin, California, commencing at 7:13 a.m. and ending at
4:07 p.m. Pacific Time, on Wednesday, September 23, 2020, before Valerie C. Rodriguez,
certified shorthand reporter no. 12871 (originally 6980).
APPEARANCES:

FOR PLAINTIFFS ABDIQAFAR WAGAFE, ET AL.,
ON BEHALF OF THEMSELVES AND OTHERS
SIMILARLY SITUATED:

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FOUNDATION OF SOUTHERN CALIFORNIA
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    VIA WEBEX

FOR DEFENDANT DONALD TRUMP, PRESIDENT OF
THE UNITED STATES, ET AL.:

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BY:  ANNE DONOHUE, ESQ.
    950 PENNSYLVANIA AVENUE, NW
    WASHINGTON, D.C.  20530-0009

(APPEARANCES CONTINUED)
APPEARANCES CONTINUED

FOR DEFENDANT DONALD TRUMP, PRESIDENT OF THE UNITED STATES, ET AL.

(CONTINUED):

UNITED STATES CITIZENSHIP AND IMMIGRATION SERVICES
DEPARTMENT OF HOMELAND SECURITY
OFFICE OF CHIEF COUNSEL

BY: KAITLYN CHARETTE, ESQ.
    JESSICA SCHAU-NELSON, ESQ.
    CAITLIN MILLER, ESQ.

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SUITE 4025
WASHINGTON, D.C.  20529
202.272.1906
VIA WEBEX

ALSO PRESENT:
JOSEPH NEW, VIDEOGRAPHER
YLIANA JOHANSEN-MENDEZ
# INDEX TO DEPOSITION OF KELLEY COSTELLO

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THE VIDEOGRAPHER: We are now on the record. This begins the video deposition of Kelley Costello in the matter of Abdiqafar Wagafe v. Donald Trump, President of the United States, et al., in the United States District Court, Western District of Washington at Seattle, Case number 17-CV-00094 RAJ.

Today is Wednesday, September 23rd, 2020. And the time is 7:13 a.m.

This deposition is being taken remotely at the request of the ACLU of Southern California. The videographer is Joseph New and the court reporter is Valerie Rodriguez of Magna Legal Services.

Will counsel and all parties present state their appearances and whom they represent.

MS. CHO: My name is Michelle (Minju) Cho from ACLU of Southern California for the plaintiff.

THE STENOGRAPHIC REPORTER: Ms. Braga, it
1 looks like you may be on mute.

2 MS. BRAGA: Victoria Braga, the

3 Department of Justice for defendants.

4 THE STENOGRAPHIC REPORTER: Ms. Cho,

5 would you like all the other parties on the line to

6 state their appearances?

7 MS. CHO: Yes, please.

8 MS. CHARETTE: Kaitlyn Charette, Counsel

9 for the defendants, but I will not be speaking

10 today.

11 THE VIDEOGRAPHER: Any more, Department

12 of Justice, for defendants?

13 MS. MURPHY: Lindsay Murphy, Department

14 of Justice, just observing today.

15 MS. NELSON: Jessica Schau-Nelson, United

16 States Citizenship and Immigration Services for

17 defendants and I'll just be observing today as well.

18 MS. MILLER: Caitlin Miller, agency

19 counsel for USCIS.

20 THE VIDEOGRAPHER: Is that everyone?

21 MS. CHO: Not quite yet.

22 MS. DONOHUE: This is Anne Donohue with

23 the Department of Justice for the defendants, but I

24 am observing only today.

25 MS. CHO: Also, I will announce that my
co-counsel, Jennifer Pasquarella, ACLU of Southern California, is also on the line, but she is having some audio issues with the platform. So the unmute button doesn't seem to be working. Is that everyone?

THE STENOGRAPHIC REPORTER: I believe that is. We'll just have the read-on continue. Go ahead, Joseph.

THE VIDEOGRAPHER: Will the court reporter please swear in the witness.

(Pursuant to Rule 11 of the April 6, 2020 Emergency Order issued by the California Judicial Council, the stenographic reporter requests introductions of all parties present and agreement by all parties for remote reporting of proceedings and remote swearing of the witness.)

THE STENOGRAPHIC REPORTER: Ms. Cho and Ms. Braga, would you both agree and stipulate that I may swear the witness in remotely?

MS. CHO: Yes.

MS. BRAGA: Yes.

///
KELLEY COSTELLO,
having been first duly sworn remotely,
was examined and testified as follows:

EXAMINATION

BY MS. CHO:

Q     Good morning, Ms. Costello. My name is
Minju Cho and I represent plaintiff in this case.
Thank you for taking the time to meet with us today.
Have you ever been deposed before?

A     No, I have not.

Q     I'm going to go over some preliminary
instructions just to make sure we are both on the
same page. If at any point, if you have any
questions, please interrupt me.

The court reporter will write down
everything we say, so it's important we do our best
to avoid talking over each other. I'll try to wait
until you have finished your answer before asking my
next question and I also ask that you try to wait
until I've asked my question before starting your
answer.

Is that okay?

A     Yes.
I mentioned, it comes up when we're doing trainings about eliciting testimony, trainings about credibility. We also have a -- fairly frequently, you know, if the US has declared Hispanic Heritage Month or Native American Heritage Month or various other heritage months, we'll occasionally have speakers come into our office who also provide some cultural awareness training.

So it's hard to give an exact number on how many times I've had cultural awareness training.

Q Okay.

MS. CHO: I'm going to introduce a new exhibit, this is Exhibit 6. I will represent to you that these are screenshots I've taken and compiled from a training that defendants' counsel shared with plaintiffs' counsel as part of the discovery in this case.

(K. Costello Exhibit 6 was marked for identification.)

MS. CHO: I will also represent to you that despite my best effort, there were, I believe, one or two slides that I was not able to access. So I will scroll through this so you can just take a look at the screenshots.

(Document review.)
MS. CHO: Sorry, I'm going fairly quickly.

BY MS. CHO:

Q Based on what you see, are these screenshots that you recognize?

A No, none of the images that I'm looking at seem familiar. So I don't think this is a training that I personally have received.

Q Okay. Thank you. Have you ever received --

MS. CHO: I'll take this down.

BY MS. CHO:

Q Have you ever received anti-discrimination training?

A I mean, yes. There is annual training required to do about discrimination in the workplace. So I've received anti-discrimination training.

Q Have you received training on racial profiling?

A I believe it may have come up in other trainings, but I don't -- I don't remember having a specific training about racial profiling.

Q Have you received trainings on religious profilings?
I mean, during our training, we are, you know, worrying about religious claims and take care to note that just because you're not familiar with a religion doesn't mean that it's not a valid religion and you should accept people's religious beliefs. So if that's the sort of thing you're referring to...

Is there anything else, any other training you've received that you can think of that you would characterize as religious profiling, training on religious profiling?

Not that falls into those -- that term.

Have you ever received training on Islams specifically?

You mean trainings about tenants of Islam or what do you mean?

Trainings regarding Islam as it relates to your work.

Not specifically related to Islam that I can remember.

Have you received training on Islamophobia?

To the extent that we've, you know, covered making (audio dropout) biases and making
I, KELLEY COSTELLO, do hereby declare
under penalty of perjury that I have read the
foregoing transcript; that I have made any
corrections as noted in ink, initialed by me; that
my testimony as contained herein, as corrected, is
true and correct.

EXECUTED this _______ day of ___________,
20___, at ___________________, __________________.

(City) (State)

KELLEY COSTELLO

Digitally signed by KELLEY L
COSTELLO
Date: 2020.11.05 08:31:56
-08'00'

KELLEY COSTELLO
CERTIFIED STENOGRAPHIC REPORTER'S CERTIFICATION

I, Valerie C. Rodriguez, a Certified Shorthand Reporter for the State of California, do hereby certify:

That said proceedings were taken before me at the time and place set forth herein and was stenographically reported by me in shorthand, and I hereby certify that said proceedings are a full, true, and correct transcript of my shorthand notes so taken; that the dismantling, unsealing, or unbinding of the original transcript will render the reporter's certificate null and void.

Further, that if the foregoing pertains to the original transcript of a deposition in a federal case, pursuant to F.R.C.P. 30(e)(2) before completion of the proceedings, review of the transcript was not requested.

I further certify that I am neither counsel for, nor related to any party to said action, nor in any way interested in the outcome thereof. IN WITNESS WHEREOF, I have subscribed my name this 10th day of October, 2020.

______________________________
VALERIE C. RODRIGUEZ
CSR No. 12871 (orig. 6980)
EXHIBIT 113
CARRP

Deconfliction, Internal and External Vetting and Adjudication of NS Concerns

U.S. Citizenship and Immigration Services

FOR OFFICIAL USE ONLY (FOOU)
LAW ENFORCEMENT SENSITIVE

Version 1.4

EXHIBIT 83
Witness: R. Osuna
C ID 7535 9-23-11
Deconfliction

- Preparing for RFE, Interview or Site Visit
  - Also provides record owner with opportunity to submit questions
  - Must be material to benefit sought
- Following receipt of additional information/evidence
  - Also provides record owner with the opportunity to consider additional information that may inform further action or investigation of the case
- Preparing for Decision
  - Also provides record owner with the opportunity to comment on decision
Deconfliction - Guidance

Request by Law Enforcement Agency for Abeyance or Expedited Processing during Deconfliction -

- Designated officers in receipt of LEA requests to grant, deny or place in abeyance the issuance of immigration benefits must refer the request to the USCIS chain of command.

- Request must be in writing, in accordance with the Operational Guidance.

- Designated officer must prepare a written recommendation to Field Director requesting to place the case in abeyance or for expedited processing.

- On a case-by-case basis, the Field Director will determine whether the request comports with the requirements for abeyance (8 CFR 103.2(b)(18)) or warrants expedited processing.