

The Honorable Richard A. Jones

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IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

ABDIQAFAR WAGAFE, *et al.*, on behalf of
himself and other similarly situated,

Plaintiffs,

v.

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

Defendants.

CASE NO. 2:17-cv-00094-RAJ

**DECLARATION OF DANIEL
RENAUD IN SUPPORT OF
DEFENDANTS' MOTION FOR
SUMMARY JUDGMENT AND IN
OPPOSITION TO PLAINTIFFS'
MOTION FOR SUMMARY
JUDGMENT**

I, Daniel Renaud, do declare and say:

1. I am the Associate Director, Field Operations Directorate (“FOD”), United States Citizenship and Immigration Services (“USCIS”), a component of the Department of Homeland Security (“DHS”). I have held this position since February 2017.

2. As Associate Director, I am responsible for all USCIS field office operations, primarily the adjudication of applications for naturalization and for adjustment of status to permanent resident status, to include in-person interviews and field investigations. The FOD is composed of nearly 8,000 federal employees working out of 88 field offices located throughout the United States and is headquartered in Camp Springs, MD.

1 3. The statements made in this declaration are based on my understanding of the case *Wagafe,*
2 *et al. v. Biden, et al.*, No. 2:17-cv-00094 (WAWD), as well as on my knowledge and experience in
3 USCIS management, and my consideration of information available to me in my capacity as
4 Associate Director including the contents and operation of the Controlled Application Review and
5 Resolution Program (“CARRP”) policy.

6 4. I have supervised in various capacities USCIS adjudicators since 1996. I have served as a
7 first line supervisor at the Vermont Service Center, a manager in Headquarters Field Operations, the
8 Chief of Performance Management Division, Chief of the USCIS Transformation Program, Service
9 Center Director, Deputy Associate Director for Field Operations, and currently serve as the
10 Associate Director for Field Operations. I have approximately 25 years of supervisory and
11 managerial experience with USCIS and its predecessor, the Immigration and Naturalization Service
12 (“INS”). Through these responsibilities, and my career progression from a first-line supervisor
13 through my current position, I am extensively familiar with supervisor-adjudication officer
14 relationships and the manner in which issues or problems are handled both at the adjudication-officer
15 level and at a programmatic level.

16 5. Consistent with its mission, USCIS views each individual application for an immigration
17 benefit neutrally, objectively, and independently on its own evidence. *See* Homeland Security Act
18 of 2002, Pub. L. 107-296; Privacy Act of 1974, 5 U.S.C. § 552(a); § 504 of the Rehabilitation Act of
19 1973, Pub. L. 93-112; and USCIS’ mission statement. Adjudicators assess each application based on
20 the totality of the circumstances presented by the applicant and otherwise discovered in the course of
21 USCIS’ inquiries prompted by the application. Adjudicators must determine each applicant’s
22 eligibility for the benefit sought in accordance with applicable law. This includes consideration of
23 the probative value of evidence, the veracity of testimony, the level of scrutiny appropriate to the
24 case, and the existence of mitigating factors in reaching a decision. If a decision is made to deny a
25 requested benefit, that denial must rest on a legally sufficient, non-discriminatory basis that is
26 articulated in writing. USCIS does not permit its officers to deny an immigration benefit application
27 on a legally insufficient basis, although sometimes courts will disagree with some agency decisions.

1 6. As reflected at page CAR 80 of the Administrative Record filed in this case, *see* ECF 287
2 (sealed), CARRP [REDACTED]
3 [REDACTED] Substantive
4 eligibility criteria for a particular type of application are the same for all such applications and come
5 from the Immigration and Nationality Act or related regulations. CARRP [REDACTED]
6 [REDACTED] is, instead, an analytical pathway created so
7 that pending applications identified as raising possible national security concerns can be handled in a
8 systematic way. This pathway assures that these applications receive the attention and focus of
9 knowledgeable and specially-trained immigration officers so that national security concerns are
10 vetted correctly by the agency. Thus, when a benefit application subject to CARRP has been vetted
11 and is ready for adjudication, the merits of the application are assessed and a decision on the
12 application is made according to the exact same substantive legal standards that apply to the
13 adjudication of applications that were not subject to CARRP. Although certain USCIS adjudicators
14 are designated to decide CARRP cases, this specialization is to ensure the adjudicators' familiarity
15 with CARRP so that they can be confident the applications in CARRP have received appropriate
16 agency scrutiny. CARRP-trained officers are also aware of any requirement to elevate a final
17 decision for supervisory concurrence, if approval is appropriate under the substantive legal standards
18 governing all applications. Consistent with these principles, adjudicators remain able to judge an
19 application using only the applicable legal standards and are not bound by CARRP to reach or
20 recommend a particular result at the time of adjudication of an application subject to
21 CARRP. Instead, they use the factual information obtained through the CARRP process in applying
22 the same legal standards they would apply to any other application.

23 7. In assessing the performance of adjudicating officers, supervisors do not have "quotas", i.e.,
24 there is no set number of approvals or denials that officers should strive to reach within a period of
25 time. While we do encourage officers to move cases along swiftly, it is more important for the
26 adjudicators to be confident that they learned all relevant information, followed the proper process,
27 and arrived at the correct decision, than to adjudicate an application, or process a certain volume of
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1 applications, within a certain time frame. By and large, adjudicators in the field, both CARRP and
2 non-CARRP adjudicators, are fully capable of applying their training to the execution of their
3 responsibilities and generally do not require close supervisor assistance or correction. Nevertheless,
4 each adjudicator meets with his or her supervisor on a monthly basis to assess the adjudicator's
5 performance and address any issues. If, despite the assistance of a supervisor, an employee's
6 performance is poor, the officer will be placed on a formal Performance Improvement Plan where
7 specific objectives are set and closely monitored. If the officer does not meet the objectives in the
8 Performance Improvement Plan, there are a range of consequences that could include removal from
9 government service.

10 8. It is USCIS policy for every final decision by an officer denying a primary benefit request,
11 such as naturalization or adjustment of status to permanent residence, to be reviewed for accuracy
12 and legal sufficiency by a supervisor or senior-level officer. If an adjudicator were to decide a case
13 on a legally insufficient or discriminatory basis, then the supervisor would initiate a conversation
14 with the adjudicator to ensure that the adjudicator understood why the decision was inappropriate.
15 Depending on the specific circumstances of the decision, the adjudicator's history and performance
16 in response to any prior corrections, and if any future similar issues arise, a supervisor may require
17 an adjudicator to undergo additional training, have cases reassigned, or even have the adjudicator's
18 conduct investigated for possible removal from the agency. For example, if an adjudicator proposes
19 to decide an application on a legally insufficient basis, and after discussion with a supervisor either
20 does not understand why the decision is unsupportable or declines to change the proposed resolution,
21 the supervisor could reassign the case to another officer for adjudication.

22 9. Denials of benefit applications must be formalized in writing, with an explanation to the
23 applicant why the benefit was denied, and must cite a legally supportable basis. All grounds that
24 form the basis for the denial should be included; however, the decision need not discuss every factor
25 that the adjudicator considered. If, for example, a naturalization applicant was determined to be
26 ineligible due to an insufficient amount of time residing in the United States, the decision would
27 provide a discussion about why the officer believed the residency requirement was not met. If that

1 applicant had also been charged with a misdemeanor offense that was dismissed, the dismissed
2 misdemeanor charge would not be addressed in the denial because it did not form the legal basis for
3 denial of naturalization.

4 10. One of my priorities over my tenure at USCIS has been managing operations to maximize
5 efficiency. I therefore review agency processes and procedures to identify ways to increase
6 efficiency, improve timeliness and quality, and ensure the integrity of the immigration benefit
7 process. For example, in roughly 2002-2005, I was asked to develop a backlog elimination plan that
8 tracked workloads which exceeded target cycle times. Cycle time is not the time processing takes
9 from filing of an application to adjudication, but rather is time expressed in volume, specifically, the
10 volume of pending work expressed in terms of months of receipts. The plan, which was delivered to
11 Congress, described the challenge, the measurements, and the current status, and it outlined the
12 strategy to reduce cycle times and eliminate backlogs. Most recently, I have led the effort to
13 redesign the business models associated with naturalization and adjustment-of-status applications.
14 One major development in our business model was the introduction of complexity scoring for
15 naturalization applications. In this context, complexity is defined as the existence of factors that
16 would result in a longer than average interview, such as a criminal record, current conditional status,
17 or a requested name change. We were able to use complexity scoring to efficiently schedule cases
18 for interview. Instead of scheduling every interview for the average amount of time, we were able to
19 better predict the length of interview and thus use our time more wisely. Another example is the
20 InfoMod project which diverted simple questions away from the information counters in field offices
21 to the USCIS website or the Contact Center. This enables customers to get basic information
22 quickly and it allows resources in field offices to be redirected to adjudicative activities. That
23 ongoing effort has yielded significant returns from better utilization of staff and leveraging
24 technology to improve efficiency.

25 11. USCIS prioritizes efficiency because it is incumbent on the agency to provide accurate,
26 timely, and secure decisions regarding requests for benefits. In this context, “timely” is relative to
27 the complexities a particular case presents, but without unnecessary delay. Efficiency is important to
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1 USCIS because of the impact our decisions have on the lives of the individuals who apply for
2 immigration benefits. We are constantly looking for new ways to improve our systems and
3 processes in order to adjudicate applications more efficiently.

4 12. Over the years, I have observed that one of the obstacles to efficient processing of benefit
5 applications is simply that some applications present more complicated fact patterns, while others
6 are more straightforward. Some applications raise unique concerns or novel issues. Because every
7 application presents different circumstances, and because adjudicators are to consider the totality of
8 all circumstances in a particular case, both positive and negative, it is only natural that some
9 applications take longer to review and adjudicate than others. In addition, some cases require an
10 interview of the applicant, beneficiary, and/or petitioner. Interview criteria is based either by statute,
11 such as in naturalization cases, or by policy. USCIS sets interview criteria for certain benefit types
12 based in part on whether the credibility of the applicant or the veracity of the applicant's claims are
13 the basis for the decision. For example, USCIS currently requires all adjustment-of-status cases
14 based on a spousal relationship to be interviewed. An important part of determining eligibility is for
15 the officer to determine if the marriage is in fact, *bona fide*, and not solely for immigration purposes.
16 As such, adjustment-of-status cases involving a spousal relationship will have a longer processing
17 time than adjustment-of-status cases where an interview may be waived, such as non-citizen parents
18 of U.S. citizens.

19 13. In my experience, ensuring that adjudicators are thoroughly and properly trained promotes
20 efficiency in adjudications. If an adjudicator encounters an issue with an application that he/she is
21 unfamiliar with or that he/she lacks the tools to assess, he/she may feel uncomfortable working on
22 the case and put off doing so. With appropriate training on the types of scenarios adjudicators might
23 encounter and on the USCIS resources available when they are presented with an unfamiliar issue,
24 adjudicators are much better equipped to adjudicate cases correctly and efficiently.

25 14. This is especially true in cases involving a possible threat to national security. I supervised
26 adjudicating officers before the CARRP policy was implemented, and observed that sometimes,
27 officers assigned to cases that raised a possible threat to national security were unsure whether they

1 were proceeding correctly. Consequently, they postponed making decisions out of fear that they
2 would make the wrong one. [REDACTED]

3 [REDACTED]
4 [REDACTED] The assurance of an
5 established set of steps recognized as the correct path by which to adjudicate a case with a possible
6 national security concern is one of the greatest strengths of the CARRP process. It is absolutely
7 necessary for USCIS to continue adjudicating applications as efficiently as possible while also
8 protecting the national security interests of the U.S.

9 15. CARRP provides a set of procedures to evaluate national security issues in a consistent,
10 thorough, and timely manner. CARRP routinizes the steps that should be taken agency-wide when
11 dealing with immigration benefit applications that raise a possible national security concern. When
12 adjudicating officers are trained in the CARRP process, they can rely on and therefore feel
13 comfortable that they are following a recognized, established process, have gathered all relevant
14 information, and can adjudicate an application without fear of misstep and possible repercussions.
15 CARRP provides adjudicating officers certainty that the evaluation process they have followed is
16 recognized as complete and acceptable to USCIS. The absence of that certainty and confidence in
17 the uniformity of the process leads to inefficiency.

18 16. The process also provides assurance to CARRP adjudicators that if the CARRP process is
19 followed and a final decision granting a benefit later comes into question, the decision will have
20 been the result of a sanctioned process that is thoroughly documented, such that any responsibility
21 for negative outcomes, such as approving a benefit to an ineligible applicant or an applicant who
22 received a benefit later commits a serious crime, will be borne by the agency and not the individual
23 adjudicator. In other words, officers trained in CARRP know that if the case was processed through
24 CARRP and the national security issues are addressed, they will be on solid ground to make a
25 decision on the case.

26 17. Related to my responsibilities to maximize efficiency, I routinely monitor levels of volume
27 and age of pending CARRP cases, just as I monitor levels of volume and age of all pending case-

1 types. I conduct this monitoring in order to assess where additional resources are needed within
2 FOD to process its workload. As part of that routine monitoring, I request reports on aging CARRP
3 cases and aging cases of other types. I have had discussions with field and directorate leadership
4 about ways to process applications and caseloads more efficiently regarding both CARRP and non-
5 CARRP categories of cases.

6 18. The focus of USCIS is to decide the oldest pending cases first. For example, FOD monitors
7 pending cases on a continual basis. Reports are made available to field and Headquarters managers
8 that depict pending levels, age of pending by percentile, and age and volume of continued cases by
9 percentile. We also generate reports on pending levels of CARRP cases to monitor and, where
10 appropriate, identify the root issue why the cases remain pending. If possible, we resolve the issue
11 so that the case may move forward. When I examine groups of cases needing to be prioritized, I
12 would not focus on whether cases are in CARRP or not, but rather on the age of cases compared to
13 the rest of the pending workload in the same field office.

14 19. I was deposed in this matter on January 10, 2020, and understand that Plaintiffs are familiar
15 with my deposition testimony. I am aware that Plaintiffs have alleged in their Motion for Summary
16 Judgment that USCIS officers intentionally “shelved” cases for which they could not resolve
17 national security concerns or find a basis to deny the application. I am also aware that, based on my
18 testimony, [REDACTED]

19 [REDACTED] See
20 Plaintiffs’ Motion for Summary Judgment, filed 3/25/21, pp. 16, 34. Plaintiffs have misconstrued
21 my deposition testimony.

22 20. For various reasons, including triaging other parts of a workload and waiting to hear back
23 from another officer or agency, an officer does not work constantly on one application from the
24 moment it is assigned to the moment of adjudication. Because of this, there will be periods of time
25 when an officer is not actively working a case. However, it would not be appropriate for officers to
26 shelf cases in order to avoid granting a benefit to an eligible applicant. In my deposition, I testified
27 [REDACTED]

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[REDACTED]

Plaintiffs erroneously interpret [REDACTED]

[REDACTED]

[REDACTED] but it was not backlog in the sense that Plaintiffs claim. I did not then, and do not now, know the ages of those cases, but I know that they included normal fluctuations of new cases entering CARRP and being routinely processed and did not result from adjudicators “shelving” cases that they simply did not want to approve.

21. To the extent that some part of those [REDACTED] were an accumulation, I learned nothing to suggest that the accumulation of cases was intentional, as opposed to natural fluctuations of workload. However, I am confident that such accumulation will not occur again because with the expanded training of CARRP and the focus on resolving case backlogs, USCIS is confident that we have fixed the circumstances that could contribute to case accumulation. Certainly if there is a massive influx of new CARRP cases, backlogs may develop, but if CARRP levels remain roughly static, I do not expect to see a buildup of CARRP cases.

22. As mentioned above, I monitor pending levels of CARRP cases as part of my workload management responsibilities. While there is a volume of pending CARRP cases, I do not consider there to be a significant backlog. In order to prevent one from developing, FOD monitors the workload and ensures that field leadership understands that aging cases remain a priority.

23. USCIS does have backlogs in many benefit types. Applications for adjustment-of-status and naturalization have the largest backlogs in FOD. We look to innovation, such as the deployment of new technology as with ELIS in the N-400 workload, process improvement like complexity scoring, and strategic resource allocation such as redirecting information counter officers to adjudicative activities in order to address and reduce the backlogs.

24. Naturally, we would prefer not to have any backlogs. We make every reasonable effort to ensure that we are completing cases as efficiently as we can. That is a never-ending endeavor, but

1 put simply, if more cases are filed than we have capacity to process, pending levels will increase and
2 if sustained, backlogs will result. We have at times been successful at reducing and even eliminating
3 backlogs, but the situation is constantly changing.

4 25. We receive weekly reports of pending workloads, cases ready for interview, and prior week's
5 completion levels, which include CARRP cases. This data keeps us informed to avoid the
6 development of backlogs. This monitoring is not specific to CARRP; indeed, we manage CARRP
7 cases as we manage any other workload.

8 26. It is true that average CARRP applications for naturalization or adjustment-of-status take
9 longer to process to final adjudication than average non-CARRP applications, but this is not
10 specifically because of CARRP. Such cases take longer because they present national security
11 concerns, and for that reason need to be vetted more thoroughly, whatever process might be used to
12 guide such inquiries. Before CARRP, cases that presented national security concerns took
13 considerably longer on average to process than those that did not present such concerns. The
14 implementation of CARRP has accelerated the pace at which cases involving national security
15 concerns are processed, as immigration officers and adjudicators assigned to handle national security
16 concern cases know exactly what steps to take in the correct order to properly investigate the
17 concern and process the case through to final adjudication.

18 27. Cases that raise a possible national security concern are not the only ones that require
19 specialized processing that may take longer than the average case. For example, immigrant visa
20 petitions for alien spouses that raise a suspicion of marriage fraud are referred for further
21 investigation, including site visits for the petitioner and beneficiary. Another example are certain
22 family-based visa petitions where the Adam Walsh Act applies (concerning petitioners with certain
23 convictions), in which cases there are specific processes that do not apply in other cases. In both of
24 these examples, the additional investigative steps often cause processing to take longer, even if the
25 application is ultimately approved.

26 28. Cases where there is a suspicion of marriage fraud provide a useful comparison to CARRP
27 and the area of national security. In both categories of cases, a question related to the applicant's

1 eligibility may arise from the material submitted by the applicant, or from a third-party agency that
2 possesses information about the applicant or someone with a connection to the applicant. Cases that
3 raise a suspicion of marriage fraud may be referred for further investigation to determine whether the
4 case involves marriage fraud. Such cases would take additional time to adjudicate due to the extra
5 investigatory steps that need to take place. Marriage fraud, other types of fraud, or any other
6 possible criminality will result in additional time being allocated to the case. But with fraud cases,
7 as with all applications before USCIS, decisions are made based on the relevant law and the totality
8 of circumstances of the facts and evidence in the record relating to the application.

9 Conclusions

10 29. USCIS strives to run its operations efficiently. I monitor the productivity and efficiency of
11 the field offices and their handling of applications for different categories of benefits. If I observe
12 that cases are getting stuck, or backlogs are developing, or there are other indicators that the
13 processes in place are functioning inefficiently, I investigate the cause of the inefficiency and
14 formulate a solution. This is my responsibility for all types of benefit applications and petitions, for
15 CARRP and non-CARRP cases.

16 30. CARRP is not a tool to delay or deny applications. On the contrary, CARRP enhances
17 efficiency by providing adjudicators a concrete, uniform process to follow in evaluating applications
18 that present a national security concern, which gives them the confidence needed to make decisions
19 in cases implicating national security. While CARRP cases do often take longer to adjudicate than
20 non-CARRP cases, there are neutral, objective, non-discriminatory reasons. When CARRP cases
21 are denied, like when all cases are denied, the denials are based on the totality of circumstances and
22 on legally cognizable bases, not because of race, religion, ethnicity, or country of origin.

23
24 I declare under penalty of perjury that the foregoing is true and correct.

25 Executed on this 3rd day of May 2021, at Falmouth, MA.

26
27 DANIEL M RENAUD Digitally signed by DANIEL M
RENAUD
Date: 2021.05.03 19:41:18 -04'00'
28 DANIEL RENAUD

CERTIFICATE OF SERVICE

I hereby certify that on May 3, 2021, I electronically filed the foregoing via the Court's CM/ECF system, which will send notification of such filing to all counsel of record.

/s/ W. Manning Evans
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