

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 RUSSELL L.
WEBB IN SUPPORT OF
DEFENDANTS’ MOTION FOR
SUMMARY JUDGMENT AND IN
OPPOSITION TO PLAINTIFFS’
MOTION FOR SUMMARY
JUDGMENT**

I, Russell L. Webb, do declare and say:

1. I am a Supervisory Immigration Services Officer (“SISO”)/Section Chief at the National Benefits Center (“NBC”), United States Citizenship and Immigration Services (“USCIS”), Department of Homeland Security (“DHS”). I have held this position since July 2013. The NBC is located in Lee’s Summit, MO and Overland Park, KS.

2. Prior to taking my current position, I served as a Border Patrol Agent for the former Immigration and Naturalization Service from 1996 to 1998; as an Asylum Officer in the Houston

1 Asylum Office from 1998 to 2004; as a USCIS Fraud Detection and National Security (“FDNS”)
 2 Fraud Officer in the Houston Asylum Office and the Houston District Office from 2004 to 2008; as a
 3 Supervisor in the Phoenix District Office of FDNS from 2008 to 2011, and as Chief of Staff of the
 4 USCIS Field Office Directorate’s Kansas City District in Kansas City, MO from 2011 to 2013.

5 3. The statements made in this declaration are based on my understanding of the case *Wagafe,*
 6 *et al. v. Biden, et al.*, No. 2:17-cv-00094 (W.D. Wash.), my knowledge and experience of how the
 7 NBC applies and refers applications for review under the Controlled Application Review and
 8 Resolution Program (“CARRP”) policy, as well as my consideration of information available to me
 9 in my capacity as SISO/Section Chief.

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 11 4. The NBC is a component of USCIS’ Field Office Directorate (“FOD”). It serves as USCIS’
 12 central pre-processing facility for certain immigration forms, including N-400s (Application for
 13 Naturalization) and I-485s (Application for Adjustment of Status), before they are sent to the field
 14 for interviews and adjudication. Generally speaking, the pre-processing of applications done at the
 15 NBC typically includes running computer-based background and security checks on all applicants,
 16 ensuring that all information required by statutes, regulations, and forms has been submitted with an
 17 application, and preparing the file for the field before an applicant is scheduled for an interview and
 18 an adjudicator assesses the application.

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 20 5. In addition to its role in pre-processing immigration forms, the NBC also serves as USCIS’
 21 centralized intake point for all classified and unclassified Federal Bureau of Investigation (“FBI”)
 22 Letterhead Memoranda (“LHMs”) received by the agency. As discussed further below, I supervise a
 23 specialized team of USCIS officers that is responsible for reviewing every LHM that USCIS
 24 receives and routing them to the appropriate agency recipient.

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 26 6. The NBC is composed of various USCIS organizational components. My position falls
 27 within the NBC’s FDNS division, which is responsible for enhancing national security and the
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1 integrity of the legal immigration system by receiving referrals of applications with indicators of
2 potential national security (“NS”) concerns and vetting those concerns to determine if the
3 applications warrant review under CARRP, USCIS’ policy for processing applications that raise
4 potential NS concerns.

5 7. The NBC’s FDNS division is organized into two Fraud Sections and a National Security
6 Section. In my current role as SISO/Section Chief, I oversee the National Security Section and the
7 three teams that comprise it. The National Security Section’s “FBI Name Check Team,” as noted in
8 ¶ 5 above, is tasked with receiving, reviewing, and categorizing LHMs on behalf of all of USCIS.
9 The National Security Section’s other two teams are responsible for reviewing and processing
10 applications that raise potential NS concerns in the course of pre-processing to determine whether
11 the results of security checks run on an applicant require further review under CARRP.
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13 8. All applicants whose forms are pre-processed at the NBC undergo certain security checks,
14 including TECS record checks and FBI name checks. Officers within the National Security Section
15 “triage” all applications in which a TECS hit or positive FBI name check indicates the existence of a
16 potential NS concern by reviewing the NS indicators associated with the TECS record or FBI name
17 check result. If the triage officer determines that the NS indicators present a potential NS concern,
18 the officer will forward the application to one of the National Security Section’s two CARRP Teams
19 for processing in CARRP.
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21 TECS-BASED REFERRALS:

22 9. When a TECS check results in a positive TECS hit that indicates the existence of a potential
23 NS concern, the NBC’s Background Check Unit (“BCU”), which conducts the TECS record check,
24 will refer the application to the National Security Section for triage. A triage officer will then review
25 the TECS record to evaluate whether the NS indicators warrant further review under CARRP. An
26 applicant’s national origin, country of citizenship, or religion are not regarded or treated as NS
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1 indicators. Based on my experience supervising the triage officers' work, I estimate that about 30%-
2 40% of the applications that the BCU refers to the National Security Section based on a TECS hit
3 lack the NS indicators required to be referred for CARRP review. Triage officers generally return
4 such cases to the normal processing track within 7 days of receiving them from the BCU.

5 10. For applicants with TECS hits that do contain indicators of a potential NS concern, triage
6 officers will forward their applications to the National Security Section's TECS CARRP Team for
7 processing. After a second review, the TECS CARRP Team will put virtually all cases referred from
8 triage into CARRP processing by creating a National Security Case Management Entry ("CME") in
9 the FDNS-Data System ("FDNS-DS"). The TECS CARRP Team will then proceed with reviewing
10 the application in accordance with the first steps of the CARRP policy by reaching out to the law
11 enforcement or intelligence agency that owns the relevant record indicated by TECS, or to the local
12 Joint Terrorism Task Force ("JTTF"), to confirm that the TECS record relates to the applicant in
13 question and obtain additional information regarding the nature of the TECS hit. Engaging in this
14 identity confirmation and deconfliction (colloquially referred to at the NBC as "TECS ID&D") with
15 the agency record owner or JTTF is important because, while an initial TECS check on an applicant
16 may yield a record indicative of a potential NS concern, further inquiry with the record holder could
17 reveal new or previously unknown information that may change the National Security Section's
18 assessment of whether a case actually presents such a concern.

19 11. If the information obtained from the agency record owner or JTTF indicates to the TECS
20 CARRP Team that the case does not involve, or no longer involves, a potential NS concern, the
21 TECS CARRP Team will close the CME in FDNS-DS. It will then return the application to the
22 normal processing track. While the National Security Section does not keep an official tally of the
23 number of TECS-based CARRP referrals it makes, in my educated estimate, the TECS CARRP
24 Team ultimately closes about 70% of the referrals it receives within two months of the referral.
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1 12. If, on the other hand, the information obtained from the agency record owner or JTTF
2 indicates to the TECS CARRP Team that there may be a potential NS concern regarding the
3 applicant, or if neither responds to the TECS CARRP Team's outreach, the application will be sent
4 to the appropriate field office for further vetting under CARRP.

5 LHM-BASED REFERRALS:

6 13. An FBI name check is automatically run on all naturalization and adjustment of status
7 applications when they are received by USCIS. It may take anywhere from one week to ten months
8 for USCIS to receive the results of those checks and a corresponding LHM for any positive results.
9 Once an LHM is received, the NBC's FBI Name Check Team will review and categorize it as either
10 NS, public safety, fraud, or criminal-only. Of those categorized as NS and sent for triage, I estimate
11 that only a small percentage lack the NS indicators necessary to be referred to the LHM CARRP
12 Team for processing. The triage officer returns these applications to the normal processing track
13 within 2-3 days of receiving them from the FBI Name Check Team.

14 14. If the triage officer determines that an LHM involves NS indicators necessitating further
15 review, it will send the application to the LHM CARRP Team. After a second review, the LHM
16 CARRP team enters virtually all such referrals into CARRP processing by creating a CME in
17 FDNS-DS. The LHM CARRP Team will then proceed with reviewing the application in accordance
18 with the first steps of the CARRP policy by reaching out to the JTTF within the jurisdictional area of
19 the appropriate Field Office to confirm that the LHM relates to the applicant in question and obtain
20 additional information about the nature of the LHM. At the NBC, this initial process is colloquially
21 referred to as LHM ID&D. I estimate that, based on the information obtained through the JTTF, the
22 LHM CARRP Team resolves approximately 50% of LHM-based CARRP referrals as "non-NS" and
23 closes the CME in FDNS-DS within two months of referral to CARRP. Such cases are returned to
24 the normal processing track by being placed back in the interview queue.
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1 15. Cases with potential NS concerns that the LHM CARRP Team is unable to resolve are
2 forwarded to the appropriate field office for further vetting under CARRP.

3 CONCLUSIONS

4 16. Based on my experience, early screening and engagement with JTTFs and TECS record
5 owners of potential derogatory information allows the NBC to resolve potential NS concerns for the
6 substantial majority of applications it refers to CARRP. The work of the National Security Section
7 diverts a large percentage of applications from full CARRP processing in the field, and its triage
8 process quickly diverts a smaller number of applications from having to undergo CARRP review at
9 all. By extension, the substantial majority of applications that are sent on to the field for further
10 vetting under CARRP are those in which the nature or extent of the potential NS concern can only be
11 adequately understood through additional inquiries, which may require an extended timeframe to
12 complete.
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14 17. The National Security Section monitors applications under CARRP review at the NBC on a
15 weekly basis to ensure that none remains idle for any notable length of time. A significant benefit of
16 having a routinized process like CARRP is that cases are less likely to fall through the cracks.
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18 18. Issuance of Executive Orders 13769 and 13780 did not change the manner in which the NBC
19 processes applications. The NBC did not, and was not directed to, suspend the processing of
20 applications following the issuance of Executive Orders 13769 and 13780, or at any other time.

21 19. CARRP referrals are based primarily on positive security check results from third agencies. I
22 am not aware of any discrimination based on any protected ground with respect to such information.
23 Furthermore, given that the NBC's CARRP referrals are made without regard to race, religion,
24 country of citizenship or national origin, and instead depend on the existence of NS indicators,
25 CARRP is not a process that USCIS uses to discriminate against individuals of any particular race,
26 religion, or nationality.
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1 I declare under penalty of perjury that the foregoing is true and correct.

2 Executed on this 3rd day of May 2021, at Pleasant Hill, MO.

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WEBB
Date: 2021.05.03 15:01:47 -05'00'

6 RUSSELL L. WEBB

CERTIFICATE OF SERVICE

I hereby certify that on May 3, 2021, I electronically filed the foregoing UNDER SEAL via the Court's CM/ECF system, which will send notification of such filing to all counsel of record. Additionally, I directed that an encrypted copy of the foregoing SEALED submission be served on counsel for Plaintiffs via email.

/s/ W. Manning Evans
W. MANNING EVANS
Senior Litigation Counsel
Office of Immigration Litigation
450 5th St. NW
Washington, DC 20001