

Exhibit 1

to Plaintiffs' Further Supplemental Brief in
Support of Plaintiffs' Motion for Summary
Judgment

Case No.: 1:20-cv-01104-ESH

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

ANGE SAMMA *et al.*, on behalf of
themselves and others similarly situated,

Plaintiffs,

v.

UNITED STATES DEPARTMENT OF
DEFENSE *et al.*,

Defendants.

Civil Action No. []

DECLARATION OF MARGARET D. STOCK

I, Margaret D. Stock, declare as follows:

1. I am a member of the Alaska Bar and the managing attorney of the law firm Cascadia Cross Border Law Group in Anchorage, Alaska. I am also a retired Lieutenant Colonel in the Military Police Corps, U.S. Army Reserve. I previously taught at the United States Military Academy, West Point, New York, for nine years, and I have also taught on a part-time basis in the Political Science Department at the University of Alaska Anchorage. I have been admitted to the practice of law since 1993.
2. As an attorney and a graduate of the Harvard Law School, I have practiced in the area of immigration and citizenship law for more than twenty-five years. I have represented hundreds of businesses, immigrants, and citizens seeking to navigate the difficult maze of the U.S. immigration system, and I volunteer regularly to handle “pro bono” cases with the American Immigration Lawyers Association Military Assistance Program (AILA MAP). In 2009, I concluded work as a member of the Council on Foreign Relations

Independent Task Force on U.S. Immigration Policy, which was headed by Jeb Bush and Thomas F. “Mac” McLarty III. Prior to my transfer to the Retired Reserve in June 2010, I worked for several years on immigration and citizenship issues relating to military service while on temporary detail to the U.S. Army Accessions Command, the Assistant Secretary of the Army for Manpower and Reserve Affairs, and the United States Special Operations Command. I am also a recipient of a 2013 Fellowship from the John D. and Catherine T. MacArthur Foundation for my work relating to immigration law and national security. Finally, I am the author of the book “Immigration Law and the Military,” now in its second edition.

3. Over the course of my career, I have regularly encountered members of the military who are facing possible deportation or removal from the United States due to alleged immigration law violations. Often these individuals face deportation or removal because the three different immigration agencies (Immigration and Customs Enforcement (“ICE”), Customs and Border Protection (“CBP”), and U.S. Citizenship and Immigration Services (“USCIS”)) have different policies with regard to their treatment of military personnel who are alleged to have violated immigration laws. For example, ICE often encounters military members when doing interior enforcement. ICE has in the past had policies that disfavor placing military members into removal proceedings. Unfortunately, however, these policies seem to change with the attitude of the top political officials at ICE and are therefore unpredictable.
4. CBP typically encounters military members at the airport or at a land port-of-entry, and sometimes refuses admission to military members whose immigration papers appear not to be in order, or places them into removal proceedings at the border. For example,

I once represented a military member who was placed into removal proceedings at the San Francisco airport because he flew into the United States from Japan, was not on military orders, and was in possession of a green card that CBP determined had been “abandoned.” He was able to retain counsel and I was able to get his naturalization approved, whereupon the immigration judge terminated the removal proceedings. While generally CBP agents are supposed to follow the statutory directive of 8 USC § 1354, which exempts non-citizen service members from passport and visa requirements when entering or leaving the United States, some CBP agents have been trained with regard to this statute, and some have not. Others read the statute very narrowly and do not apply its provisions where the military member is not traveling on military orders.

5. USCIS is the most problematic immigration agency from the perspective of military members. USCIS does not have any official policy that requires the agency to review a person’s military service before placing the person into removal proceedings; accordingly, many of the cases that I have encountered involve referrals to removal proceedings by USCIS officers. It is very common lately, for example, for USCIS Asylum Officers to refer current service members to removal proceedings if the USCIS Asylum Officer decides that the service member did not timely file an asylum application, or for a USCIS Field Office to refer a military member with a conditional green card to removal proceedings because USCIS has not approved the military member’s pending I-751 Petition to lift the conditions on the service member’s lawful permanent residence.
6. I have represented numerous service members in deportation and removal proceedings over the course of my career. For example, early in my career as an attorney I represented

an Alaska National Guard member who was facing deportation by the old Immigration & Naturalization Service (“INS”) because he had paid an Anchorage municipal fine for having driven onto a school parking lot in Anchorage with a lawfully owned firearm.¹ At various points in my career I have represented military members who were in removal proceedings but whose removal proceedings were terminated after they naturalized.² The Department of Justice and the Department of Homeland Security take the official position that they are permitted to enforce immigration laws against currently serving members of the United States Armed Forces and they do not “drop charges” because someone is currently serving in the military. Typically, a military member facing removal is required to defend against the charges, which usually requires the person to retain private counsel, often at great expense to the service member.

7. Based on my knowledge and prior experience representing immigrant service members, Plaintiffs Jane Doe 1 and 2 are at risk of being placed in removal proceedings and deported, notwithstanding their ongoing military service.
8. Plaintiff Jane Doe 1 enlisted in the United States Army through the Military Accessions Vital to the National Interest (“MAVNI”) program. She was eligible to enlist in the MAVNI program as a recipient of the Deferred Action for Childhood Arrivals (“DACA”) program. However, her DACA status has expired, and she currently does not have lawful immigration status. Due to the Department of Defense policy she is challenging in this lawsuit, Plaintiff Jane Doe 1 has not obtained a certification of honorable service and is therefore unable to apply for expedited naturalization under 8 U.S.C. § 1440.

¹ All firearms offenses are deportable/removable offenses under U.S. immigration laws, no matter how minor.

² Unlike civilians, military members and veterans are by law allowed to naturalize while in removal proceedings.

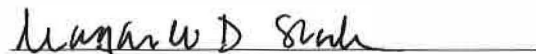
9. Plaintiff Jane Doe 1 is at risk of being placed into removal proceedings if any of the immigration agencies notice that she lacks a valid immigration status. The current administration has incentivized its immigration agencies to place individuals into removal proceedings if they are out of status and are encountered by immigration agents.
10. Plaintiff Jane Doe 2 enlisted in the United States Army as a conditional permanent resident. After enlistment, she applied to remove the conditions on her permanent residency and obtain a “permanent” Green Card. Plaintiff Jane Doe 2’s interview with USCIS to remove the conditions on her permanent residency was scheduled shortly before her ship-out date to basic combat training. In reliance on advice she received from her military recruiter and in expectation of naturalizing through the military, she chose not to attend the interview. Due to the Department of Defense policy she is challenging in this lawsuit, Plaintiff Jane Doe 2 has not obtained a certification of honorable service and is unable to apply for expedited naturalization under 8 U.S.C. § 1440.
11. Plaintiff Jane Doe 2 is very much at risk of having her conditional lawful permanent residence terminated and being referred for removal proceedings to the Department of Justice’s Executive Office of Immigration Review (“EOIR”). USCIS has a policy of terminating the lawful permanent residence status of immigrants who do not timely file an I-751 or who are deemed to have “abandoned” their I-751 petition by failing to show up for a scheduled interview. USCIS does not take into account a person’s active duty military service when terminating the person’s conditional lawful permanent residence status. An example of a very similar case can be found in the record of the May 20, 2008 hearing of the House Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law, at which a Navy sailor named Karla Rivera testified. I

was involved in assisting Ms. Rivera, who found herself in removal proceedings after USCIS terminated her conditional lawful permanent resident status when she failed to timely file an I-751 form.³

12. If the names or other personally-identifying information about Plaintiffs Jane Doe 1 and 2 are released, they are at risk of being placed in removal proceedings and deported. To protect against these harms, they should be allowed to proceed under pseudonyms.
13. Attached as Exhibit A is a true and correct copy of the Statement of Karla Arambula De Rivera presented at Immigration Needs of America's Fighting Men and Women: Hearing Before the Subcomm. on Immigration, Citizenship, Refugees, Border Security, and Int'l Law 110 Cong. 52 (2008) and available at <https://republicans-judiciary.house.gov/wp-content/uploads/2008/05/Rivera080520.pdf>.

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

Executed on April 21, 2020.



Margaret D. Stock

³See Exhibit 1.

Exhibit A

to Declaration of Margaret Stock to Plaintiffs'
Motion for Leave to Proceed Under Pseudonyms
&
to Seal Personally Identifying Information

Case No.: _____

STATEMENT OF
AIRMAN KARLA ARAMBULA DE RIVERA, U.S. NAVY
Before the
HOUSE COMMITTEE ON THE JUDICIARY,
SUBCOMMITTEE ON IMMIGRATION, CITIZENSHIP,
REFUGEES, BORDER SECURITY, AND INTERNATIONAL
LAW

20 MAY 2008

Not for publication until
Released by the
House Committee on the Judiciary

Not for publication until
Released by the
House Committee on the
Judiciary

STATEMENT OF
AIRMAN KARLA ARAMBULA DE RIVERA, U.S. NAVY
Before the
HOUSE COMMITTEE ON THE JUDICIARY,
SUBCOMMITTEE ON IMMIGRATION, CITIZENSHIP,
REFUGEES, BORDER SECURITY, AND INTERNATIONAL
LAW

20 MAY 2008

Not for publication until
Released by the
House Committee on the Judiciary

Chairwoman Lofgren and members of the subcommittee, I am pleased to provide you an overview of my experience as an immigrant to the United States. My name is Karla Arambula de Rivera. I am a native of Mexico. I was brought to live in the United States as a little girl and have lived here ever since. I married a U.S. citizen in 2004 and became a conditional permanent resident that was set to expire in two years. In March of 2007, I enlisted in the Navy. In July of 2007, I was supposed to apply to adjust my status to that of a lawful permanent resident, removing the conditions. While in A school in Pensacola, Florida, I went to Navy Legal Service Office Central where they helped me to file the I-751, to adjust my status based on my marriage to a citizen. This form was returned due to a post-dated check. I returned to Navy Legal Service Office Central where I was advised I could file instead an N-400 to become a naturalized citizen based on my military status. Navy Legal Service Office Central filed the N-400. I then reported to the USS CARL VINSON in August 2007. The VINSON checked on my immigration package to find out that the Nebraska Service Center had no record of me filing the N-400. The VINSON helped me file a new N-400 in December 2007. In January 2008, I was sent a Notice to Appear in Immigration Court in Los Angeles, California, due to the fact that my status was terminated because I failed to file the petition to remove the conditions (based on my marriage to a U.S. citizen). My hearing date was on February 28, 2009. I went to my new local legal assistance office, Navy Legal Service Office Mid Atlantic in Norfolk, Virginia. With their help, I filed a Motion

to Change Venue to Arlington, Virginia, but the court would not rule on that motion until the day of the hearing, which required me to travel to California. At the hearing I was fortunate to be represented by pro bono counsel who had helped me file my original paperwork for residency. The counsel asked the judge to terminate the proceeding based on the Forman Memo put out by U.S. Immigration and Customs Enforcement which states that ICE should not initiate removal proceedings against military members who are eligible for naturalization under sections 328 or 329 of the INA. Despite the fact that I had an N-400 application pending based on my military service, ICE objected to the termination and the judge would only grant the motion written by Navy Legal Service Office Mid Atlantic to change venue to Arlington. I have a new hearing date set for July 1, 2008 in Arlington. Navy Legal Service Office Mid Atlantic helped me find an organization that would provide an attorney for free and got me started toward citizenship. I have an interview with the Norfolk Field Office for my naturalization scheduled for May 27, 2008. Hopefully, by the time my hearing in Arlington comes, I will be a citizen and this nightmare will be behind me. This situation has been extremely difficult for me both professionally and personally. As an enlisted member of the Navy, stationed on board the USS CARL VINSON, a carrier, that frequently deploys, I am worried about letting my shipmates down and working out of my rate if left behind during deployment, which would have an effect on my military career. I know the ship will ensure that I make the hearing, but it is difficult for them and for me. I have also had to

spend my own time and money traveling to Los Angeles for the removal hearing. I am grateful that I have had the assistance of Navy legal and opportunities to find pro bono legal services to help with this complex issue. If it hadn't been for their help, I would not have been able to afford legal counsel on my own.

Thank you for your continued support.