

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 MATTHEW
RELPH IN SUPPORT OF
DEFENDANTS' MOTION FOR
SUMMARY JUDGMENT AND IN
OPPOSITION TO PLAINTIFFS'
MOTION FOR SUMMARY
JUDGMENT**

I, Matthew Relph, do declare and say:

1. I am an Immigration Officer (“IO”) assigned to the Fraud Detection & National Security Directorate (“FDNS”), United States Citizenship and Immigration Services (“USCIS”), Department of Homeland Security (“DHS”). I have held this position since August 2016.
2. As an FDNS IO, I am responsible for vetting CARRP cases in the Norfolk region, which involves conducting background checks and acting as a liaison between USCIS and external agencies. CARRP is the Controlled Application Review and Resolution Program and is the process USCIS uses to vet applications for certain types of immigration benefits that present or may present national security concerns. FDNS is headquartered in Camp Springs, MD, but assigns IOs to the various Field Offices (“FO”) located throughout the United States. I work alongside Immigration

1 Services Officers (“ISO”) who are also employees of USCIS assigned to FOs by the Field Office
2 Directorate (“FOD”), not by FDNS. I have been assigned to USCIS’ Norfolk FO since August
3 2016. The Norfolk FO is responsible for most of Virginia outside of the National Capital Region. In
4 general, ISOs are responsible for granting or denying applications for immigration benefits, and IOs
5 are responsible for conducting administrative fraud investigations, processing cases through
6 CARRP, and referring applicants with public safety concerns to the appropriate law enforcement
7 agency.

8 3. The statements made in this declaration are based on my understanding of the case *Wagafe,*
9 *et al. v. Biden, et al.*, No. 2:17-cv-00094 (WAWD), as well as on my personal training and
10 experience, and my consideration of information available to me and utilized in my capacity as an
11 FDNS IO in the Norfolk FO.

12 4. I joined USCIS in 2013 as an ISO assigned to the Vermont Service Center. In 2014, I
13 accepted a position as an ISO with the FOD assigned to the Washington, D.C. FO. My
14 responsibilities at that time were to conduct interviews and adjudicate applications for immigration
15 benefits. I was selected to receive CARRP training, and in March 2016 I completed the training and
16 became a designated CARRP officer. This designation allowed me to perform the ISO roles in
17 CARRP cases. I then performed eligibility assessments on a handful of CARRP cases and
18 adjudicated other cases implicating national security concerns. In August 2016, I was hired as an IO
19 and was assigned to FDNS in the Norfolk FO and began handling the IO duties described in ¶ 2
20 above. I received additional CARRP-specific training in or about August 2016 and March 2017.

21 5. Since joining the Norfolk FO, I have completed vetting for approximately 120 CARRP cases.
22 I also handle non-CARRP applications that involve immigration benefit fraud or public safety
23 concerns. The percentage of my cases that are in CARRP has gone from approximately 95% around
24 2017 to approximately 20% of my current caseload. I attribute the decrease in CARRP cases as a
25 percentage of my workload to an overall decline in applications and an internal reorganization that
26 resulted in CARRP cases being distributed differently through the geographic region. Before, my
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1 workload at the Norfolk FO initially consisted primarily of CARRP cases from the Washington FO.
2 I now primarily work on cases solely from the Norfolk FO.

3 6. There are four phases to CARRP processing: I) identifying the national security concern, II)
4 internal vetting and eligibility assessment, III) external vetting, and IV) adjudication. Deconfliction,
5 which I explain below, occurs throughout the CARRP process. The vast majority of CARRP cases
6 that are assigned to me originate at the National Benefits Center (“NBC”), where a preliminary
7 determination is made regarding the national security concern. Most CARRP cases are still in Phase
8 I when they arrive at a FO, and the FO makes the ultimate determination about whether or not an
9 articulable link to a national security concern exists. Once the FO confirms the NBC’s articulable
10 link, the CARRP case is moved to Phase II. Therefore, when a CARRP case is assigned to me in the
11 field, it generally has already undergone most of Phase I of CARRP, and the bulk of my work
12 involves both the internal vetting aspect of Phase II and the external vetting outreach of Phase III.

13 7. Upon being assigned a CARRP case, I begin by reviewing the entire A-file. This will
14 include whatever derogatory information the NBC discovered about the applicant, and an assessment
15 by the NBC about the national security concern. My next task is to conduct my own independent
16 review of that derogatory information to evaluate if it establishes an articulable link between the
17 applicant and a category of national security concerns set out in the Immigration and Nationality
18 Act. Most potential CARRP cases have a clear articulable link by the time that they arrive at the FO
19 due to the comprehensive work already done at the NBC. While all relevant facts are reviewed and
20 a careful decision is made, Phase I does not typically take very long to complete. If an articulable
21 link exists, I will formally move the case from Phase I (field confirmation) to Phase II (typically
22 eligibility assessment, but sometimes internal vetting). We are only supposed to take [REDACTED] days
23 from when the case is opened in FDNS-DS, an internal USCIS database that tracks FDNS casework,
24 to decide whether there is an articulable link to a national security concern. Since the NBC opens
25 most CARRP cases in FDNS-DS, the FO usually has less than [REDACTED] days to make the articulable
26 link determination and strives to do so as soon as the file is received. In light of the information that
27 NBC collects, we are usually able to make quick determinations once we receive the files.

1 8. In my experience, after I conduct my independent review of the available information, I
2 almost always concur with the NBC's assessment that an application presents an actual or potential
3 national security concern that should be reviewed under CARRP. I have never observed a false
4 match, where the derogatory information identified by the NBC did not relate to the applicant or
5 someone with whom the applicant had a connection.

6 9. After reviewing the derogatory information and confirming that a case requires CARRP
7 review, I send it to an ISO for the Phase II eligibility assessment. In my experience as a CARRP-
8 trained ISO and working with other ISOs, during the Phase II eligibility assessment, ISOs review the
9 entire A-file and all available information to assess whether there are any obvious facts that would
10 disqualify the applicant from eligibility for the immigration benefit sought. If the ISO determines
11 that the applicant is ineligible for the benefit, depending on the type of application at issue, the
12 applicant may still be referred for an interview and have an opportunity to refute the apparent basis
13 for denial. All naturalization applicants must be interviewed and many adjustment-of-status
14 applicants are interviewed, depending on current USCIS policies and priorities. If the applicant is
15 not referred for an interview, or fails to rebut the ground of ineligibility, the application will be
16 denied. In such cases, I still engage briefly with any outside agencies that may have an interest in
17 the applicant to advise them of the application and USCIS' planned course of action, principally to
18 ensure that the adjudication would not prejudice any law enforcement investigation. Alternatively,
19 the ISO may make a finding of potential eligibility if he or she does not identify any immediate,
20 obvious disqualifications, but it is not a final eligibility determination at that point. In such cases,
21 the case is returned to me for further CARRP processing.

22 10. Once the ISO has completed the eligibility assessment, I will next conduct internal vetting
23 under CARRP Phase II. This is a largely computerized process that can take anywhere from a
24 couple of hours to several days. I check all internal DHS computer systems, commercial systems,
25 and public databases for information on the applicant. If the applicant has a common name or date
26 of birth, such as January 1, which is commonly used when a more specific date is not recorded, it
27 can take some time to comb through the responsive records to determine whether they pertain to this
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1 applicant or another individual with similar identifying information. These systems rarely uncover
2 derogatory information that was previously unknown, and thus it is rare at this stage to learn
3 information that would resolve a national security concern or render an applicant ineligible for the
4 benefit sought. The more important function of internal vetting is for me to be able to gather as
5 much information as possible about the applicant so that I can be fully prepared for the discussions I
6 will have with third agencies about the applicant. Being as fully informed about the applicant as
7 possible is important not only to be able to verify with the third agency that our discussion concerns
8 the same person, but also to build and maintain a good relationship with the third agency. Such
9 relationships are important because of the trust involved for the third agency to disclose sensitive
10 information, and because USCIS depends on third agencies to uncover and disclose information
11 relevant to the adjudication of requests for benefits but which is not within USCIS' possession.

12 11. In general, after internal vetting is complete, I move the case to the Phase III external vetting
13 stage. Between the initial processing at NBC and the internal vetting, I would have learned which
14 third agencies have records related directly or indirectly to the applicant. We refer to such agencies
15 as the "record holders." The most common record holders are Homeland Security Investigations,
16 Customs and Border Patrol, and the Federal Bureau of Investigation ("FBI") [REDACTED]
17 [REDACTED] However, other agencies may possess relevant information as well. To initiate the
18 external vetting process, I reach out to all record holders, with many of whom I already have a
19 working relationship, to inquire about details of the records they possess. I try telephoning my
20 contacts in the first instance, and I usually follow up with an email after.

21 12. I inform the record holders that USCIS has learned that the agency possesses derogatory
22 information related to an application, who the applicant is, and what immigration benefit he/she is
23 seeking. The goal of these conversations is to explore the details of the agency's records that may
24 relate to the applicant or give context to the national security concern and to engage in
25 "deconfliction" by determining if adjudication of the application would interfere with third-agency
26 investigations. Among other things, I ask the record holders if the applicant is the subject of an open
27 investigation, and if so, what the status of that investigation is. I inquire if the record holders have

1 information that they can share with me that is relevant to the application. The information may be
2 classified or unclassified, but in either case, we would always have to first obtain the record holder's
3 written permission if we want to use the information in a denial. While classified information might
4 be reviewed as part of determining whether a national security concern exists, I am not aware of any
5 instances where USCIS has ever relied on classified information as the basis for a final adjudicative
6 decision released to an applicant. While I am most interested in a third agency's information that
7 bears on the national security concern, an agency may have other information, not related to a
8 national security concern, which nevertheless bears on the applicant's eligibility and my evaluation
9 of the totality of the applicant's circumstances. In rare circumstances, I might request that the record
10 holder declassify certain information that may have an impact on an applicant's eligibility in order to
11 include that information in the final decision.

12 13. We will also discuss the USCIS regulation that allows for a case to be placed on hold for six
13 months at the request of law enforcement, known as "abeyance." If the record holder has a pending
14 investigation implicating an applicant's eligibility or the exercise of discretion for a pending benefit
15 request, and if disclosure of the information or information relating to the investigation would
16 prejudice the investigation, my contact may request that we hold the application in abeyance pending
17 further developments. If the record holder wishes to request an abeyance, my contact and his/her
18 supervisor must approve the request and send it to USCIS, where it must then be approved by my
19 District Director. The abeyance is limited to six months, so if the record holder wants me to hold the
20 case longer, my contact must submit a second request, this time approved by a second-line
21 supervisor. Again my District Director must approve the request. If the record holder submits a
22 third request for abeyance, the request must be approved by a third-line supervisor at the record-
23 holding agency, and by my Regional Director.

24 14. It is discretionary for an agency to request an abeyance, and it is discretionary for USCIS to
25 approve such requests. If an agency requests an abeyance, at each level the record holder must
26 compose a letter explaining the nature of the investigation and whether and how USCIS
27 administrative action on the pending application would impede the investigation. I have not seen
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1 any case where the record holder submitted more than three requests for abeyance. None of the
2 abeyance requests from my cases have been declined. In my experience, when an abeyance is
3 approved at the request of record holder, [REDACTED]

4 [REDACTED] Finally, I would note that
5 abeyance requests are not limited to cases being processed through CARRP. In several instances, I
6 have assisted with abeyances relating to investigations that are criminal but without any nexus to
7 national security.

8 15. The amount of time required to complete external vetting varies widely. The shortest period
9 I have observed to complete external vetting was approximately one week. To the best of my
10 recollection, the longest period that any cases have been in external vetting after having been
11 assigned to me was approximately three years, although this length of time is extremely uncommon.
12 There can be many different reasons for these varying lengths of time. The more record holders that
13 I need to contact in a single case, the longer it will take to complete the process. Abeyances
14 obviously cause the process to take longer, as I cannot perform significant work on applications that
15 are on an abeyance hold. I also cannot control how long a record holder may take to respond to my
16 inquiry, although I do follow-up with my contacts if they do not respond to my requests for
17 information on a biweekly or monthly basis. [REDACTED]

18 [REDACTED]
19 [REDACTED]
20 [REDACTED]
21 16. If we are able to resolve the national security concern, that is, if my conversations with the
22 record holders lead me to conclude that the applicant is not, or is no longer, a national security
23 concern, then I can mark the CARRP issue as resolved and send the case back to the non-CARRP
24 processing track for final adjudication of the application. In my experience, it is common for
25 national security concerns associated with an applicant to be resolved after we have the chance to
26 communicate with record holders and understand the extent of the relationship between the applicant
27 and the suspicious activity. Particularly in circumstances where the link between [REDACTED]

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[REDACTED]
[REDACTED]
[REDACTED] I can usually resolve the concern.

17. I document every step that I take of the internal and external vetting processes in FDNS-DS. If I assess that the national security concern is resolved, I compose a write-up explaining my conclusion and reasoning in that database. While the final assessment of the potential NS concern is mine/USCIS', we rely heavily on the evaluation and feedback we receive from record holders in making this determination, as their experience in national security investigations is an invaluable resource. My supervisor reviews both the FDNS-DS record and my report and must concur with my recommendation in order for the national security concern to be changed to "resolved" in the FDNS database, and for the case to be released to the field for final adjudication outside of CARRP. At the completion of CARRP processing, a Background Check Adjudicative Assessment ("BCAA") will be generated from FDNS-DS. The BCAA takes all of the steps that were recorded in FDNS-DS and displays them in a single document. My written report explaining my findings is incorporated as a Supplemental BCAA. Both the BCAA and Supplemental BCAA are included in the final FDNS-DS record and in the physical A-file.

18. Regardless of whether or not the national security concern is resolved, internal vetting and external vetting may lead me to conduct further investigation depending on the circumstances. On some occasions, there may be additional information bearing on eligibility known to law enforcement that has not been evaluated. For example, I recall one instance where [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

19. If I have spoken to every record holder and any other agencies that may have an equity in the application, and have documented my steps and the information that I have received, then the vetting

1 process is complete. Whether or not the national security concern has been resolved, the case is
2 released from CARRP for routine adjudication by a CARRP-trained ISO. If the national security
3 concern still remains unresolved, and the ISO and his/her supervisor recommend that the application
4 be granted, that decision must also be approved by higher management, either the Field Office
5 Director or the Senior Leadership Review Board. If the national security concern is resolved, and
6 the ISO concludes that the application be granted, then no additional approval is required. If the ISO
7 recommends that the application be denied, whether or not the national security concern has been
8 resolved, the ISO must obtain supervisor approval to finalize the denial. All denials, CARRP and
9 non-CARRP, require supervisor approval.

10 20. There are occasions when applications in CARRP can take years to be adjudicated, but in
11 those instances, it is still uncommon for external vetting to take more than one year. One common
12 initial delay is the time between the filing of the application and the completion of initial security
13 checks. For example, in some instances [REDACTED]
14 [REDACTED] While the name check is pending, the application will generally not have started
15 the CARRP process unless warranted by other systems checks. As noted previously, once the file is
16 at the FO, it may take longer than normal to review if there are multiple common aliases. It may
17 also be necessary to order related files from other offices, which can sometimes take months,
18 especially during the COVID-19 pandemic. It may take a few months to conduct external vetting,
19 and it may take longer if USCIS receives and approves an abeyance request. Even if the record
20 holders share information that provides a basis for USCIS to resolve the national security concern,
21 the IO still needs to review the case and make a final written recommendation to his/her supervisor.
22 If much time has passed since the initial internal vetting checks, the IO may need to re-familiarize
23 him/herself with the facts of the case before writing the final recommendation. The ISO or IO may
24 have identified immigration benefit fraud issues that may not be directly related to CARRP
25 processing but must also be resolved. There may be other cases that for various reasons are
26 prioritized prior to the completion of the final BCAA. At any point during this process, the applicant
27 may move to a new address and change jurisdictions, requiring the transfer of the CARRP case to a
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1 new FO and a new IO having to review the case. Additionally, if an IO accepts a new job or is given
2 new job duties in their current position, the CARRP case might be reassigned. Depending on what
3 stage of CARRP the file is in, portions of the work may need to be done again by the new IO. Even
4 once the case is released for adjudication, it may take the ISO several months to review the file,
5 conduct an interview, request additional documents, conduct final systems checks, and make a final
6 eligibility determination. A combination of the above factors could result in a processing time of
7 multiple years in some limited instances.

8 21. The majority of applicants in the CARRP cases assigned to me have been from Muslim-
9 majority countries, although my cases include applicants from many non-Muslim majority countries
10 as well. I have never observed anti-Muslim bias or discrimination at USCIS and would not feel
11 comfortable working at USCIS if I thought the organization was singling out any ethnic or religious
12 group. My experience, in fact, has been that we are a very diverse organization in the composition
13 of our workforce.

14 22. Decisions to grant or deny an application for benefits are based on the facts of the case.
15 USCIS does not deny applications because a record holder thinks the applicant is a bad person or
16 because the applicant practices a certain religion or originates from a certain country. We look at the
17 specific facts related to the applicant and the application and determine whether the applicant is
18 eligible for the benefit sought under the statutory and regulatory criteria and in light of the results of
19 the vetting and a review of the totality of the circumstances of the applicant and the benefit sought.

20 23. In my experience, CARRP allows USCIS to focus more time and resources on applicants
21 who may pose a national security threat to the United States. Because of the volume of applications
22 that USCIS receives, and the limited number of officers who are available to process them, it is not
23 possible to spend extensive amounts of time on each individual application. Doing so would cause
24 significant backlogs throughout the agency, which would be unfair to applicants. CARRP
25 processing identifies cases where greater care is needed and sets up the framework to thoroughly vet
26 those cases that present a potential national security concern. In my experience, CARRP is not a
27 vehicle to deny applications. On the contrary, most of the CARRP applications that I have vetted

1 were ultimately approved, and most national security concerns were resolved. But it was important
2 to go through the CARRP processing to ensure that USCIS did not endanger national security by
3 granting a benefit to an ineligible applicant who presented a national security concern or by
4 interfering with investigative or operational plans of third agencies.

5 24. I have never been asked to find a reason to deny an application, whether in CARRP or not.
6 My understanding of the purpose of CARRP is not to find reasons to deny applications, but to
7 thoroughly and completely vet cases with a possible nexus to national security. If there are no
8 grounds of ineligibility, cases are approved as quickly as possible once all third agencies with an
9 interest in the matter have been notified. In fact, I feel that CARRP gives me more confidence and
10 makes it is easier to evaluate cases raising national security concerns because CARRP provides an
11 established process of investigative steps for all IOs to apply and document in FDNS-DS for
12 supervisor review. By streamlining the processing of national security concerns, CARRP ensures
13 that all applications with possible national security concerns are processed the same way.

14 25. I generally do not participate directly in interviews of applicants in CARRP cases. I
15 conducted one interview while I was still working as an ISO, but as an FDNS IO, I typically do not
16 conduct, attend, or observe interviews of applicants in CARRP cases. Occasionally, if I completed
17 vetting a CARRP case and the national security concern remains unresolved, I might suggest
18 possible lines of questioning for the ISO if the applicant will be subject to an interview. When I do
19 so, I suggest lines of questions that are relevant to the applicant's eligibility and/or the national
20 security concern. I have never suggested that an applicant be asked [REDACTED]

21 [REDACTED]
22 I do not recall ever suggesting [REDACTED]
23 [REDACTED]
24 [REDACTED]

25 26. Occasionally a record holder might request that we ask an applicant certain questions during
26 the interview. The record holder usually presents such a request to me in the first instance. USCIS'
27 Office of the Chief Counsel reviews such suggested questions, and may approve them if they are

1 pertinent to the benefit sought. I would estimate that only around five percent of CARRP cases
2 involve a record holder suggesting questions for the USCIS interview. I recall one instance [REDACTED]

3 [REDACTED]
4 27. Fraud cases are handled differently than CARRP cases, though the two are not mutually
5 exclusive. Instead of originating almost exclusively from the NBC, fraud cases typically come from
6 ISO referrals after an immigration interview. The ISOs will ask FDNS to verify information on the
7 application or petition that could impact eligibility for immigration benefits. This could involve [REDACTED]

8 [REDACTED]
9 [REDACTED] Depending on the FO, it is not uncommon for
10 fraud cases to take [REDACTED] Fraud cases can take a long time because of [REDACTED]
11 [REDACTED] and a high volume of cases may prevent immediately
12 addressing every fraud case as it is received.

13
14 I declare under penalty of perjury that the foregoing is true and correct.

15 Executed on this 3rd day of May, 2021, at Virginia Beach, Virginia.

16
17 Digitally signed by
MATTHEW L RELPH
Date: 2021.05.03
16:49:15 -04'00'
/s/
MATTHEW RELPH

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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