

Exhibit 2

to Declaration of Sana Mayat to Plaintiffs’
Opposition to Defendants’
“Motion for Leave of Court to Respond to
Plaintiffs’ Submission
No Later Than October 18, 2021”

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

August 23, 2021

DELIVERED VIA EMAIL

Liam C. Holland
Trial Attorney
U.S. Department of Justice
Washington, D.C. 20530

Re: *Samma, et al. v. United States Department of Defense, et al.*, No. 20-CV-1104 (D.D.C.)

Dear Liam,

We are writing to raise two new cases of non-compliance that were recently brought to class counsel's attention.

Last week, we spoke with class member Augustine Ayankoya, who is currently serving active duty with the Texas National Guard. Mr. Ayankoya first requested his N-426 certification from his drill sergeant in April 2021, shortly after his arrival at basic combat training ("BCT") at Fort Jackson. Mr. Ayankoya's drill sergeant told him that he did not know what to do with his N-426 form and that Mr. Ayankoya would have to wait to get it certified by a colonel (*i.e.* an officer of O-6 pay grade). Mr. Ayankoya did not know where to find a colonel and did not have the time to locate a colonel or visit the legal assistance office during basic training.

Mr. Ayankoya shipped to advanced individual training ("AIT") at Fort Leonard Wood in May 2021. At AIT, Mr. Ayankoya again attempted to submit his N-426 form to his drill sergeant. But his drill sergeant told him that he must wait until he completed AIT and shipped to his unit to obtain an N-426 certification. Mr. Ayankoya learned of the "open door policy" at AIT and his understanding was that he should only approach his commander if his rights had been breached. However, because his drill sergeant informed Mr. Ayankoya that he would have to wait until he got to his unit to obtain his N-426 certification, Mr. Ayankoya was unaware that his rights had been breached and did not think that approaching his commander was appropriate. Later, another of Mr. Ayankoya's instructors told him that he could bypass the chain of command and go to the legal assistance office to seek help with his N-426 certification. However, Mr. Ayankoya did not wish to defy his drill sergeant who had instructed him to wait and from whom he would have to obtain permission to visit the legal assistance office in the first place.

Since June 2021, Mr. Ayankoya has been in Houston, Texas completing additional driver's training with the Texas National Guard. In June, Mr.



Ayankoya spoke with his recruiter, who told him that he would give Mr. Ayankoya's N-426 form to a major for signature. Mr. Ayankoya followed up weekly with his recruiter, who told him each time that he had not yet seen the major. Three days ago, his drill sergeant requested a new copy of Mr. Ayankoya's N-426 form, after previously informing him that he would have to submit it when he arrived at his unit. This sergeant informed him that he would forward the N-426 form to the head of his department for certification. However, Mr. Ayankoya has yet to receive his N-426 certification.

Mr. Ayankoya's green card is currently set to expire in November. It is therefore urgent that Mr. Ayankoya obtain his N-426 certification as quickly as possible so that he can apply for naturalization before his green card expires. These delays are unacceptable, especially given his time sensitive situation.



Last week, we also spoke with class member Marina Ladyhina, who is serving active duty with the Army. Ms. Ladyhina requested her N-426 certification on May 14, 2021 and received it on July 18, 2021 at Fort Hood. However, in the time it took to receive her N-426 certification, the N-426 form she had submitted for certification had expired and she needed a new N-426 certification. Ms. Ladyhina next requested her N-426 certification from a non-commissioned officer ("NCO") on July 29, 2021, also at Fort Hood, but was told that she needed to provide her N-400 (*i.e.* naturalization application) and additional naturalization information before they would process her N-426 certification request. Ms. Ladyhina should not be required to also provide her N-400 in order to obtain her N-426 certification. Ms. Ladyhina's N-426 form expired due to delays with obtaining her N-426 certification and it is unacceptable that she continues to encounter obstacles in obtaining another certification.

Class counsel request that Defendants assist with certification of Mr. Ayankoya and Ms. Ladyhina's N-426 forms. Mr. Ayankoya's form is attached to this letter. Class counsel will provide Ms. Ladyhina's form once we receive it. Class counsel also request that Defendants assist class members whose N-426 certification requests we have raised in previous letters and which remain outstanding: Nikolai Povolotckii, Olusegun Enikanoselu, and Olubunmi Aregbesola.

We also request that Defendants promptly investigate the instances of non-compliance at the Texas National Guard and Fort Hood to ensure that officials at both locations are aware of their duties and responsibilities under the *Samma* Order.

Sincerely,
Sana Mayat

Counsel to Plaintiffs

Encl.

