

Exhibit 37

to Declaration of Sana Mayat to Plaintiffs' Reply
Memorandum in Support of Plaintiffs' Motion to
Enforce Court Order

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

From: [Scarlet Kim](#)
To: [Holland, Liam C. \(CIV\)](#)
Cc: [Arthur Spitzer](#); [Brett Max Kaufman](#); [Sana Mayat](#); [Jennie Pasquarella](#)
Subject: Samma v. U.S. Department of Defense, Civ. No. 20-1104 (D.D.C.)
Date: Thursday, October 21, 2021 3:30:58 PM
Attachments: [2021.10.21 Letter to Government.pdf](#)
[image001.png](#)

Dear Liam,

Please find attached a letter describing two new cases of non-compliance, which have recently come to class counsel's attention.

Thank you.

Best,
Scarlet

Scarlet Kim

Pronouns: she, her(s)

Staff Attorney, National Security Project
American Civil Liberties Union
125 Broad St., New York, NY 10004
646.885.8350 | scarletk@aclu.org



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Exhibit 38

to Declaration of Sana Mayat to Plaintiffs' Reply
Memorandum in Support of Plaintiffs' Motion to
Enforce Court Order

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

October 21, 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.

Class counsel recently communicated with class member Norris Ntambwa, who is currently serving in the Selected Reserve of the U.S. Army Reserve with the 217th Transportation Company in San Antonio, Texas. Mr. Ntambwa shipped to Fort Jackson for basic combat training ("BCT") on March 8, 2021. While at BCT reception, Mr. Ntambwa asked his drill sergeant about citizenship for service members. His drill sergeant informed him that he could not begin the citizenship process while at BCT and would have to wait until he shipped to advanced individual training ("AIT").

On May 21, 2021, Mr. Ntambwa shipped to AIT at Fort Leonard Wood. During his second week at AIT, Mr. Ntambwa asked his drill sergeant about citizenship for service members. His drill sergeant informed him that he should wait until he shipped to his unit to begin the citizenship process. About a week later, his drill sergeant approached him and clarified that Mr. Ntambwa was not eligible to begin the citizenship process because he had not yet served for one year.

Mr. Ntambwa graduated from AIT on July 16, 2021 and attended drill in August, September, and October 2021. During his most recent drill, on October 16–17, 2021, Mr. Ntambwa asked a drill sergeant about citizenship for service members. The drill sergeant informed him that he would look into the process and come back to him. Mr. Ntambwa has not yet heard back from the drill sergeant.

Class counsel also recently communicated with class member Adeleke Okediran, who is currently serving in the Selected Reserve of the U.S. Army Reserve with the 946th Transportation Company in Lewes, Delaware. Mr. Okediran shipped to Fort Jackson for BCT in January 2021. While at BCT

reception, Mr. Okediran received written guidance, a copy of which is attached to this letter, which instructed him that he could not seek an N-426 certification until he shipped to his first duty station.

On April 2, 2021, Mr. Okediran shipped to AIT at Fort Leonard Wood. During his second week at AIT, Mr. Okediran submitted his N-426 form for certification to his chain of command. Both before and after he submitted his N-426 form, Mr. Okediran's drill sergeant advised him that service members were not able to obtain their N-426 certifications during AIT. Mr. Okediran graduated from AIT on May 19, 2021 without his N-426 certification.

Mr. Okediran attended in-processing with his Selected Reserve unit in May 2021 following his graduation from AIT. At the end of May 2021, Mr. Okediran submitted his N-426 form to his chain of command for certification. He has since followed up regularly on the status of his N-426 certification, including with his squad leader and the human resources sergeant. Mr. Okediran has still not obtained his N-426 certification.

Class counsel request that Defendants assist with certification of Mr. Ntambwa and Mr. Okediran's N-426 forms. Mr. Okediran's N-426 form is attached to this letter and class counsel will separately provide a copy of Mr. Ntambwa's N-426 form.

Class counsel also request an update on their request that Defendants provide a new, correctly certified N-426 form for class member Nikolai Povolotckii. In a letter dated October 7, 2021, we explained that the N-426 certification Defendants provided to Mr. Povolotckii was rejected by U.S. Citizenship and Immigration Services because it was incorrectly certified.

Sincerely,
Scarlet Kim

Counsel to Plaintiffs

Encl.



CITIZENSHIP APPLICATION FOR:

Regular Army/Active duty Soldiers:

You must complete Basic Training and AIT, report to your first duty assignment. Contact the local USCIS OFFICE/AGENT and begin your citizenship processing. There are no exceptions to this process regardless of your current application status.

USAR/RESERVIST/NATIONAL GUARD SOLDIERS:

You must complete Basic Training and AIT. Report to your RESERVE or NATIONAL GUARD UNIT and begin your citizenship processing. There are no exceptions to this process regardless of your current application status

All soldiers are required to have the N-426 validated by the first 0-6 or above in their Chain of Command. The expedited process conducted by Reception Bn and Basic Training recently changed to the process mentioned above.

THANK YOU FOR YOUR SERVICE

Exhibit 39

to Declaration of Sana Mayat to Plaintiffs' Reply
Memorandum in Support of Plaintiffs' Motion to
Enforce Court Order

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

From: [Scarlet Kim](#)
To: [Holland, Liam C. \(CIV\)](#); [Sana Mayat](#)
Subject: RE: Patel N-426
Date: Wednesday, September 15, 2021 3:00:32 PM
Attachments: [image005.png](#)

Hi Liam,

Ms. Ladyhina's counsel is [REDACTED].

Thanks,
Scarlet

From: Holland, Liam C. (CIV) <Liam.C.Holland@usdoj.gov>
Sent: Wednesday, September 15, 2021 1:48 PM
To: Scarlet Kim <ScarletK@aclu.org>; Sana Mayat <smayat@aclu.org>
Subject: RE: Patel N-426

Thanks Scarlet. Who is Ms. Ladyhina's counsel?

From: Scarlet Kim <ScarletK@aclu.org>
Sent: Wednesday, September 15, 2021 1:39 PM
To: Sana Mayat <smayat@aclu.org>; Holland, Liam C. (CIV) <Liam.C.Holland@usdoj.gov>
Subject: RE: Patel N-426

Dear Liam,

Sana is currently on leave but asked me to provide a few clarifying details to her email from yesterday, based on some additional information received from Ms. Ladyhina's counsel today.

Ms. Ladyhina's counsel has explained that she originally provided Ms. Ladyhina with her N-426 form on May 14, 2021. She assumed that Ms. Ladyhina had therefore submitted her N-426 form on that date, which is what she represented to us (and what we represented to Defendants). In reviewing her records, Ms. Ladyhina's counsel discovered that she had sent Ms. Ladyhina the N-426 form again on May 23, 2021, which is the date we represented that Ms. Ladyhina's counsel provided Ms. Ladyhina with her N-426 form in our email to you yesterday.

As explained in our email to you yesterday, Ms. Ladyhina submitted her N-426 form for certification in June (and the form she submitted had the expiration date of 03/31/2023). Ms. Ladyhina's counsel did not know this at the time she spoke with us about Ms. Ladyhina's situation.

Again, our apologies for the miscommunication and we hope this additional information helps clarify matters.

Thank you,
Scarlet

From: Sana Mayat
Sent: Tuesday, September 14, 2021 2:37 PM
To: Holland, Liam C. (CIV) <Liam.C.Holland@usdoj.gov>
Cc: Scarlet Kim <ScarletK@aclu.org>
Subject: RE: Patel N-426

Hi Liam,

In regards to class member Ladyhina, Ms. Ladyhina is represented by separate counsel who informed us that on May 23, 2021, she provided Ms. Ladyhina with an N-426 form for her chain of command to certify. That form had 09/30/21 as the expiration date. However, in June, Ms. Ladyhina submitted for certification a different N-426 form with 03/31/2023 as the expiration date, which she had obtained herself. Ms. Ladyhina was undergoing medical treatment at the time and had misplaced the N-426 form that her counsel had provided for her and so submitted the new N-426 form. However, she did not inform her counsel that she had done so.

On July 18, 2021, Ms. Ladyhina's counsel noticed that the N-426 form she had provided to Ms. Ladyhina on May 23, 2021 was no longer the most recent form and provided Ms. Ladyhina with the new N-426 form with 03/31/23 as the expiration date. Ms. Ladyhina, believing that the N-426 form she had submitted in June was identical to the N-426 form her counsel had given her (and was therefore expired), attempted to obtain another certification using this form.

We apologize for the miscommunication. In this case, we have been communicating primarily with counsel for Ms. Ladyhina, who only recently realized she misunderstood her client's situation.

Thanks,
Sana

From: Sana Mayat
Sent: Tuesday, September 7, 2021 4:49 PM
To: Holland, Liam C. (CIV) <Liam.C.Holland@usdoj.gov>
Cc: Scarlet Kim <ScarletK@aclu.org>
Subject: RE: Patel N-426

Thanks, Liam. I'll look into this and get back to you soon.

Best,
Sana

From: Holland, Liam C. (CIV) <Liam.C.Holland@usdoj.gov>
Sent: Tuesday, September 7, 2021 11:40 AM
To: Sana Mayat <smayat@aclu.org>

Cc: Scarlet Kim <ScarletK@aclu.org>

Subject: RE: Patel N-426

Good Morning Sana,

On August 23, 2021, you wrote about Service Member Ladyhina, who had requested a certification of honorable service from her unit on a Form N-426. You claimed that she requested the certification on May 14, 2021, and received it on July 18, 2021, and you claimed that in the time it took her to receive the N-426 certification the Form she had submitted for certification had expired and she needed a new certification. This particular unit happened to maintain a copy of the Form N-426 that was certified for SM Ladyhina. This copy is attached. The Form N-426 indicates that SM Ladyhina signed the N-426 on June 14, 2021, and it was certified two days later, on June 16, 2021. According to the unit, the certification was made available to SM Ladyhina within 24 hours, or so, after it was signed. But SM Ladyhina was on leave at the time, and it may have taken her a few days to pick it up from the unit. The Form N-426, at least perhaps under USCIS's rules, states that it "[e]xpires 03/31/2023."

The unit respectfully requests more information about why the attached form is no longer valid before providing yet another one. Would you please help out by providing that information?

Thanks!

Sincerely,
Liam

From: Sana Mayat <smayat@aclu.org>
Sent: Thursday, September 2, 2021 10:44 AM
To: Holland, Liam C. (CIV) <Liam.C.Holland@usdoj.gov>
Cc: Scarlet Kim <ScarletK@aclu.org>
Subject: RE: Patel N-426

Thank you, Liam.

From: Holland, Liam C. (CIV) <Liam.C.Holland@usdoj.gov>
Sent: Thursday, September 2, 2021 10:12 AM
To: Sana Mayat <smayat@aclu.org>
Cc: Scarlet Kim <ScarletK@aclu.org>
Subject: RE: Patel N-426

Good Morning Sana,

Please find Service Member Patel's Form N-426 attached and certified in the manner that you requested.

Thanks,

Liam

From: Holland, Liam C. (CIV)
Sent: Monday, August 30, 2021 3:35 PM
To: Sana Mayat <smayat@aclu.org>
Cc: Scarlet Kim <ScarletK@aclu.org>
Subject: RE: Patel N-426

I will follow up with Army about this.

From: Sana Mayat <smayat@aclu.org>
Sent: Monday, August 30, 2021 3:27 PM
To: Holland, Liam C. (CIV) <Liam.C.Holland@usdoj.gov>
Cc: Scarlet Kim <ScarletK@aclu.org>
Subject: RE: Patel N-426

Thanks, Liam. It looks like the certification portion is incomplete. The empty box in Part 8 should state "U.S. Army" so that the full certification reads: "I certify that the information given here concerning the service of the person named on this request is correct according to the records of the **U.S. Army.**"

Unfortunately, USCIS has rejected many service members' N-426 forms if they are not properly completed. Can you ensure that Colonel [REDACTED] completes Part 8?

Thank you,
Sana

From: Holland, Liam C. (CIV) <Liam.C.Holland@usdoj.gov>
Sent: Monday, August 30, 2021 3:21 PM
To: Sana Mayat <smayat@aclu.org>
Cc: Scarlet Kim <ScarletK@aclu.org>
Subject: Patel N-426

Good Afternoon Sana,

Attached please find a copy of Service Member Patel's certified N-426.

Thanks,
Liam

From: Sana Mayat <smayat@aclu.org>
Sent: Friday, August 27, 2021 2:26 PM
To: Holland, Liam C. (CIV) <Liam.C.Holland@usdoj.gov>
Subject: RE: Samma Non Compliance

Thank you, Liam.

From: Holland, Liam C. (CIV) <Liam.C.Holland@usdoj.gov>
Sent: Friday, August 27, 2021 1:47 PM
To: Sana Mayat <smayat@aclu.org>
Cc: Scarlet Kim <ScarletK@aclu.org>; Brett Max Kaufman <bkaufman@aclu.org>; Jennie Pasquarella <jpasquarella@clusocal.org>; Arthur Spitzer <aspitzer@acludc.org>
Subject: RE: Samma Non Compliance

Thank you Sana. Attached please find a copy of Service Member Povolotkii's certified N-426.

From: Sana Mayat <smayat@aclu.org>
Sent: Wednesday, August 25, 2021 6:58 PM
To: Holland, Liam C. (CIV) <Liam.C.Holland@usdoj.gov>
Cc: Scarlet Kim <ScarletK@aclu.org>; Brett Max Kaufman <bkaufman@aclu.org>; Jennie Pasquarella <jpasquarella@clusocal.org>; Arthur Spitzer <aspitzer@acludc.org>
Subject: RE: Samma Non Compliance

Hi Liam,

Please find the unit information below.

1. Augustine Ayankoya

[REDACTED]

Please note that Mr. Ayankoya is not at his assigned unit yet because he is completing a drivers' training.

2. Marina Ladyhina

[REDACTED]

Attached, please also find Ms. Ladyhina's N-426 form.

Attached, please also find Mr. Hariom Patel's N-426 form, whose situation we raised in our August 12, 2021 letter. Mr. Patel submitted his N-426 on July 21, 2021 and has still not received it.

Mr. Patel's current unit is [REDACTED]

[REDACTED].

Thanks,
Sana

From: Holland, Liam C. (CIV) <Liam.C.Holland@usdoj.gov>
Sent: Monday, August 23, 2021 11:04 PM
To: Sana Mayat <smayat@aclu.org>
Cc: Scarlet Kim <ScarletK@aclu.org>; Brett Max Kaufman <bkaufman@aclu.org>; Jennie Pasquarella <jpasquarella@clusocal.org>; Arthur Spitzer <aspitzer@acludc.org>
Subject: RE: Samma Non Compliance

Good Evening Sana,

To facilitate your request that Defendants assist with the certification of these two service members, please provide these service members' current unit information at your earliest convenience.

Thanks,
Liam

From: Sana Mayat <smayat@aclu.org>
Sent: Monday, August 23, 2021 6:04 PM
To: Holland, Liam C. (CIV) <Liam.C.Holland@usdoj.gov>
Cc: Scarlet Kim <ScarletK@aclu.org>; Brett Max Kaufman <bkaufman@aclu.org>; Jennie Pasquarella <jpasquarella@aclusocal.org>; Arthur Spitzer <aspitzer@acludc.org>
Subject: Samma Non Compliance

Dear Liam,

Please find attached a letter, raising two additional cases of non-compliance, which recently came to class counsel's attention.

Thanks,
Sana

Sana Mayat

Pronouns: she, her

Nadine Strossen Fellow, National Security Project

American Civil Liberties Union

125 Broad St., New York, NY 10004

smayat@aclu.org

aclu.org  



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Exhibit 40

to Declaration of Sana Mayat to Plaintiffs' Reply
Memorandum in Support of Plaintiffs' Motion to
Enforce Court Order

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

From: [Sana Mayat](#)
To: [Holland, Liam C. \(CIV\)](#)
Cc: [Arthur Spitzer](#); [Jennie Pasquarella](#); [Brett Max Kaufman](#); [Scarlet Kim](#)
Subject: RE: Samma v. U.S. Department of Defense, Civ. No. 20-1104 (D.D.C.)
Date: Thursday, October 7, 2021 1:04:00 PM
Attachments: [2021.10.07 Letter to Government.pdf](#)
[image001.png](#)
[Povolotckii N-426.pdf](#)

Hi Liam,

Please find attached a letter describing an issue with Mr. Povolotckii's N-426 form and addressing continuing cases of non-compliance.

Thank you.

Best,
Sana

From: Scarlet Kim
Sent: Wednesday, September 22, 2021 4:52 PM
To: Holland, Liam C. (CIV) <Liam.C.Holland@usdoj.gov>
Cc: Sana Mayat <smayat@aclu.org>; Arthur Spitzer <artspitzer@gmail.com>; Jennie Pasquarella <jpasquarella@aclusocal.org>; Brett Max Kaufman <bkaufman@aclu.org>
Subject: RE: Samma v. U.S. Department of Defense, Civ. No. 20-1104 (D.D.C.)

Dear Liam,

Please find attached a letter describing a new case of non-compliance, which has recently come to class counsel's attention.

Thank you.

Best,
Scarlet

From: Scarlet Kim
Sent: Wednesday, September 22, 2021 9:06 AM
To: Holland, Liam C. (CIV) <Liam.C.Holland@usdoj.gov>
Cc: Sana Mayat <SMayat@aclu.org>
Subject: RE: Samma v. U.S. Department of Defense, Civ. No. 20-1104 (D.D.C.)

Thank you Liam.

From: Holland, Liam C. (CIV) <Liam.C.Holland@usdoj.gov>
Sent: Tuesday, September 21, 2021 4:32 PM

To: Scarlet Kim <ScarletK@aclu.org>
Cc: Sana Mayat <smayat@aclu.org>
Subject: RE: Samma v. U.S. Department of Defense, Civ. No. 20-1104 (D.D.C.)

Scarlet and Sana,

Please find another certified N-426 for Service Member Li attached, certified in the manner you requested in your 9/15/2021 letter.

Thanks,
Liam

From: Scarlet Kim <ScarletK@aclu.org>
Sent: Wednesday, September 15, 2021 12:43 PM
To: Holland, Liam C. (CIV) <Liam.C.Holland@usdoj.gov>
Cc: Sana Mayat <smayat@aclu.org>; Brett Max Kaufman <bkaufman@aclu.org>; Arthur Spitzer <artspitzer@gmail.com>; Jennie Pasquarella <jpasquarella@aclusocal.org>
Subject: Samma v. U.S. Department of Defense, Civ. No. 20-1104 (D.D.C.)

Dear Liam,

Please find attached a letter describing two new cases of non-compliance, which have recently come to class counsel's attention.

Thank you.

Best,
Scarlet

Scarlet Kim
Pronouns: she, her(s)

Staff Attorney, National Security Project
American Civil Liberties Union
125 Broad St., New York, NY 10004
646.885.8350 | scarletk@aclu.org



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Exhibit 41

to Declaration of Sana Mayat to Plaintiffs' Reply
Memorandum in Support of Plaintiffs' Motion to
Enforce Court Order

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

From: [Scarlet Kim](#)
To: [Holland, Liam C. \(CIV\)](#); [Sana Mayat](#)
Subject: RE: N-426s for Service Members [REDACTED], Aregbesola, and Nair
Date: Monday, October 18, 2021 5:28:24 PM

Thank you Liam.

From: Holland, Liam C. (CIV) <Liam.C.Holland@usdoj.gov>
Sent: Monday, October 18, 2021 5:20 PM
To: Scarlet Kim <ScarletK@aclu.org>; Sana Mayat <smayat@aclu.org>
Subject: RE: N-426s for Service Members [REDACTED], Aregbesola, and Nair

Good Evening Scarlet,

I apologize for the confusion with respect to Service Member [REDACTED]. Please ensure the copy of SM [REDACTED] N-426 is destroyed. Attached please find a certified Form N-426 for Service Member Olusegun.

Thanks,
Liam

From: Scarlet Kim <ScarletK@aclu.org>
Sent: Monday, October 18, 2021 9:24 AM
To: Holland, Liam C. (CIV) <Liam.C.Holland@usdoj.gov>; Sana Mayat <smayat@aclu.org>
Subject: [EXTERNAL] RE: N-426s for Service Members [REDACTED], Aregbesola, and Nair

Dear Liam,

Thank you for the N-426 certifications for class members Aregbesola and Nair.

We are not familiar with a service member named [REDACTED]. However, we are still awaiting an N-426 certification for class member Olusegun Enikanoselu, whose inability to obtain a certification we first raised in a letter dated July 28, 2021.

Best,
Scarlet

From: Holland, Liam C. (CIV) <Liam.C.Holland@usdoj.gov>
Sent: Friday, October 15, 2021 6:16 PM
To: Sana Mayat <smayat@aclu.org>; Scarlet Kim <ScarletK@aclu.org>
Subject: N-426s for Service Members [REDACTED], Aregbesola, and Nair

Good Evening Sana and Scarlet,

Per your request, please find certified Form N-426s for Service Members [REDACTED], Aregbesola, and Nair, attached.

Thanks,
Liam

Liam Holland

Trial Attorney | United States Department of Justice
Civil Division | Federal Programs Branch
Tel: (202) 514-4964



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Exhibit 42

to Declaration of Sana Mayat to Plaintiffs' Reply
Memorandum in Support of Plaintiffs' Motion to
Enforce Court Order

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

From: [Holland, Liam C. \(CIV\)](#)
To: [Sana Mayat](#); [Scarlet Kim](#)
Subject: SM Banchao and Ayankoya N-426s
Date: Monday, September 27, 2021 11:49:41 AM
Attachments: [Shu, Banchao, N-426, signed.pdf](#)
[N-426 Ayankoya, signed.pdf](#)

Sana, Scarlet,

Please find certified N-426s for Service Members Shu and Ayankoya attached.

Thanks,
Liam

Liam Holland

Trial Attorney | United States Department of Justice
Civil Division | Federal Programs Branch
Tel: (202) 514-4964



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Exhibit 43

to Declaration of Sana Mayat to Plaintiffs' Reply
Memorandum in Support of Plaintiffs' Motion to
Enforce Court Order

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

October 7, 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 flag an issue with the N-426 certification provided to class member Nikolai Povolotckii and to follow up on the status of four class members' outstanding N-426 certification requests.

Last week, Mr. Povolotckii's counsel informed class counsel that Mr. Povolotckii's N-426 certification was rejected by U.S. Citizenship and Immigration Services ("USCIS") because it was incorrectly certified. Defendants provided Mr. Povolotckii's N-426 certification on August 27, 2021 and Mr. Povolotckii applied for citizenship shortly thereafter. However, USCIS rejected Mr. Povolotckii's N-426 certification and stated that Mr. Povolotckii would have to obtain a new certification by November 8, 2021. Specifically, box 4 of Part 8 of the certification was filled in with the words "Requester–Nikolai Nataliutkin Povolotckii." However, this box should contain the words "U.S. Army" so that the statement of certification in Part 8 reads: "I certify that the information given here concerning the service of the person named on this request is correct according to the records of the **U.S. Army.**"

Class counsel request that Defendants provide Mr. Povolotckii with a new and correct N-426 certification and have attached his N-426 form to this letter. Class counsel first brought Mr. Povolotckii's case to Defendants' attention in a letter dated July 23, 2021, where we explained that Mr. Povolotckii's chain of command at Fort Leonard Wood refused to assist him with his N-426 certification on the basis that he had not served 180 days. It has now been over two and a half months since that time—well beyond the 30-day timeline set forth in the court's August 25, 2020 order for Defendants to process N-426 certification requests—and Mr. Povolotckii still has not received a properly certified N-426 form.

Class counsel note that the error on Mr. Povolotckii's form appears to be a common one. Class counsel brought a similar error to Defendants' attention on August 30, 2021 regarding class member Hariom Patel's N-426 certification. Class counsel have also encountered this error with several other class members'



N-426 certifications in recent months and reached out to the certifying officials directly to obtain new, properly certified N-426 forms. Class counsel therefore also request that Defendants issue guidance to rectify this common error and avoid further delays to the N-426 certification of class members.

Class counsel further request that Defendants immediately certify or deny the N-426 forms of class members whose N-426 certification requests remain outstanding: Olubunmi Aregbesola, Olusegun Enikanoselu, Jia Ye, and Alina Nair. In particular, class members Aregbesola and Enikanoselu have been waiting significantly long periods of time for Defendants to process their N-426 certification requests, well past the 30-day time frame set forth in the August 25, 2020 court order.



Class counsel first brought Ms. Aregbesola's case to Defendants' attention in a letter dated July 23, 2021 and have followed up in letters dated July 28, 2021; August 23, 2021; September 15, 2021; and September 22, 2021. Ms. Aregbesola first requested her N-426 certification six months ago, in April 2021, and it has been over two and a half months since class counsel flagged her case to Defendants.

Class counsel first brought Mr. Enikanoselu's case to Defendants' attention in a letter dated July 28, 2021 and have followed up in letters dated August 23, 2021; September 15, 2021; and September 22, 2021. Mr. Enikanoselu first requested his N-426 certification eleven months ago, in November 2020, and it has been over two months since class counsel flagged his case to Defendants.

Sincerely,
Sana Mayat

Counsel to Plaintiffs

Encl.

Exhibit 44

to Declaration of Sana Mayat to Plaintiffs' Reply
Memorandum in Support of Plaintiffs' Motion to
Enforce Court Order

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

From: [Holland, Liam C. \(CIV\)](#)
To: [Scarlet Kim](#)
Cc: [Arthur Spitzer](#); [Brett Max Kaufman](#); [Sana Mayat](#); [Jennie Pasquarella](#)
Subject: RE: Samma v. U.S. Department of Defense, Civ. No. 20-1104 (D.D.C.)
Date: Monday, October 25, 2021 4:47:57 PM
Attachments: [image001.png](#)
[Povolotckii N-426 Naturalization - signed.pdf](#)

Good Afternoon Scarlet,

Despite Army's understandable frustration at the age of many of these allegations, some of which date to January 2021, Army is reaching out to the relevant, current, chains of command in order to ensure that these service members are provided a Form N-426. Army cares about its service members and wants to make sure that any request for a certified Form N-426 is processed expeditiously. Please continue to counsel and remind these service members about the numerous avenues of redress available to them within the military to resolve these matters expeditiously and informally without escalating them to DOJ or to a federal court. I'm sure that you have counseled these service members that utilizing these informal military avenues of redress may result in more expeditious processing of a delayed Form N-426 request than escalation to DOJ and Army litigation.

You requested an update on your request that Army HQ provide another Form N-426 for Service Member Nikolai Povolotckii. On August 27, 2021, I emailed you a copy of a certified Form N-426 for Service Member Povolotckii. This N-426 is attached. In Parts 3, 5, and 8 of the form, [REDACTED] certified that Povolotckii's characterization of military service for the period of time from May 26, 2021, until the date of his signature—August 18, 2021—was honorable pursuant to DoD policy and guidelines as modified by the Court's final order in this case. In Part 8 of the document, Col. [REDACTED] certified that he "personally reviewed the requester's service record" and certified that all information provided was "correct according to the records of the requester—Nikolai Nataliutkin Povolotckii." Accordingly, the executive department of the military under which Service Member Povolotckii has served, here Army, has both determined that Povolotckii has served honorably and also certified as much.

On October 7, 2021, we received your letter claiming that this official certification from Col. [REDACTED] as to Service Member Povolotckii's characterization of service was regrettably rejected by USCIS. Army and I are frustrated to hear this. I'm sure that both Col. [REDACTED] and Service Member Povolotckii are frustrated as well. Again, Army cares about its service members and does not wish Service Member Povolotckii undue bureaucratic burdens in his effort to apply for naturalization by way of his military service. Accordingly, Army is processing your request for a second Form N-426 from Povolotckii's chain of command.

Thank you.

-Liam

From: Scarlet Kim <ScarletK@aclu.org>
Sent: Thursday, October 21, 2021 5:18 PM
To: Holland, Liam C. (CIV) <Liam.C.Holland@usdoj.gov>

Cc: Arthur Spitzer <artspitzer@gmail.com>; Brett Max Kaufman <bkaufman@aclu.org>; Sana Mayat <smayat@aclu.org>; Jennie Pasquarella <jpasquarella@clusocal.org>

Subject: [EXTERNAL] RE: Samma v. U.S. Department of Defense, Civ. No. 20-1104 (D.D.C.)

Dear Liam,

Please find attached Norris Ntambwa's N-426 form.

Thank you,
Scarlet

From: Scarlet Kim

Sent: Thursday, October 21, 2021 3:30 PM

To: 'Holland, Liam C. (CIV)' <Liam.C.Holland@usdoj.gov>

Cc: 'Arthur Spitzer' <artspitzer@gmail.com>; Brett Max Kaufman <bkaufman@aclu.org>; Sana Mayat <SMayat@aclu.org>; Jennie Pasquarella <jpasquarella@clusocal.org>

Subject: Samma v. U.S. Department of Defense, Civ. No. 20-1104 (D.D.C.)

Dear Liam,

Please find attached a letter describing two new cases of non-compliance, which have recently come to class counsel's attention.

Thank you.

Best,
Scarlet

Scarlet Kim

Pronouns: she, her(s)

Staff Attorney, National Security Project
American Civil Liberties Union
125 Broad St., New York, NY 10004
646.885.8350 | scarletk@aclu.org



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Exhibit 45

to Declaration of Sana Mayat to Plaintiffs' Reply
Memorandum in Support of Plaintiffs' Motion to
Enforce Court Order

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

From: [Holland, Liam C. \(CIV\)](#)
To: [Scarlet Kim](#)
Cc: [Sana Mayat](#)
Subject: RE: Individual N-426s
Date: Friday, August 20, 2021 4:18:27 PM
Attachments: [N-426, Okoisu, Joseph.pdf](#)
[N-426, Atat, Christina.pdf](#)

Good Afternoon Scarlet,

Please find service members Okisu and Atat's certified N-426s attached as requested.

Thanks,
Liam

From: Scarlet Kim <ScarletK@aclu.org>
Sent: Thursday, August 12, 2021 5:12 PM
To: Holland, Liam C. (CIV) <Liam.C.Holland@usdoj.gov>
Cc: Sana Mayat <smayat@aclu.org>
Subject: RE: Individual N-426s

Dear Liam,

Thank you for sharing these N-426 certifications.

Best,
Scarlet

From: Holland, Liam C. (CIV) <Liam.C.Holland@usdoj.gov>
Sent: Thursday, August 12, 2021 10:54 AM
To: Scarlet Kim <ScarletK@aclu.org>
Cc: Sana Mayat <smayat@aclu.org>
Subject: RE: Individual N-426s

Good Morning Scarlet,

Please find certified N-426s for Service Members Liu and Oyepeju attached.

Thanks,
Liam

From: Holland, Liam C. (CIV)
Sent: Wednesday, July 28, 2021 10:20 AM
To: 'Scarlet Kim' <ScarletK@aclu.org>
Cc: 'Sana Mayat' <smayat@aclu.org>

Exhibit 46

to Declaration of Sana Mayat to Plaintiffs' Reply
Memorandum in Support of Plaintiffs' Motion to
Enforce Court Order

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

From: [Holland, Liam C. \(CIV\)](#)
To: [Sana Mayat](#); [Scarlet Kim](#)
Subject: Jia Ye N426
Date: Saturday, October 16, 2021 10:46:22 AM
Attachments: [Jia Ye N426.pdf](#)

Good Morning Sana and Scarlet,

Per your request, please find Service Member Ye's N-426 attached.

Thanks,
Liam

From: Holland, Liam C. (CIV)
Sent: Friday, October 15, 2021 6:16 PM
To: Sana Mayat <smayat@aclu.org>; Scarlet Kim <ScarletK@aclu.org>
Subject: N-426s for Service Members [REDACTED], Aregbesola, and Nair

Good Evening Sana and Scarlet,

Per your request, please find certified Form N-426s for Service Members [REDACTED], Aregbesola, and Nair, attached.

Thanks,
Liam

Liam Holland
Trial Attorney | United States Department of Justice
Civil Division | Federal Programs Branch
Tel: (202) 514-4964



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Exhibit 47

to Declaration of Sana Mayat to Plaintiffs' Reply
Memorandum in Support of Plaintiffs' Motion to
Enforce Court Order

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

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

SELECT SPECIALTY HOSPITAL-
DENVER, INC., *et al.*,

Plaintiffs,

v.

XAVIER BECERRA,¹ *Secretary, U.S.
Department of Health and Human Services,*

Defendant.

Civil Action No. 10-cv-1356 (BAH)

Chief Judge Beryl A. Howell

ORDER

Upon consideration of the Motion to Enforce Judgment, ECF No. 101, filed by plaintiffs Select Specialty Hospital-Birmingham, Specialty Hospital-Little Rock, Select Specialty Hospital-Fort Smith, Select Specialty Hospital-Little Rock/BMC, Select Specialty Hospital-Pine Bluff, Select Specialty Hospital-Gulf Coast, Select Specialty Hospital-Omaha, and Select Specialty Hospital-Madison (collectively, “plaintiffs”); the defendant U.S. Department of Health and Human Services’ (“HHS”) Opposition to Plaintiffs’ Motion to Enforce Judgment, ECF No. 102; the memoranda and exhibits in support and opposition to these motions; the administrative records; and the entire record herein, for the reasons stated in the accompanying Memorandum Opinion, it is hereby

ORDERED that the plaintiffs’ Motion to Enforce Judgment is GRANTED in part and DENIED in part; and it is further

¹ Pursuant to Federal Rule of Civil Procedure 25(d), plaintiffs automatically substitute Xavier Becerra, successor to formerly listed Alex M. Azar II, as the defendant in this action.

ORDERED that plaintiffs' Motion to Enforce Judgment issued in *Select Specialty Hosp.-Denver, Inc. v. Azar*, 391 F. Supp. 3d 53 (D.D.C. 2019), is GRANTED to the extent that HHS may not deny reimbursement to plaintiffs for bad debt claims incurred while plaintiffs were not enrolled in their states' Medicaid programs during fiscal years 2005 to 2010; and it is further

ORDERED that the plaintiffs' Motion to Enforce Judgment is DENIED to the extent it seeks relief directing HHS to reimburse plaintiffs for bad debt claims incurred while plaintiffs were enrolled in their states' Medicaid programs during fiscal years 2005 to 2010; and it is further

ORDERED that this case is **REMANDED** to the Secretary of HHS for further proceedings consistent with the accompanying Memorandum Opinion; and it is further

ORDERED that the parties shall submit, by November 1, 2021, and every 45 days thereafter, a joint status report as to the progress, if any, the parties have made to effectuate the judgment in *Select Specialty Hosp.-Denver, Inc. v. Azar*, 391 F. Supp. 3d 53 (D.D.C. 2019) with regards to the reimbursement payments that remain in dispute; and it is further

ORDERED that the Clerk of Court shall close this case.

SO ORDERED.

Date: September 20, 2021



Beryl A. Howell

BERYL A. HOWELL
Chief Judge

Exhibit 48

to Declaration of Sana Mayat to Plaintiffs' Reply
Memorandum in Support of Plaintiffs' Motion to
Enforce Court Order

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

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

ANSLEY DAMUS, *et al.*,

Plaintiffs,

v.

**CHAD WOLF, Acting Secretary of the
Department of Homeland Security, *et al.*,**

Defendants.

Civil Action No. 18-578 (JEB)

ORDER

For the reasons set forth in the accompanying Memorandum Opinion, the Court
ORDERS that:

1. Plaintiffs' Motion for Contempt is DENIED IN PART;
2. The Government, however, shall implement the following measures:
3. An ICE attorney will train LAFO Enforcement and Removal Operations Officers on the 2009 Parole Directive with a focus on proper procedures related to serving advisals, conducting parole interviews, and making parole recommendations;
4. An ICE Headquarters Field Operations-designated staff member and ICE attorney will train Assistant Field Office Directors with a focus on the management and approval of parole decisions;
5. An LAFO ERO officer and an ICE attorney will train ERO officers newly assigned to conduct parole determinations, as well as conduct periodic Parole Directive training;

6. Plaintiffs may assign an attorney to review the LAFO's training procedures (or be present at some trainings) insofar as this review does not unduly intrude into ICE's operations;
7. On a monthly basis, the Officer in Charge of the Adelanto detention facility will review 10% of the total number of parole determinations (but no more than 20 cases a month); and
8. In rendering their decisions, LAFO officials must provide a few-sentence explanation of their parole determinations.

IT IS SO ORDERED.

/s/ James E. Boasberg
JAMES E. BOASBERG
United States District Judge

Date: February 7, 2020