

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 RONALD
ALAN ATKINSON IN SUPPORT OF
DEFENDANTS' MOTION FOR
SUMMARY JUDGMENT AND IN
OPPOSITION TO PLAINTIFFS'
MOTION FOR SUMMARY
JUDGMENT**

I, Ronald Alan Atkinson, do hereby declare as follows:

1. My name is Ronald Alan Atkinson. I am a senior officer with over twenty-eight years of experience at the United States Citizenship and Immigration Services ("USCIS") and its predecessor agency. As further described below, I have served in leadership roles in the implementation of national security, anti-fraud, and intelligence policies and practices within USCIS. I have supervised units within the agency charged with adjudicating immigration benefit applications with national security issues, and held responsibility for ensuring the thorough vetting of these applications prior to adjudication. I have been involved in developing and implementing USCIS priorities covering national security vetting practices, including drafting significant parts of the 2008 policy memorandum and guidance known as the Controlled Application Review and Resolution Program

1 (“CARRP”) that moved substantial portions of USCIS’s national security case workload from
2 Headquarters to the agency’s 88 field offices.

3 2. Prior to my professional career, I earned both a Bachelor’s Degree and Master’s Degree from
4 the University of Georgia in Athens, GA.

5 3. In 1993, I began work with the former Immigration and Naturalization Service (“INS”). By
6 2002, I had attained the position of Supervisory Adjudications Officer in the Adjustment of Status
7 (“AOS”) unit in the INS New York District Office. I held this position from 2002 until 2005.
8 During this period, I worked with immigration benefit applications, including some that raised
9 national security (“NS”) concerns. Also during this period, as I describe further below, the INS was
10 reorganized into three components of the Department of Homeland Security: USCIS, U.S.

11 Immigration and Customs Enforcement (“ICE”), and U.S. Customs and Border Protection (“CBP”).

12 4. Between 2005 and 2007, I worked as an Immigration Law Analyst in the USCIS Office of
13 the Ombudsman. In that capacity, I reviewed customer complaints lodged with USCIS by
14 employers and individuals regarding allegedly erroneous decisions, processing delays, and other
15 matters, investigated their merit, and coordinated responses to ensure any problems were adequately
16 addressed. Additionally, I analyzed statistical and anecdotal evidence to identify systemic problems
17 with USCIS policies and procedures, and presented recommendations to the Ombudsmen for formal
18 submission to the USCIS Director that were designed to improve national security, customer service,
19 and operational efficiency. Further, I served as a principal advisor to the USCIS Ombudsman and
20 represented him in external settings by meeting with other governmental officials, congressional
21 staff, community-based and non-governmental organizations, and business representatives.

22 Operationally, I oversaw a team of seven employees engaged in the collection, analysis, synthesis
23 and presentation of data used to support recommendations for policy and process change within
24 USCIS.

25 5. In 2007, I began work as a Supervisory Adjudications Officer in USCIS’s Fraud Detection
26 and National Security directorate (“FDNS”). I remained with FDNS until 2014. Since 2014, I have
27 worked in USCIS’s Office of Legislative Affairs.

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2 6. In the course of performing my duties as an FDNS Supervisory Adjudicator, I observed and
3 participated in USCIS's development and implementation of CARRP. I am thoroughly familiar with
4 CARRP, and even serve as a subject matter expert when answering questions regarding national
5 security issues when interacting with Members of Congress and congressional staff.

6 7. CARRP provides a standardized set of procedures for USCIS personnel to follow when
7 processing and adjudicating immigration benefit applications where a potential NS concern exists,
8 which may both call into question the applicant's benefit eligibility and raise concerns that steps
9 taken at USCIS to adjudicate the application may impact ongoing law enforcement or NS-related
10 investigations or inquiries at other federal agencies.

11 8. CARRP was adopted and implemented by USCIS in 2008—but it was developed and based
12 on knowledge and experience that the agency—including myself—acquired during the preceding
13 decade. This knowledge and experience arose particularly from the events of September 11, 2001
14 (“9/11”) and the years that followed. One lesson of 9/11 was that agencies across the federal
15 government needed to share with one another individual data points of information that, although
16 seemingly insignificant when viewed in isolation, could reveal national security threats when
17 considered as a whole. In the years immediately following 9/11, however, there was a significant
18 disparity between the new directive of information-sharing across federal agencies and the
19 operational capacity, know-how, and inter-agency trust needed to realize it. In retrospect, those
20 problems were apparent in how immigration benefit applications were vetted even prior to 9/11.

21 *Before 9/11*

22 9. Before 9/11, the INS, from which USCIS would evolve in 2003, was comprised of Border
23 Patrol and Field Operations. Field Operations components included Investigations, Inspections,
24 Deportation, and Examinations. Examinations handled the processing of applications for
25 immigration benefits.

1 10. When INS received an immigration benefit application, it was assigned to an INS
2 adjudicator, who had primary responsibility for assessing the application through the pendency of its
3 adjudication.

4 11. Prior to 9/11, INS conducted minimal background checks on applicants. The background
5 checks that were conducted were principally confined to running an FBI fingerprint check for
6 criminal records.

7 12. Some components of INS, such as Investigations and Inspections, had the ability to gather
8 information for the purpose of identifying national security risks posed by aliens and access national
9 security-related information held by other agencies, however those components rarely shared that
10 information with other components. If there was national security-related information pertaining to
11 a benefit applicant, Examinations would likely be unaware of that information unless the applicant
12 himself or herself disclosed it on the application form or during the course of an interview for the
13 sought benefit.

14 13. Another possible source for national security related information prior to 9/11 was through a
15 limited number of name trace checks, or biographic checks, the agency could run to access third
16 party agency records pertaining to non-domestic records.

17 14. When an INS adjudicating officer did receive national security information related to a
18 pending application, the adjudicating officer would notify a supervisor to determine how best to
19 proceed. If the adjudicating officer and supervisor could not resolve an NS issue on their own, the
20 officer or supervisor would typically contact INS's Investigations Division to request an inquiry into
21 the underlying information so that the officer could determine its effect, if any, on benefit eligibility.
22 To my knowledge, there was no standard process through which this outreach would occur,
23 however, and whether it occurred at all depended substantially on whether the adjudicator or
24 supervisor knew particular investigators and whether the investigators had the capacity to assist the
25 adjudicator in addition to handling their usual assignments pertaining to immigration
26 violations/enforcement.

1 15. Even if an investigator was able to pursue the inquiry, he or she had limited resources and
2 competing priorities, and it was common for the information to be inclusive with respect to its
3 impact on immigration benefit eligibility.

4 Post 9/11

5 16. The terrorist attacks of September 11, 2001 led to significant changes in INS's mission,
6 structure, and operations. Coordinating these changes across and between large agencies presented
7 new challenges and required significant time to learn best practices and make responsive
8 improvements.

9 17. First, I observed that federal agencies had placed a new priority on inter-agency information
10 sharing. Second, there was an obvious need to lend more scrutiny to national security considerations
11 in the adjudication of immigration benefits. These realities had a significant impact on INS's
12 processing of immigration benefit applications. As law enforcement and intelligence records could
13 contain important information about individuals and organizations relevant to the adjudication of
14 immigration benefit applications and petitions, INS would need to expand its access to and
15 utilization of this resource.

16 18. In particular, new security checks were required to be completed on applicants, including
17 TECS and FBI name checks. Benefit adjudicators gained access to national security information on
18 applicants held by law enforcement and intelligence agencies other than the FBI via data systems
19 such as TECS, a platform that facilitates information sharing among federal, state, and local agencies
20 as well as with commercial organizations and foreign governments. Further, in 2002, FBI criminal
21 checks that INS had previously run were expanded to include FBI namechecks, an additional set of
22 records beyond FBI fingerprint checks. FBI namechecks provided information on investigations
23 and, in many cases, provided a more complete picture of individuals and their activities and
24 associates. As INS gained access to more detailed information from the FBI, the workload of INS
25 increased because it became necessary to resolve issues such as NS questions raised by the new
26 information before completing adjudications.

1 19. Organizationally, in 2003, INS was trifurcated upon the creation of the Department of
2 Homeland Security, bringing together 22 separate agencies into a single, cabinet-level department.
3 As a result, however, the services that had been performed by INS were now dispersed across three
4 new agencies. Law enforcement agents and investigative services were now housed within
5 Immigration and Customs Enforcement; border patrol and inspections activities were carried out by
6 Customs and Border Protection; and immigration benefit processing was performed by USCIS. The
7 human assets supporting these functions—border control, interior enforcement, and benefit
8 adjudications—moved to their corresponding new agencies, effectively separating them from each
9 other. Consequently, effective information sharing remained challenging because USCIS was
10 dependent on the investigations units of the other former components of the INS, and those units had
11 become separate agencies with different missions than USCIS.

12 20. Compounding this challenge were delays in receiving information from third party record
13 holders that USCIS now requested under the policy expanding standard background checks. In 2002
14 and for several years afterwards, record producing agencies like the FBI were not initially equipped
15 to respond to the marked increase in the volume of new requests from USCIS, and consequently,
16 backlogs ensued. And while USCIS now had authorization to review law enforcement investigative
17 information through the TECS system, initial equipment shortages and training gaps limited the
18 number of USCIS adjudicators who could actually gain access to the database to those few who
19 already had access and training from their experience as Inspectors. Access to TECS requires
20 operators to complete a rigorous training program and demonstrate proficiency. As the bulk of the
21 officers authorized to conduct TECS checks were placed in CBP, USCIS had very few officers who
22 were able to operate the system, and even fewer officers who were capable of training the thousands
23 of fellow officers across the nation. Technical issues also complicated the introduction of TECS into
24 the adjudications process, as separate communications equipment had to be added to each officer's
25 workstations. Combined with the mandate that TECS checks would be conducted on all status-
26 bearing applications, the access delays due to training and technical realities effectively shut down
27 almost all adjudication decisions for a period of time after implementation.

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2 21. The impact of these changes was three-fold. First, the case workload increased as new
3 processes for conducting, reviewing, and resolving checks were introduced to the adjudications
4 process. Second, USCIS adjudicators at Field Offices were often unable to obtain background check
5 records containing national security information in a timely fashion. And third, when adjudicators
6 were able to access these records, there was not an ordered system to seek assistance in interpreting
7 the records and understanding their significance. The expertise internal to INS that adjudicators
8 once relied upon to ensure informed decisions on benefit applications with potential national security
9 flags was no longer present at USCIS. As such, adjudicators had to either leverage the previous
10 relationships they had with former colleagues now assigned to ICE or CBP, or attempt to contact
11 external law enforcement agency record holders directly to illuminate national security information.
12 As USCIS was largely seen as a “benefits-granting agency” whose law enforcement and intelligence
13 equities were not wholly clear to external organizations, many of the officers in those external
14 organizations were reluctant to provide information to USCIS officers.

15 22. In 2004, USCIS created the Fraud Detection and National Security Directorate (“FDNS”) as
16 part of an effort to develop law enforcement expertise within USCIS. While FDNS was
17 headquartered in Washington, USCIS officers assigned to FDNS were also stationed in USCIS Field
18 Offices, Service Centers, and Asylum Offices across the country. Yet in the initial years after its
19 creation, FDNS had only a small number of field officers and little capacity for adjudicators to
20 identify or adjudicate competently cases with NS concerns in light of the increased amount of
21 available information. It was common for adjudicators to avoid decisions on NS cases. Following
22 9/11, the INS Commissioner issued a “zero tolerance” policy with regard to mistakes on NS cases.
23 Rather than make a wrong decision, it was easier to make no decision at all.

24 23. In an attempt to address the shortage of resources at the field level and afford specialized
25 expertise to a growing number of more complex cases, in 2004 FDNS instituted a new policy
26 directing that all cases raising potential NS concerns be sent to Headquarters for adjudication. This
27 initiative, known as FOCUS, was comprised of a small number of adjudicators who had high

1 security clearances and points of contact at law enforcement agencies. Although these
2 Headquarters-based adjudicators interacted with adjudicators at local Field Offices, adjudications for
3 cases raising NS concerns were, at that point, made at Headquarters rather than in the Field.

4 24. However, the capacity of Headquarters-based adjudicators to interpret the significance of
5 derogatory national security information associated with applicants, a process known as vetting, was
6 still limited. Further, although points of contact at law enforcement agency offices were an essential
7 resource to assist in this effort, some offices were only minimally staffed, delaying or preventing the
8 completion of vetting. Finally, there were simply not enough adjudicators in FOCUS to handle all
9 the cases with potential NS concerns.

10 Formulation of the CARRP policy

11 25. With an insufficient number of Headquarters-based adjudicators, a backlog of cases with NS
12 concerns arose within months. To reduce the backlog without compromising consistent outcomes,
13 USCIS needed to disperse case processing responsibilities across a larger pool of officers while
14 ensuring they had a blueprint to utilize and replicate best practices. In response, USCIS initiated a
15 series of steps designed to leverage the personnel resources of the Field and lay the groundwork for a
16 standardized process to identify, process, and adjudicate cases with potential NS concerns at Field
17 Offices across the country, later formalized under the acronym CARRP.

18 26. In or about 2006, FDNS created its National Security Branch (NSB) to strengthen the whole
19 agency approach to national security issues. In standing up NSB, USCIS sought to develop within
20 the agency a top-to-bottom understanding of the importance of immigration benefit processing
21 involving national security information, reliable processes for accessing and considering
22 information, preparation of field officers to handle and consider national security information, an
23 increased agency capacity to access and control classified information, and a commitment from
24 external law enforcement and intelligence partners to share relevant information. NSB, in effect,
25 served as a model upon which a national field program would be built.

1 27. In addition to developing the ability of USCIS officers to access and understand information
2 in law enforcement databases and grow reliable methods of obtaining relevant national security
3 information, the new branch emphasized the importance of building individual relationships with
4 law enforcement agency partners. It was hoped that developing these relationships would strengthen
5 the exchange of timely and reliable information between USCIS and the law enforcement
6 community and ultimately aid the agency's effort to make fully informed decisions on the
7 underlying benefit applications. As a part of this effort, FDNS embedded staff with agencies and
8 task forces at the national level to gain access to information and expertise, while also sharing
9 information on USCIS processes and data.

10 28. Operationally, the NSB received NS cases from the field, reviewed the results of background
11 and security checks that had been performed on those cases, conducted additional research to
12 validate the information, and determined if the information would impact eligibility for a benefit. As
13 some of the information was classified, NSB was also responsible for observing the protocols
14 regarding transmission, use, and storage of classified information. When NSB had fully vetted
15 information and determined that an NS concern existed, it worked with the USCIS office of Chief
16 Counsel to develop strategies for resolving them. When denial of a benefit was contemplated, NSB
17 would work with the leadership and FDNS component of the field office or service center having
18 jurisdiction over the case to ensure that the denial notice was factually correct and legally sufficient.

19 29. As more NS cases were identified, it became apparent that the small staff at headquarters
20 would not be able to remain current, and indeed, a backlog of NS cases developed. Agency
21 leadership recognized the need to leverage field capacity to process the cases. It also recognized that
22 the knowledge, relationships, and processes developed by FOCUS and NSB would need to be shared
23 with the field.

24 30. In 2008, the CARRP policy was memorialized in a series of memoranda. Over the coming
25 years, the CARRP initiative allowed the agency to achieve many of the objectives I mentioned
26 above.

- 1 • First, by assigning adjudicative authority over cases with NS concerns to the Field, USCIS
2 was able to assign many more adjudicators to work on NS cases. Consequently, cases were
3 processed more expeditiously, which gradually reduced the backlog at Headquarters.
- 4 • Second, the four-step approach CARRP established for processing NS cases divided
5 responsibility between CARRP-trained adjudicators and CARRP-trained FDNS investigators
6 and required collaboration between them. Through these shared case processing duties, each
7 officer became better equipped to bring his or her unique skill set and credentials to bear on a
8 case. If, for example, the adjudicating officer lacked a high security clearance required to
9 view classified information, the FDNS investigating officer could access this information to
10 help determine next steps. As cases developed, it was often the case that the adjudicator
11 would have additional questions about relationships, events, memberships, or other factors
12 that could affect an eligibility determination. The FDNS officer served as a resource for the
13 adjudicator in such situations, as the FDNS officer could conduct administrative
14 investigations or contact law enforcement agencies for additional information. Ultimately,
15 the collaboration brings more efficiency to case processing and promotes greater confidence
16 in the final determination, whether that be an approval or denial.
- 17 • Third, CARRP fostered the development of trusting relationships with law enforcement
18 agencies that USCIS had identified as instrumental to understanding the true significance of
19 national security-related information to a case. This was a challenging process that began at
20 the headquarters level, and one that required meaningful engagement at the grassroots level
21 between USCIS Field Offices and regional law enforcement offices. But over time, and with
22 persistence, it was accomplished. As a result of the meaningful information sharing
23 facilitated through CARRP, I believe the vetting of cases raising NS concerns is now more
24 reliable.
- 25 • Fourth, CARRP gave leadership and officers at every level of USCIS a sense of ownership.
26 First through training, and then through practice, CARRP allowed USCIS staff to understand
27 the factors that lead to the identification of a national security concern, the sources of
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1 information and processes for accessing information related to that concern, and the need to
2 proceed systematically when resolving that concern.

3 29. In sum, based upon my experience between 2007 and 2014, the application of the CARRP
4 policy provided a standardized, consistent, and efficient means of getting adjudicators the
5 information they needed to adjudicate cases to the proper decisions, while also ensuring that
6 USCIS's actions on benefit applications did not interfere with NS-related investigations undertaken
7 by third agencies. CARRP's accomplishments are many, but none more significant than the fact that
8 it facilitated effective partnerships where needed most—between Field Offices and Headquarters,
9 law enforcement agencies and FDNS, and the CARRP investigators and CARRP adjudicators.

10 30. It is my sense that these reliable partnerships have ultimately helped yield more reliable
11 outcomes in the vetting and adjudication of these cases, sound and factually-consistent decisions,
12 that the vetting and deconfliction actions that take place as a part of CARRP ensure the integrity of
13 ongoing national security investigations, and that CARRP provides a sound framework to replicate
14 our successes and address new challenges as they arise in the near and long term.

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16 I declare under penalty of perjury that the foregoing is true and correct.
17 Executed on this 3rd day of May 2021, at Centreville, Virginia.

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20 RONALD A
ATKINSON

Digitally signed by RONALD A
ATKINSON
Date: 2021.05.03 16:30:00 -04'00'

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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
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