

UNITED STATES DISTRICT COURT
DISTRICT OF OREGON

AYMAN LATIF, et al., <i>Plaintiffs,</i>	Case 3:10-cv-00750-BR
v. JEFFERSON B. SESSIONS, III, et al., <i>Defendants.</i>	[PROPOSED] FINAL JUDGMENT

BACKGROUND

The Third Amended Complaint (#83), filed January 11, 2013, included claims for violation of procedural due process (Claim One), substantive due process (Claim Two), and the Administrative Procedure Act (APA) (Claim Three) on behalf of 13 Plaintiffs. The Court now enters final judgment as to all of these claims.

On August 28, 2013, the Court held that all Plaintiffs have a constitutionally protected liberty interest in the right to travel internationally by air and a constitutionally protected liberty interest in their reputations, each of which is adversely affected by placement on the No Fly List (#110). Consistent with this order, on June 24, 2014, the Court granted Plaintiffs' motion for partial summary judgment with respect to Claim One and the procedural due process aspect of Claim Three (#91) and denied Defendants' motion (#85). (#136.) The Court held that the then-existing (now superseded) redress process was constitutionally inadequate and violated the APA because it did not provide Plaintiffs with meaningful procedures for challenging their placement on the No Fly List.

Following a revision of the redress process by the Government after the Court's summary judgment order (#136) and October 3, 2014 Case Management Order (#152), on April 24, 2015, the Court entered a non-final judgment as to Claim One and Claim Three in favor of the Plaintiffs who had been advised that they were not on the No Fly List as of October 10, 2014: Ayman Latif, Elias Mustafa Mohamed, Nagib Ali Ghaleb, Abdullatif Muthanna, Ibraheim Y. Mashal, Salah Ali Ahmed, and Mashaal Rana. (#153-1, #227, #228.) The order dismissed without prejudice Claim Two (substantive due process) as to these Plaintiffs, and clarified that there were no remaining unadjudicated claims for these Plaintiffs. Later, on October 6, 2016, the Court also dismissed as moot the claims of Steven Washburn, following his death. (#337.)

After the parties moved for partial summary judgment again with respect to the procedural claims, on March 28, 2016, the Court granted in part and denied in part Defendants' Cross-Motion as to Plaintiffs Mohamed Sheikh Abdirahman Kariye, Faisal Kashem, Raymond Knaeble, Amir Meshal, and Stephen Persaud collectively, denied Plaintiffs' collective Motion, and deferred ruling on the parties' Cross-Motions as to the individual Plaintiffs in order to permit supplementation of the record. *See Latif v. Lynch*, No. 3:10-cv-00750-BR, 2016 WL 1239925 (D. Or. Mar. 28, 2016). The Court adhered to its June 24, 2014 Opinion and Order (#136) as to the standard that Defendants must satisfy with respect to providing Plaintiffs with notice, and concluded that the revised DHS TRIP process satisfied in principle most of the procedural due process requirements that the Court set out in that Order (#321).

On October 6, 2016, following Defendants' submission of *ex parte, in camera* materials to supplement the record with respect to whether information was properly withheld during the administrative process (#321, #323), the Court granted summary judgment as to the remaining procedural due process claims of the remaining Plaintiffs. This order granted Defendants' Cross-Motions (#241, #242, #247, #248, #249, #250) for Partial Summary Judgment regarding individual Plaintiffs and denied Plaintiffs' individual Renewed Motions (#210, #212, #214, #216, #218, #220) for Partial Summary Judgment. (#337).

On April 21, 2017, the Court denied Plaintiffs' February 10, 2017 Motion for Leave to Conduct Limited Jurisdictional Discovery (#356). The Court also held that jurisdiction over the remaining Plaintiffs' substantive due process claims lies exclusively in the Ninth Circuit Court of Appeals pursuant to 49 U.S.C. § 46110. Accordingly, the Court, treating Defendants' motion to dismiss for lack of jurisdiction as a motion for summary judgment, granted the motion and dismissed the remaining substantive claims. (#348, #356).

FINAL JUDGMENT

Accordingly, the Court now hereby ENTERS final judgment pursuant to Rule 58 of the Federal Rules of Civil Procedure as follows:

The Court ENTERS final judgment in favor of Plaintiffs Ayman Latif, Elias Mustafa Mohamed, Nagib Ali Ghaleb, Abdullatif Muthanna, Ibraheim Y. Mashal, Salah Ali Ahmed, and Mashaal Rana with respect to Claim One and Claim Three in accordance with the previous Court order and non-final judgment. (#227, #228.)

The Court DISMISSES without prejudice Claim Two of Ayman Latif, Elias Mustafa Mohamed, Nagib Ali Ghaleb, Abdullatif Muthanna, Ibraheim Y. Mashal, Salah Ali Ahmed, and Mashaal Rana in accordance with its previous order and non-final judgment. (#227, #228.)

The Court DISMISSES with prejudice all claims of Steven Washburn as moot. (#337.)

The Court ENTERS Judgment for Defendants with respect to Claim One and the procedural due process aspect of Claim Three of the remaining Plaintiffs: Mohamed Sheikh Abdirahman Kariye, Raymond Earl Knaeble IV, Faisal Nabin Kashem, Amir Meshal, Stephen Durga Persaud. (#321, #337.)

The Court DISMISSES Claim Two and the substantive due process aspect of Claim Three of the remaining Plaintiffs because the Court lacks jurisdiction with respect to these claims. (#356.)

The Court having now resolved all claims of all parties, this JUDGMENT shall constitute the final judgment of this Court.

So ORDERED.

HON. ANNA J. BROWN

United States District Judge