



Department of Justice

Executive Office for Immigration Review

Office of the General Counsel

5107 Leesburg Pike, Suite 1903
Falls Church, Virginia 22041

September 21, 2018

Jacqueline Stevens
Northwestern University
Dept. of Political Science
601 University Place
Evanston, IL 60208

Re: FOIA 2015-27249

Dear Prof. Stevens,

This letter is in response to your Freedom of Information Act (FOIA) request to the Executive Office for Immigration Review (EOIR) in which you seek investigatory materials relating to certain complaints against immigration judges (IJs). We apologize for the delay in providing this response; the response was delayed both by the complexity of the request, and the litigation surrounding *AILA v. EOIR*.

Responsive documents are enclosed. Portions of the enclosed documents have been redacted in accordance with 5 U. S.C. § 552(b)(6) to avoid a clearly unwarranted invasion of personal privacy, and/or 5 U. S.C. § 552(b)(5) to protect privileged information. The reason for redaction is clearly marked on each redacted portion. Additionally, each complaint was evaluated for release in conformity with *AILA v. EOIR*, No. 13-840 (D.D.C. filed June 6, 2013). In each case, it was determined that the public interest in release did not outweigh the privacy interest of the immigration judge.

There will be no charge for the enclosed documents.

Please note that the following complaint numbers did not contain any responsive records: 253, 513, 678, 682, and 718. These complaints may have been combined with other complaints, or may have been expunged from the record pursuant to an agreement or order.

In the following cases, documents not created or maintained by EOIR were referred to other agencies for direct response to you:

#789: Report of Investigation (Office of the Inspector General)
#770: Memorandum of 6/4/2013 w/attachment (Office of the Inspector General)
#731: Report of Investigation (Office of the Inspector General)

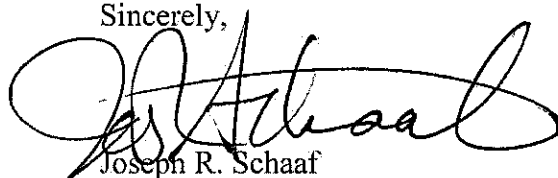
#762: E-mails and documents Oct 2012 (ICE)
E-mail of 2/11/2013 (Office of Professional Responsibility)
Letter of 8/8/2014 (Office of Professional Responsibility)
E-mail of 7/12/2012 (ICE)

For your information, Congress excluded three discrete categories of law enforcement and national security records from the requirements of the FOIA. *See* 5 U.S.C. § 552(c) (2006 & Supp. IV 2010). This response is limited to those records that are subject to the requirements of the FOIA. This is a standard notification that is given to all our requesters and should not be taken as an indication that excluded records do, or do not, exist. *See* <http://www.justice.gov/oip/foiapost/2012foiapost9.html>.

You may contact our FOIA Public Liaison at the telephone number 703-605-1297 for any further assistance and to discuss any aspect of your request. Additionally, you may contact the Office of Government Information Services (OGIS) at the National Archives and Records Administration to inquire about the FOIA mediation services they offer. The contact information for OGIS is as follows: Office of Government Information Services, National Archives and Records Administration, Room 2510, 8601 Adelphi Road, College Park, Maryland 20740-6001, e-mail at ogis@nara.gov; telephone at 202-741-5770; toll free at 1-877-684-6448; or facsimile at 202-741-5769.

If you are not satisfied with my response to this request, you may administratively appeal by writing to the Director, Office of Information Policy (OIP), United States Department of Justice, Suite 11050, 1425 New York Avenue, NW, Washington, DC 20530-0001, or you may submit an appeal through OIP's FOIAonline portal by creating an account on the following web site: <https://foiaonline.regulations.gov/foia/action/public/home>. Your appeal must be postmarked or electronically transmitted within 90 days of the date of my response to your request. If you submit your appeal by mail, both the letter and the envelope should be clearly marked "Freedom of Information Act Appeal."

Sincerely,

A handwritten signature in black ink, appearing to read "J. Schaaf", written over a horizontal line.

Joseph R. Schaaf

Chief Counsel for Administrative Law

Enclosure:

EOIR FOIA# 2015-27249



Single Complaint Detail

Complaint Number: 792

Immigration Judge: [REDACTED]

Complaint Date: 09/03/13

Current ACIJ
Fong, Thomas Y. K.

Base City
[REDACTED]

Status
CLOSED

Final Action
Oral counseling

Final Action Date
09/11/13

A-Number(s)	Complaint Nature(s)	Complaint Source(s)
[REDACTED]	In-court conduct	BIA

Complaint Narrative: Matter of [REDACTED] the BIA "questioned the comments made by the IJ with regard to the way in which the R's husband (and witness) was attired."

Complaint History

- 09/05/13 ACIJ discusses the case with the IJ
- 09/09/13 Database entry created
- 09/11/13 Oral counseling

Processing, FOIA (EOIR)

From: Fong, Thomas (EOIR)
Sent: Wednesday, September 11, 2013 4:57 PM
To: Moutinho, Deborah (EOIR)
Cc: Keller, Mary Beth (EOIR); Fong, Thomas (EOIR)
Subject: RE: IJC Memo and attachments - Matter of (b) (6), A(b) (6)
Attachments: IJ Complaint (b) (6) (IJ (b) (6)).doc

Mary Beth and Deborah,

Attached is a completed IJ Complaint Intake form and actions taken. Corrective action taken was giving oral counseling as noted. No other action recommended.

Thomas Y.K. Fong
Assistant Chief Immigration Judge
Immigration Court/EOIR/DOJ
606 South Olive Street, 15th Floor
Los Angeles, CA 90014

(b) (6)
(b) (6) @usdoj.gov

From: Moutinho, Deborah (EOIR)
Sent: Wednesday, September 04, 2013 6:18 AM
To: Fong, Thomas (EOIR)
Cc: Keller, Mary Beth (EOIR)
Subject: FW: IJC Memo and attachments - Matter of (b) (6), A(b) (6)

Good Morning

The attached concerning IJ (b) (6) is being forwarded to you per ACIJ Keller's request.

If you would like to review the ROP please let me know and I will send it right out to you.

Thank you
Deborah

From: Minton, Amy (EOIR)
Sent: Tuesday, September 03, 2013 6:08 PM
To: O'Leary, Brian (EOIR); Keller, Mary Beth (EOIR)
Cc: Santoro, Christopher A (EOIR); Moutinho, Deborah (EOIR); Henderson, Suzette M. (EOIR); Minton, Amy (EOIR)
Subject: RE: IJC Memo and attachments - Matter of (b) (6), A(b) (6)

Attached is updated PDF with the referenced transcript pages noted in the Board's decision on page 2, last paragraph.

From: Minton, Amy (EOIR)
Sent: Tuesday, September 03, 2013 1:33 PM
To: O'Leary, Brian (EOIR); Keller, Mary Beth (EOIR)
Cc: Santoro, Christopher A (EOIR); Moutinho, Deborah (EOIR); Henderson, Suzette M. (EOIR);
(b) (6) @EOIR.USDOJ.GOV
Subject: IJC Memo and attachments - Matter of (b) (6), A(b) (6)

Please see the attached IJC Memo from Chairman (b) (6). Thank you.

Immigration Judge Complaint Intake Form

HQ Use Only:
 complaint #: _____
 source: first / subsequent

Date Received at OCIJ:

complaint source information	
complaint source type	
<input type="checkbox"/> anonymous <input checked="" type="checkbox"/> BIA <input type="checkbox"/> ___ Circuit <input type="checkbox"/> EOIR <input type="checkbox"/> DHS <input type="checkbox"/> Main Justice <input type="checkbox"/> respondent's attorney <input type="checkbox"/> respondent <input type="checkbox"/> OIL <input type="checkbox"/> OPR <input type="checkbox"/> OIG <input type="checkbox"/> media <input type="checkbox"/> third party (e.g., relative, uninterested attorney, courtroom observer, etc.) <input type="checkbox"/> other: _____	
complaint receipt method	
<input type="checkbox"/> letter <input checked="" type="checkbox"/> IJC memo (BIA) <input type="checkbox"/> email <input type="checkbox"/> phone (incl. voicemail) <input type="checkbox"/> in-person <input type="checkbox"/> fax <input type="checkbox"/> unknown <input type="checkbox"/> other: _____	
date of complaint source	complaint source contact information
(i.e., date on letter, date of appellate body's decision) BIA referral dated 9/3/2013	name: <u>David Neal, Chairman of the BIA</u>
	address: _____

additional complaint source details	email: _____
(i.e., DHS component, media outlet, third party details, A-number)	phone: _____
Matter of (b) (6), (b) (6) (b) (6)	fax: _____

complaint details		
IJ name	base city	ACIJ
(b) (6)	(b) (6)	Thomas Y. K. Fong
relevant A-number(s)	date of incident	
(b) (6)	12/16/2011 Hearing	

allegations

A BIA 3-member panel sustained an appeal of a COR denial remanding the matter finding factual error in the IJ's ruling that the hardship element had not been met. However, the referral centers not upon this reversal of fact finding, but upon some IJ's comments in the hearing. The BIA noted as a "final matter" in its decision that "we question the comments made by Immigration Judge with regard to the way in which the respondent's husband (and witness) was attired." The referral includes the Transcript of hearing pages 45-48 in reference. They concluded (as ultimately did the IJ) that "no disrespect to the court was intended."

nature of complaint

- in-court conduct out-of-court conduct due process bias legal criminal
 incapacity other: _____

Processing, FOIA (EOIR)

From: Fong, Thomas (EOIR)
Sent: Wednesday, September 04, 2013 12:13 PM
To: Moutinho, Deborah (EOIR)
Cc: Keller, Mary Beth (EOIR)
Subject: RE: IJC Memo and attachments - Matter of (b) (6), A (b) (6)

Acknowledged receipt.

Thomas Y.K. Fong
Assistant Chief Immigration Judge
Immigration Court/EOIR/DOJ
606 South Olive Street, 15th Floor
Los Angeles, CA 90014

(b) (6)
(b) (6) [@usdoj.gov](mailto:(b) (6)@usdoj.gov)

From: Moutinho, Deborah (EOIR)
Sent: Wednesday, September 04, 2013 6:18 AM
To: Fong, Thomas (EOIR)
Cc: Keller, Mary Beth (EOIR)
Subject: FW: IJC Memo and attachments - Matter of (b) (6), A (b) (6)

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Deborah

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Cc: Santoro, Christopher A (EOIR); Moutinho, Deborah (EOIR); Henderson, Suzette M. (EOIR); Minton, Amy (EOIR)
Subject: RE: IJC Memo and attachments - Matter of (b) (6), A (b) (6)

Attached is updated PDF with the referenced transcript pages noted in the Board's decision on page 2, last paragraph.

From: Minton, Amy (EOIR)
Sent: Tuesday, September 03, 2013 1:33 PM
To: O'Leary, Brian (EOIR); Keller, Mary Beth (EOIR)
Cc: Santoro, Christopher A (EOIR); Moutinho, Deborah (EOIR); Henderson, Suzette M. (EOIR);
Amy.Minton@EOIR.USDOJ.GOV
Subject: IJC Memo and attachments - Matter of (b) (6), A (b) (6)

Please see the attached IJC Memo from Chairman David L. Neal. Thank you.

Processing, FOIA (EOIR)

From: Moutinho, Deborah (EOIR)
Sent: Wednesday, September 04, 2013 9:18 AM
To: Fong, Thomas (EOIR)
Cc: Keller, Mary Beth (EOIR)
Subject: FW: IJC Memo and attachments - Matter of (b) (6), A (b) (6)
Attachments: IJC Memo and attachments (b) (6).pdf

Good Morning

The attached concerning IJ (b) (6) is being forwarded to you per ACIJ Keller's request.

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Cc: Santoro, Christopher A (EOIR); Moutinho, Deborah (EOIR); Henderson, Suzette M. (EOIR); Minton, Amy (EOIR)
Subject: RE: IJC Memo and attachments - Matter of (b) (6), A (b) (6)

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Sent: Tuesday, September 03, 2013 1:33 PM
To: O'Leary, Brian (EOIR); Keller, Mary Beth (EOIR)
Cc: Santoro, Christopher A (EOIR); Moutinho, Deborah (EOIR); Henderson, Suzette M. (EOIR); (b) (6) @[EOIR.USDOJ.GOV](mailto:(b) (6)@EOIR.USDOJ.GOV)
Subject: IJC Memo and attachments - Matter of (b) (6), A (b) (6)

Please see the attached IJC Memo from Chairman David L. Neal. Thank you.

Memorandum



Subject	Date
<i>Matter of</i> (b) (6) (BIA (b) (6))	September 3, 2013

To
Brian O'Leary, Chief Immigration Judge
MaryBeth Keller, Assistant Chief Immigration Judge

From
David L. Neal, Chairman

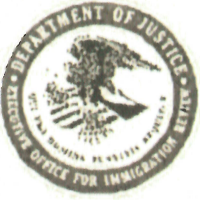
Attached please find a copy of the Board's decision dated (b) (6), and relevant portions of the record in the above-referenced matter.

The Board asked me to bring this case to your attention.

Further, the Board anticipates returning the record of proceedings for this remanded case to the Immigration Court in one week. If you wish to review the record prior to its return to the Immigration Court, please contact Suzette Henderson.

Thank you for your attention to this matter.

Attachments



U.S. Department of Justice

Executive Office for Immigration Review

Board of Immigration Appeals
Office of the Clerk

5107 Leesburg Pike, Suite 2000
Falls Church, Virginia 22041

(b) (6)

DHS/ICE Office of Chief Counsel

(b) (6)

(b) (7)(C)

Name: (b) (6)

A (b) (6)

Date of this notice: (b) (6)

Enclosed is a copy of the Board's decision and order in the above-referenced case.

Sincerely,

Donna Carr

Donna Carr
Chief Clerk

Enclosure

Panel Members:
Kendall-Clark, Molly
Holmes, David B.
Miller, Neil P.

(b) (6)

Userteam: Docket



U.S. Department of Justice

Executive Office for Immigration Review

Board of Immigration Appeals
Office of the Clerk

5107 Leesburg Pike, Suite 2000
Falls Church, Virginia 22041

(b) (6)

DHS/ICE Office of Chief Counsel - (b) (7)
(b) (7)(C)

Name: (b) (6)

A (b) (6)

Date of this notice (b) (6)

Enclosed is a copy of the Board's decision in the above-referenced case. This copy is being provided to you as a courtesy. Your attorney or representative has been served with this decision pursuant to 8 C.F.R. § 1292.5(a). If the attached decision orders that you be removed from the United States or affirms an Immigration Judge's decision ordering that you be removed, any petition for review of the attached decision must be filed with and received by the appropriate court of appeals within 30 days of the date of the decision.

Sincerely,

Donna Carr

Donna Carr
Chief Clerk

Enclosure

Panel Members:
Kendall-Clark, Molly
Holmes, David B.
Miller, Neil P.

(b) (6)
User team: Docket

Falls Church, Virginia 22041

File: A (b) (6)

Date: (b) (6)

In re: (b) (6)

IN REMOVAL PROCEEDINGS

APPEAL

ON BEHALF OF RESPONDENT: (b) (6)

ON BEHALF OF DHS: (b) (7)(C)
Assistant Chief Counsel

APPLICATION: Cancellation of removal; adjustment of status

The respondent has appealed from the Immigration Judge's decision denying her application for adjustment of status under section 245(a) of the Immigration and Nationality Act, 8 U.S.C. § 1255(a) and her application for cancellation of removal under section 240A(b) of the Act, 8 U.S.C. § 1229b(b). The Department of Homeland Security (DHS) has filed a motion for summary affirmance. The respondent's appeal will be sustained with respect to the application for cancellation of removal and the record will be remanded.

We review the Immigration Judge's findings of fact for clear error. Questions of law, discretion and judgment, and all other issues are reviewed de novo. See 8 C.F.R. § 1003.1(d)(3)(i), (ii). Because the respondent's applications were filed subsequent to May 11, 2005, they are governed by the REAL ID Act. See *Matter of S-B-*, 24 I&N Dec. 42 (BIA 2006).

We find no clear error in the Immigration Judge's factual findings. Upon de novo review, however, we conclude that the respondent did establish exceptional and extremely unusual hardship to a qualifying relative. See *Matter of Recinas*, 23 I&N Dec. 467 (BIA 2002). The record shows that the respondent's United States citizen husband was distraught about the prospect that the respondent would have to leave him and be removed from the United States (Tr. at 58-67). Testimony from witnesses and also letters were presented addressing the unusually strong emotional and psychological dependence the respondent's husband has on his wife (Tr. at 62-65, 74-76, 82, 97; Exh. 4 Tabs 9-15). The respondent was credited for her husband's ability to turn his life around, and there was serious concern expressed about the husband's mental state if the respondent were not allowed to remain in the United States (Tr. at 74-78, 82-85; Exh. 4 Tabs 9-15). It is not clear from the Immigration Judge's decision that the evidence on this point was adequately considered.

There was also some speculation about whether the respondent's husband would be able to join the respondent in her native country, given his prior criminal conviction, though no evidence on this issue was presented. However, even assuming the respondent's husband could lawfully relocate with his wife, he would have to leave his elderly mother, with whom the couple lives in rural (b) (6) and with whom the respondent and her husband have a strong bond (Tr. at 51-59, 67, 95-97). The respondent would also have to leave his close friends, his culture, and the many


animals for which he and the respondent provide care (Tr. at 51-67, 70, 74-76). The record indicates that this would be an unusually difficult undertaking given that the respondent's husband is emotionally fragile, is settled in a rural and isolated part of the United States, and lacks economic resources (Tr. at 51, 61-62, 84, 97-99).

Accordingly, we conclude that the respondent has established that her qualifying relative would experience exceptional and extremely unusual hardship if the respondent were required to leave the United States. The Immigration Judge has already determined that the respondent met the other requirements for cancellation of removal, which the DHS has not disputed on appeal. The respondent is, therefore, determined to be eligible for cancellation of removal, and the record will be remanded for the necessary background investigation. Given our decision in this regard, we need not address the arguments concerning the respondent's application for adjustment of status.

As a final matter, we note that we question the comments made by the Immigration Judge with regard to the way in which the respondent's husband was attired (Tr. at 45-48). It appears clear that no disrespect to the court was intended, as the Immigration Judge apparently ultimately recognized (Tr. at 45-48, 65, 69).

ORDER: The respondent's appeal is sustained.

FURTHER ORDER: Pursuant to 8 C.F.R. § 1003.1(d)(6), the record is remanded to the Immigration Judge for the purpose of allowing the Department of Homeland Security the opportunity to complete or update identity, law enforcement, or security investigations or examinations, and further proceedings, if necessary, and for the entry of an order as provided by 8 C.F.R. § 1003.47(h).



FOR THE BOARD

UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
UNITED STATES IMMIGRATION COURT

(b) (6)

File No.: A (b) (6)

December 16, 2011

In the Matter of)
(b) (6))
Respondent) IN REMOVAL PROCEEDINGS

CHARGES: Removability under Section 237(a)(1)(B) of the Immigration and Nationality Act, and Section 237(a)(3)(D) of the Immigration and Nationality Act.

APPLICATIONS: Cancellation of removal for certain non-legal permanent residents, and adjustment of status.

ON BEHALF OF RESPONDENT:

ON BEHALF OF DHS:

(b) (6), Esquire

(b) (7)(C), Esquire

ORAL DECISION OF THE IMMIGRATION JUDGE

The respondent is a 47-year-old, married female who is a native and citizen of the United Kingdom. The respondent was issued a Notice to Appear on February 2, 2011. The Notice to Appear charges the respondent with being removable under two grounds. First, under Section 237(a)(1)(B) of the Immigration and Nationality Act, and second, under Section 237(a)(3)(D) of the Immigration and Nationality Act.

In support of the two charges of removal, the Department of Homeland Security lodged five factual allegations. The respondent was charged as not being a citizen or national of the United States, and being a citizen of the United Kingdom, a native of the United Kingdom.

The respondent was further charged as having been admitted to the United States at (b) (6) on or about February 25, 1993 as a B2 visitor for pleasure, and that the respondent remained in the United States beyond the authorized stay without authorization from the Immigration and Naturalization Service, or its successor, the Department of Homeland Security.

The NTA further alleges that on or about January 24, 2009, the respondent represented herself to be a United States citizen for purposes of employment. The respondent admitted all factual allegations, and conceded both charges of removal.

The Court evaluated Exhibit 2 and determined that the Department of Homeland Security satisfied its burden by establishing that the respondent is removable from the United States by clear and convincing evidence.

The Court considered testimonial evidence and documentary evidence. The documentary evidence consists of:

The Notice to Appear, Exhibit 1

U.S. Department of Homeland Security evidence, Exhibit 2

Respondent's motion to continue, Exhibit 3

Respondent's pre-trial brief, Exhibit 4

Supplemental documents, Exhibit 5

Medical reports for the respondent, Exhibit 6

Motion for telephonic testimony, Exhibit 7.

The Court heard testimony from (b) (6) and (b) (6) (b) (6), the respondent's husband, (b) (6), and the respondent. The Court called (b) (6) as a witness; however, this witness did not answer the telephone, and as such, was not permitted to testify, as the witness was unavailable.

The Court turns first to the respondent's application for adjustment of status. Adjustment of status is available to an alien who has (a) been inspected and admitted or paroled into the United States; (b) is eligible to receive an immigrant visa because he or she has an approved visa petition; (c) an Immigrant Visa immediately is available at the time of application, and (d) is admissible to the United States for permanent residence. See 245(a) of the Act.

The Court turns to the document contained in the respondent's record of proceedings found at Exhibit 2 and reads directly from the notice of decision. The USCIS provided the respondent with a notice wherein it articulates under INA Section 212(a)(6)(C)(ii) of the Act, that falsely claiming citizenship in general, and alien who falsely represents or falsely represented himself or herself to be a citizen of the United States for any purposes or benefit under this Act or any other Federal law, is

inadmissible.

The Court would find that the Department of Homeland Security's determination is consistent with the law, and that the citations contained in the Decision are accurate and still current under INA Section 212(a)(6)(C)(ii). This is a non-waivable ground of inadmissibility. See Matter of Pichardo v. INS, 216 F.3d 1198, 1201 (9th Cir. 2010).

The respondent has made a request that the Court see past the actual law and rule on this matter. The Court is not authorized to ignore the law. The Court is created by law and must act within the confines thereof. The Court, in evaluating the law, would make a determination and a finding that the respondent is not statutorily eligible for adjustment of status, having falsely claimed to be a United States citizen on the Form I-9 which is contained in Exhibit 2.

The Court next turns to whether or not the respondent is eligible for cancellation of removal for certain non-permanent residents. Cancellation of removal for certain non-permanent residents is available to an alien who, (a) has been physically present in the United States for at least ten years; (b) has been a person of good moral character during that period; (c) has not been convicted of certain specified offenses; and (d) has established that removal would result in exceptional and extremely unusual hardship to the alien's spouse, parent or children who are United States citizens or legal permanent

residents. See Section 240A(b) of the Act.

To establish exceptional and extremely unusual hardship, an alien must demonstrate that the qualifying family member would suffer hardship that is substantially beyond that which would ordinarily be expected to result from an alien's deportation, but need not show that such hardship would be unconscionable. See Matter of Monreal, 23 I&N Dec. 56 (BIA 2001). The Court considers in the analysis of whether or not the respondent is eligible for cancellation of removal for non-legal permanent residents. The three seminal cases in this matter, Matter of Monreal, 23 I&N Dec. 56 (BIA 2001), Matter of Andazola, 213 I&N 319 (BIA 2002), and Matter of Recinas, 23 I&N Dec. 467 (BIA 2002).

The Court would find that the respondent has satisfied the first element, that she has been physically present in the United States for at least ten years. The Department raised an objection and a concern in the argument that the respondent had not satisfied the good moral character required for applications for cancellation of removal. However, based upon the evidence and testimony, the Court would find that the respondent has been a person of good moral character during the requisite period. The Court would also find that the respondent has not been convicted of specified offenses that would make her statutorily ineligible for relief sought.

In turning to the fourth element of whether or not the

respondent has established that her removal would result in exceptional and extremely unusual hardship to the alien's spouse, parent or children who are U.S. citizens or legal permanent residents, the Court would find that the respondent has failed to satisfy that standard. The Court heard testimony from the witnesses and the respondent. There was testimony that was extreme in characterization, such as the plane of the plant would split if the respondent is removed. The respondent's spouse would harm himself. There would be loss or death that would occur as a result of the respondent being removed from the United States.

The witnesses testified that the respondent is a good person and has positively influenced many lives since her stay in the United States and since she has known her husband. The Court considered all of that testimony as it relates to good moral character and that is why the Court did not find that the respondent did not have good moral character during the requisite period of time.

The respondent's counsel articulates that the respondent's husband, (b) (6), would not be able to go to the United Kingdom because of a conviction. There has been no evidence submitted in the record that would support that conclusion. The Court is not clear exactly what the conviction was for. There have been no conviction documents submitted in support of that proposition or, more importantly, no evidence in support of that

proposition.

For all applications for relief, the REAL ID Act is applicable. It is the respondent's burden to establish eligibility. The respondent failed to submit any documents that would support that argument. Representations of counsel are not considered evidence.

The qualifying relatives would be the respondent's mother-in-law and her husband. The Court heard testimony relating to the mother-in-law's health, and that she was healthy; that she was elderly, but healthy. The respondent's spouse does not suffering from any medical issues that have been identified, the respondent's spouse cares for, loves and appreciates his spouse.

The Court considered the respondent's spouse's testimony. His lack of ability to articulate the level of love and appreciation that he has for his spouse, but can, within the words utilized, determine that the marriage is a bona fide marriage and that the respondent does care for his spouse. That finding alone does not rise to the level required by the law, of which the Court is required to observe. The Court would find that the respondent has failed to establish that exceptional and extremely unusual hardship would result if the respondent were removed from the United States.

The Court does not turn to the matter of discretion as the respondent has failed to meet the hardship requirement.

The Court would find that the respondent is eligible for

voluntary departure, but the respondent has chosen not to be considered for voluntary departure.

ORDERS

As such, the Court is left with no other option but to issue an order ordering that the respondent be removed from the United States to the United Kingdom.

(b) (6)

Immigration Judge

1 JUDGE TO (b) (6)

2 Now the respondent will be testifying, the respondent's
3 spouse will be testifying, and the three individual identified
4 in the witness list?

5 (b) (6) TO JUDGE

6 Yes, Your Honor.

7 JUDGE TO (b) (6)

8 Okay. Who do you want to have testify first?

9 (b) (6) TO JUDGE

10 Her husband.

11 JUDGE TO COURT CLERK

12 Okay. Let's have the husband come in.

13 (b) (6) TO JUDGE

14 You want me to go get him or (b) (6) (phonetic sp.) will
15 get him?

16 JUDGE TO COURT CLERK

17 Are you going to get him?

18 JUDGE TO (b) (6)

19 Q. Sir, are -- this your spouse?

20 A. Yes.

21 Q. Are you aware that these are Court proceedings?

22 A. Yes. You just called me.

23 Q. Right, but are -- so you are aware that these are
24 Court proceedings and that you might be testifying today?

25 A. Yes.

1 Q. Do you think the, the attire that you have on is Court
2 attire?

3 A. For the travel, yes.

4 Q. You do? Well --

5 A. I came like this every other time.

6 Q. You haven't testified every other time.

7 A. Nobody told me nothing. This is how I came.

8 Q. Have you ever been in a courtroom before, sir?

9 A. Yes.

10 Q. And you went to the courtroom dressed in shorts and
11 boots?

12 A. Yes.

13 Q. And where was this courtroom, sir?

14 A. In (b) (6), and again in (b) (6).

15 Q. And what was -- what were you going to Court for, sir?

16 A. (Indiscernible).

17 Q. Violations?

18 A. Yes.

19 Q. Anything else?

20 A. No. I mean --

21 (b) (6) TO (b) (6)

22 (Indiscernible).

23 (b) (6) TO JUDGE

24 You know, I'm already here. She didn't mention anything
25 about wearing long pants and stuff like that.

A (b) (6)

1 (b) (6) TO JUDGE

2 It's my fault, Your Honor. I didn't tell him how to dress.
3 I didn't think there would be an issue. I'm sorry. It's my
4 fault.

5 JUDGE TO (b) (6)

6 Oh, so do you think it's appropriate for a witness to show
7 up in shorts and, and, and t-shirt and boots?

8 (b) (6) TO JUDGE

9 Your Honor, (b) (6), the people dress much more casually
10 (b) (6), and I'm sorry I didn't tell him to dress
11 -- generally I, I do mention it, but I -- it just slipped my
12 mind and I presumed maybe that he'd wear pants, but typically he
13 has -- I'm sorry, I didn't --

14 JUDGE TO (b) (6)

15 Well, I'm asking you a question. Do you think the
16 witness's attire is appropriate for these proceedings.

17 (b) (6) TO JUDGE

18 Your Honor, I'm, I wouldn't say no, because I've lived here
19 many, many years (b) (6)

20 (b) (6), again, people do not have the same standards that someone
21 who is brought -- (b) (6) And
22 their idea of how they dress is different. He's clean, he's --
23 I don't think he's -- I don't think he looks bad. I don't
24 personally think he looks inappropriate to testify, but, again,
25 I grew up in the (b) (6) and here and I don't -- I may not have

A (b) (6)

1 the same standards that you have, but at least he's here and he
2 came on time and he's here because he cares about his wife and
3 he's willing to testify. I, I'm sorry about not notifying him
4 of -- to wear pants or dress with a collared shirt. I, I'm
5 sorry.

6 JUDGE TO (b) (6)

7 I've lived in (b) (6) for some time, myself.

8 (b) (6) TO JUDGE

9 I understand.

10 JUDGE TO (b) (6)

11 And I don't think the attire of a t-shirt and shorts and
12 boots are appropriate Court attire. --

13 (b) (6) TO JUDGE

14 I --

15 JUDGE TO (b) (6)

16 And in case you do not think so, I am informing you today,
17 on December 16, 2011, that this Court does not accept or
18 appreciate the dress that the respondent has. It's once -- it's
19 one issue if those are the only clothes that the respondent has
20 and he doesn't own a pair of pants. That is a separate issue,
21 if the respondent is indigent and cannot wear any appropriate
22 attire.

23 (b) (6) TO JUDGE

24 I'm sorry, Your Honor. I failed to tell him to dress
25 appropriately. (b) (6) --

1 of, you know, other way to resolve the -- this whole issue
2 without sending her away from me and my family. She's the only
3 child in her family and I love her father. I love her mom. But
4 she's our family now. She got four brothers now. I just wish
5 there's something you can do, another way to resolve the -- this
6 whole checking of a box or whatever she did. I don't know what
7 that's the Government wants -- I've grown angry, you know. I
8 see things on TV. People evading and so much money involved and
9 they just prance around. And my wife, such a small fish, good
10 one, too. And if I could afford it, I would bring so much
11 people who could testify. If they could afford it, they would
12 love to be here. And if they seen me like this, they wouldn't
13 be too happy, either. But that's all I can say. I don't know
14 what the Immigration people want to hear. I don't know much
15 about anything, except music. I really don't like to talk, talk
16 about anything, except music, and happy stuff, not sad stuff.
17 But I'll do anything to keep her here. And I'm sorry. If I
18 knew, I would have wore my best, my best clothes.

19 (b) (6) TO (b) (6)

20 Q. Nothing, nothing --

21 A. No, I'm done.

22 JUDGE TO (b) (7)(C)

23 Department, cross?

24 (b) (7)(C) TO (b) (6)

25 Q. How do you and your wife support yourselves, if you're

A (b) (6)

1 JUDGE TO (b) (6)

2 I have to make a determination as to whether or not he
3 should be excused or allowed to remain in and hear the rest of
4 the proceedings. The choice is yours. If he's -- if you're --

5 (b) (6) TO JUDGE

6 I'm, I, I don't think he'll be --

7 JUDGE TO (b) (6)

8 -- anticipate --

9 (b) (6) TO JUDGE

10 I, I don't think at this time I anticipate that he will
11 testify again, Your Honor. So I'm done.

12 JUDGE TO (b) (7)(C)

13 Does the Department see any reason?

14 (b) (7)(C) TO JUDGE

15 No, Your Honor.

16 JUDGE FOR THE RECORD

17 That being the case, he's welcome to sit in the back.

18 (b) (6) TO JUDGE

19 Thank you.

20 JUDGE TO (b) (6)

21 Q. Thank you, sir, for testifying.

22 A. Thank you. I apologize for my dress again.

23 Q. Understand, sir. Apology accepted.

24 JUDGE TO (b) (6)

25 Next witness.