

The Honorable James L. Robart
United States District Judge

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

NORTHWEST IMMIGRANT RIGHTS
PROJECT, *et al.*,

Plaintiffs,

v.

UNITED STATES CITIZENSHIP AND
IMMIGRATION SERVICES, *et al.*,

Defendants.

Case No. 2:15-cv-00813-JLR

DECLARATION OF CONNIE NOLAN

I, Connie Nolan, declare and say:

1. As of January 1, 2023, I am the Acting Associate Director of Service Center Operations (SCOPS) for United States Citizenship and Immigration Services (USCIS), which is within the Department of Homeland Security (DHS). I have previously held the Deputy Associate Director of SCOPS position since June 2019. I began my federal career in 1992 with the former Immigration and Naturalization Service (INS) and have served in numerous capacities with INS and now USCIS at the Vermont Service Center, Potomac Service Center, and SCOPS headquarters.

2. I recently submitted a declaration in this matter dated January 5, 2023, regarding USCIS's efforts to comply with this Court's injunction in the period since the Court's September 9, 2022 Order denying the Plaintiffs' Motion for Contempt.

1 3. I previously submitted a declaration in this matter dated September 12, 2022, regarding
2 the impact of the February 7, 2022, vacatur decision in *Asylumworks v. Mayorkas*, 20-cv-3815,
3 on USCIS compliance with this Court's injunction.

4 4. I am also aware that in a subsequent submission to the Court, dated September 27, 2022,
5 the government responded to the following question:

6 Can USCIS commit to a specific timeframe? When will USCIS finish processing
7 the backlog and when does USCIS anticipate resuming 30-day compliance?
8

9 5. The government response, which reflected my best estimate at the time, was as follows:

10 USCIS anticipates being able to finish processing the C8 initial EAD
11 adjudications backlog on or about November 15, 2022. *Nevertheless, this estimate*
12 *is dependent on incoming receipt levels remaining consistent with projected*
13 *receipt levels* [emphasis added]. Given this prediction, USCIS expects to be
14 principally adjudicating cases within the 30-day timeline after November 15. And
15 in light of the monthly reporting cycle, USCIS anticipates the report for the month
16 of December 2022 would be the first report to reflect full 30-day compliance.
17

18 6. If incoming receipt levels had remained consistent, USCIS would have achieved 30-day
19 compliance as the date of this declaration, given USCIS's processing achievements to date. As
20 of September 30, 2022, USCIS had a backlog of 76,601 initial C8 applications. If USCIS
21 continued to receive approximately 30,000 filings a month for October, and November, and
22 December, that would mean that as of January 1, 2023, USCIS would have had 166,601 cases
23 that required adjudication on or before January 31, 2023. As of January 31, 2023, USCIS
24 adjudicated 162,410 cases.
25

1 7. USCIS has not been able to reduce the backlog and achieve 30-day processing because
 2 the volume of C8 initial EAD applications did not remain consistent, and in fact continued to
 3 dramatically increase to historically high levels. See Table 1, below, showing USCIS monthly
 4 receipts for FY2019-FY2022, and through to current in FY2023.

5 8. In August and September of 2022 USCIS received an unusually high volume of C8 initial
 6 EAD applications (31,995 and 33,363, respectively); however, USCIS did not project that the
 7 volume of filings would continue at that level, let alone increase by an additional 86% to 62,209
 8 filed in January 2023.

9 9. Historically, USCIS received the following volume of applications for the October
 10 through January period in the past:

| | | |
|----|---------------|--------|
| 12 | October 2019 | 19,661 |
| 13 | November 2019 | 20,187 |
| 14 | December 2019 | 19,898 |
| 15 | January 2020 | 20,406 |
| 16 | October 2020 | 7,556 |
| 17 | November 2020 | 8,676 |
| 18 | December 2020 | 16,624 |
| 19 | January 2021 | 15,308 |
| 20 | October 2021 | 16,148 |
| 21 | November 2021 | 15,423 |
| 22 | December 2021 | 13,909 |
| 23 | January 2022 | 13,282 |

24 The total receipts for this four-month period across the prior three years is 187,078.

25 10. In 2022 the volume of receipts, as shown below, was more than double the historical data
 and agency expectations:

| | | |
|----|---------------|--------|
| 26 | October 2022 | 40,140 |
| 27 | November 2022 | 44,048 |
| 28 | December 2022 | 43,667 |
| 29 | January 2023 | 62,209 |

1 The total receipts for the current four-month period was 190,064.

2 11. USCIS's inability to meet the projected compliance goal is not indicative of USCIS
3 processing fewer C8 initial EAD applications. The measures described in my September 12,
4 2022, Declaration, and as further described in the September 27, 2022, filing with the Court, and
5 which were directed at increasing processing capacity and efficiency, permitted USCIS to
6 dramatically increase the rate of adjudication for C8 initials to historically high levels:
7

| | FY2023 | FY2022 | FY2021 | FY2020 | FY2019 | FY2018 | FY2017 | FY2016 | FY2015 |
|--------------|---------------|---------------|---------------|---------------|---------------|---------------|---------------|---------------|---------------|
| Oct | 37,202 | 9,303 | 8,759 | 22,113 | 18,826 | 24,032 | 14,611 | 8,407 | 6,198 |
| Nov | 31,802 | 7,236 | 1,253 | 17,580 | 14,976 | 23,890 | 17,515 | 10,055 | 5,398 |
| Dec | 37,898 | 10,239 | 912 | 18,605 | 16,414 | 24,773 | 18,375 | 8,867 | 5,253 |
| Jan | 55,508 | 12,547 | 2,896 | 20,840 | 19,368 | 23,676 | 19,408 | 12,350 | 6,301 |
| | | | | | | | | | |
| Total | 162,410 | 39,325 | 13,820 | 79,138 | 69,584 | 96,371 | 69,909 | 39,679 | 23,150 |

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14 12. Despite the intensive dedication of officers and additional resources added to C8 initial
15 EAD adjudications, the sustained high volume of incoming monthly receipts again has
16 outstripped the increased processing volume USCIS has been able to accomplish.

17 13. USCIS is prepared to employ additional drastic measures to comply with the Court's
18 injunction; however, even with drastic measures, USCIS could not resolve the outstanding
19 backlog and become compliant within 30 days. As of January 31, 2023, our data indicates that
20 there are 104,978 C8 initial applications pending for adjudication. USCIS estimates it would
21 require upwards of 450 trained officers to adjudicate the backlog and incoming receipts within
22 30 days. At present, USCIS has less than half this number of trained C8 officers available. For
23 example, the officers currently assigned to C8 initial adjudications at Texas Service Center
24 constitute *approximately one quarter of the entire service center's capacity*. Outside of the C8
25

1 filings, SCOPS processes approximately 51 other form types, prioritizing court orders above
2 other priorities. Processing C8 initial applications at the current rate is having an enormous
3 impact on USCIS's broader mission and responsibilities.

4 14. USCIS plans to take the following additional steps to increase production capacity and
5 efficiency, eliminate the backlog, and resume compliance with the 30-day processing
6 requirement and the Court's injunction.

7 15. In addition to the 14 new Nebraska Service Center officers identified in paragraph 12 of
8 my January 5, 2023 declaration, USCIS will immediately reassign 60 additional C8-trained
9 officers to process C8 initial EAD applications, of which 20 are undergoing training at this time.
10 These officers will support the 114 fulltime officers and 52 part-time officers already assigned to
11 C8 initial applications from the Texas and Nebraska Service Centers.
12

13 16. USCIS will also identify additional adjudicators from other form processing lines who
14 can be retrained to process C8 initial applications as well as survey the service centers for
15 adjudicators who have experience working C8 applications or knowledge of asylum operations.
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17 17. USCIS is working to identify and implement additional operational and technological
18 improvements that will permit the agency to process applications more efficiently.

19 18. USCIS is working to analyze available data and develop additional tools to better predict
20 C8 initial EAD receipt volumes going forward. The ability to better predict the volume of
21 incoming receipts will improve USCIS's ability to achieve 30-day processing and compliance
22 with this Court's order by allowing USCIS to better plan for and react to trends and fluctuations
23 in the volume of receipts, and more effectively direct USCIS resources going forward. USCIS is
24 also actively working to identify inefficiencies tied to data or processing that could be
25 streamlined or otherwise improved.

1 19. USCIS is holding weekly meetings to monitor progress toward elimination of the backlog
2 and resumption of 30-day compliance.

3 20. If 62,209 incoming receipts per month is the new plateau, USCIS anticipates clearing the
4 backlog and resuming 90% or better compliance with the 30-day processing requirement by the
5 end of August 2023.

6 21. If the volume of receipts returns to an historically normal volume, or if further processing
7 efficiencies are identified that can increase processing speed, it is possible that 30-day
8 compliance at a 90% rate or better could occur at an earlier date. If the volume of incoming
9 receipts increases further, USCIS's ability to clear the backlog and resume 30-day compliance
10 would be further delayed.
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12 22. USCIS will continue to prioritize resumption of 30-day processing for C8 initial EAD
13 applications, and compliance with this Court's order.
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TABLE 1:
I-765, Application for Employment Authorization
C8 (Pending Asylum) Receipts by Fiscal Year and Month
FY19-23 (Through February ##, 2023)

| FY 2019 | I-765 C8 Receipts | FY 2020 | I-765 C8 Receipts | FY 2021 | I-765 C8 Receipts | FY 2022 | I-765 C8 Receipts | FY 2023 | I-765 C8 Receipts |
|----------------------|--------------------------|----------------------|--------------------------|----------------------|--------------------------|----------------------|--------------------------|----------------------|--------------------------|
| Oct 2018 | 19,529 | Oct 2019 | 19,661 | Oct 2020 | 7,556 | Oct 2021 | 16,148 | Oct 2022 | 40,140 |
| Nov 2018 | 15,685 | Nov 2019 | 20,187 | Nov 2020 | 8,676 | Nov 2021 | 15,423 | Nov 2022 | 44,048 |
| Dec 2018 | 15,341 | Dec 2019 | 19,898 | Dec 2020 | 16,624 | Dec 2021 | 13,909 | Dec 2022 | 43,667 |
| Jan 2019 | 17,175 | Jan 2020 | 20,406 | Jan 2021 | 15,308 | Jan 2022 | 13,282 | Jan 2023 | 62,209 |
| Feb 2019 | 16,541 | Feb 2020 | 18,293 | Feb-2021 | 17,590 | Feb 2022 | 16,179 | | |
| Mar 2019 | 18,316 | Mar 2020 | 18,469 | Mar 2021 | 27,924 | Mar 2022 | 24,731 | | |
| Apr 2019 | 19,711 | Apr 2020 | 13,809 | Apr 2021 | 23,931 | Apr 2022 | 21,496 | | |
| May 2019 | 19,416 | May 2020 | 16,603 | May 2021 | 20,240 | May 2022 | 24,431 | | |
| Jun 2019 | 16,680 | Jun 2020 | 18,931 | Jun 2021 | 21,436 | Jun 2022 | 24,573 | | |
| Jul 2019 | 19,487 | Jul 2020 | 24,094 | Jul 2021 | 20,341 | Jul 2022 | 24,848 | | |
| Aug 2019 | 20,845 | Aug 2020 | 35,470 | Aug 2021 | 19,307 | Aug 2022 | 31,995 | | |
| Sep 2019 | 18,932 | Sep 2020 | 9,298 | Sep 2021 | 15,924 | Sep 2022 | 33,363 | | |
| FY 2019 Total | 217,658 | FY 2020 Total | 235,119 | FY 2021 Total | 214,857 | FY 2022 Total | 260,378 | FY 2023 Total | 190,064 |

Declaration of Connie Nolan

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I declare under penalty of perjury that the foregoing is true and correct.

Executed this 6th day of February 2023, at St. Albans, Vermont.

Connie Nolan
Acting Associate Director, SCOPS
U.S. Citizenship and Immigration Services
Camp Springs, MD