

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

MARIA M. KIAKOMBUA, *et al.*,

Plaintiffs,

v.

ALEJANDRO N. MAYORKAS, Secretary of  
Homeland Security, *et al.*,

Defendants.

Civ. No. 19-1872 (JMC) (RMM)

**PLAINTIFFS ANA, EMMA, JULIA, AND SOFIA AND DEFENDANTS’  
JOINT STIPULATION AND MOTION FOR ORDER TO MODIFY INJUNCTION  
AND AWARD FEES IN AID OF SETTLEMENT**

WHEREAS, Plaintiffs filed a lawsuit challenging changes to Defendant United States Citizenship and Immigration Services’ “Lesson Plan on Credible Fear of Persecution and Torture Determinations,” ECF No. 6, and later supplemented their complaint, ECF No. 85;

WHEREAS, the Court granted Plaintiffs’ motion for summary judgment with respect to Plaintiffs’ first claim and denied Defendants’ cross-motion for summary judgment, ECF No. 83 (the “Order”);

WHEREAS, the Court concluded that Plaintiffs were entitled to relief with respect to their first claim and did not evaluate Plaintiffs’ remaining claims pled in the alternative, *id.*;

WHEREAS, the Court declared certain parts of the Lesson Plan unlawful and vacated it in its entirety, *id.*;

WHEREAS, the Court also enjoined Defendants to void the credible fear determinations previously made as to each Plaintiff and either provide them with a new credible fear interview that conforms with the Court’s Order or place them into removal proceedings under 8 U.S.C. § 1229a, *id.*;

WHEREAS, to execute its Order, the Court further enjoined Defendants to return Plaintiffs Julia and Sofia to the United States at no financial cost to them and work in good faith to carry out the relief ordered until it is completed, *id.*;

WHEREAS, Defendants facilitated Plaintiff Sofia's return to the United States pursuant to the Order, fulfilling their obligations as to Plaintiff Sofia, but the injunction remains unsatisfied with respect to Plaintiff Julia;

WHEREAS, Plaintiffs filed a motion to enforce the Court's Order, ECF No. 92, which remains pending;

WHEREAS, Defendants filed a notice of appeal, ECF No. 90, and later voluntarily dismissed the appeal, Doc. No. 1906916, *Kiakombua v. Mayorkas*, No. 20-5372 (D.C. Cir. July 19, 2021);

WHEREAS, following issuance of the mandate by the D.C. Circuit, Plaintiffs made a demand to Defendants for payment of attorneys' fees and costs to settle their anticipated claim under the Equal Access to Justice Act, 28 U.S.C. § 2412;

WHEREAS, the Court granted Plaintiffs' counsel's unopposed motion to withdraw from representation of Plaintiff Maria M. Kiakombua, ECF No. 108;

WHEREAS, Plaintiffs Ana, Emma, Julia, and Sofia and Defendants (together, the "Parties") jointly requested referral to a magistrate judge for mediation of the fee dispute and participated in three mediation sessions before the Honorable Robin M. Meriweather;

WHEREAS, the Parties seek to resolve the remaining matters in the case, which they represent serves the best interests of the Parties;

WHEREAS, the Parties, through their undersigned counsel, having reached an agreement to resolve the remaining issues in the above-captioned case, hereby jointly stipulate to the

following representations and respectfully request that the Court enter an order modifying the injunctive relief granted to Plaintiff Julia on October 31, 2020 and awarding fees. A proposed order is attached.

IT IS HEREBY STIPULATED AND AGREED by the Parties, through their counsel of record, that:

1. The Parties hereby jointly move the Court to enter an order limiting the part of the prior injunction requiring the government to return Plaintiff Julia to the United States at no cost to her for a new credible fear interview or to be placed into removal proceedings under 8 U.S.C. § 1229a. The entry of the proposed terms will bring final resolution to the outstanding relief owed to Plaintiff Julia and ensure that the Parties have certainty of their rights and obligations under the Court's previously-issued injunction, including certainty as to when those rights and obligations sunset. Under the proposed modified injunction:

- a. Plaintiff Julia must, within 60 days from the date that the Court grants the modification, contact U.S. Immigration and Customs Enforcement to begin the return process. However, if: (1) Julia fails to begin the return process by that deadline; or (2) Julia meets that deadline but at any point goes 30 calendar days without responding to a communication from the government on this topic; or (3) Julia meets that deadline but fails to appear at her interview at the U.S. Consulate without a prior request to re-schedule—then U.S. Customs and Border Protection will vacate Julia's May 2019 expedited removal order and Defendants will confirm the same, which would then automatically terminate the part of the injunction requiring Defendants to

facilitate Julia's return to the United States and provide her with a credible fear screening that complies with the Court's October 31, 2020 Order, and the U.S. Government would have no further obligations to Julia under this lawsuit. Defendants will provide confirmation that Julia's May 2019 expedited removal order has been vacated in a signed letter on U.S. Government letterhead, which will be filed under seal with the Court. The letter will specify that the expedited removal order has been vacated pursuant to a court order in the above-captioned case, in which Julia is a plaintiff.

- b. If Plaintiff Julia returns to the United States pursuant to the process outlined in the Order requiring Defendants to facilitate Julia's return to the United States and process her in a manner that complies with the Court's October 31, 2020 Order:
  - i. Defendants may choose to exercise their unreviewable discretion and place her in removal proceedings by issuing a Notice to Appear (NTA), which would satisfy Defendants' obligations to Plaintiff Julia under the modified injunction in their entirety.
  - ii. If Plaintiff Julia is placed into expedited removal and expresses an intention to apply for asylum or a fear of persecution, torture, or return to her country, then she will be referred for a credible fear interview by Defendants, and the credible fear screening will be conducted in accordance with the Court's October 31, 2020 Order, including the following conditions:

1. During Plaintiff Julia's credible fear screening, she will not be required to identify more than significant evidence that she is a refugee entitled to asylum.
2. During Plaintiff Julia's credible fear screening, the screening officer will not be required to consider discretionary factors that are applicable only during the full asylum review process: *e.g.*, whether there is a fundamental change in circumstances such that Julia no longer has a well-founded fear of persecution or the ability to avoid future persecution by relocating to another part of Julia's country of nationality in assessing credible fear.
3. To the extent the screening officer does consider such factors during Plaintiff Julia's credible fear screening, the burden of proof will not be shifted to Julia to establish no fundamental change in circumstances or no possibility of internal relocation.
4. During Plaintiff Julia's credible fear screening, she will not be required to provide evidence and facts that pertain to every element of her asylum claim.
5. During Plaintiff Julia's credible fear screening, she will not be subject to a demand by the screening officer that she provide corroborating evidence in support of her testimony.

6. During Plaintiff Julia's credible fear screening, the screening officer will not be required to consider whether the government in Julia's home country abdicated its responsibility to control persecution.

2. Upon the Court's grant of the requested modification in Paragraph 1:

- a. Plaintiffs automatically withdraw their pending motion to enforce the Court's October 31, 2020 Order (ECF No. 92).
- b. Defendants shall make a payment of \$200,000.00 to Plaintiffs' counsel to settle all claims for attorneys' fees, and a payment of \$639.00 to settle all claims for costs. Plaintiffs' counsel agrees to waive any and all future claims for attorneys' fees and costs associated with this case, including their prior representation of Plaintiff Maria Kiakombua in this matter. Plaintiffs' counsel shall furnish to Defendants all information necessary for Defendants to transfer the aforementioned sums. Defendants shall make the fees and costs payments promptly, but within no more than 60 days after Plaintiffs' counsel furnishes all information necessary for Defendants to transfer the aforementioned sums. Plaintiffs waive all other claims to fees and costs associated with the above-captioned matter.
- c. Upon grant of the modification outlined herein, the Parties stipulate to dismissal with prejudice of Plaintiffs Ana, Emma, Julia, and Sofia's remaining claims in this action pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(ii), with each party to bear its own fees and costs except as previously ordered by the Court.

Dated: November 22, 2023

/s/ Maria R. Osornio

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Respectfully submitted,

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