

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

DR. KUSUMA NIO, *et al.*,

Plaintiffs,

V.

UNITED STATES DEPARTMENT OF
HOMELAND SECURITY, *et al.*,

Defendants.

Civil Action No. 1:17-00998-ESH-RMM

DEFENDANTS' NOVEMBER 21, 2018, BI-WEEKLY STATUS REPORT

Pursuant to the Court's Orders (ECF Nos. 36, 43, 88), Defendants, United States Department of Homeland Security, *et al.*, file the attached bi-weekly report, and note that the Agency Defendants inform the DOJ of the following:

1. Pursuant to the Court's Order on Plaintiffs' preliminary injunction motion (ECF No. 74), DoD has not implemented Section III of DoD's October 13, 2017 policy, Certification of Honorable Service for Members of the Selected Reserve of the Ready Reserve and Members of the Active Components of the Military or Naval Forces for Purposes of Naturalization. Accordingly, DoD will not decertify, rescind, recall, revoke, or otherwise invalidate Plaintiffs' or the class' Form N-426s, "except as related to the conduct of a class member and based on sufficient grounds generally applicable to members of the military for re-characterization of service." *Id.*; *see also* ECF No. 73, Court's Order on Plaintiffs' Amended Motion for Class Certification.
2. At this time, the Army has determined that some of the named Plaintiffs are unsuitable. However, none of the named Plaintiffs are currently separated from the Army.

3. A total of four named Plaintiffs have naturalized. The CAF has completed its review of the remaining six named Plaintiffs. MSSDs were issued in five of these cases, but as part of the Army's review of its separation procedures, the Army suspended these determinations. As a result, four of the MSSDs that were issued and then suspended were not shared with USCIS, and USCIS is awaiting further information from DoD regarding one case in which an MSSD was shared and then suspended. A new MSSD was recently issued on November 6, 2018, in the case of Plaintiff Emeka Udeigwe, one of the cases where a prior MSSD had been suspended, and the determination has been communicated to USCIS. New MSSDs remain pending in the remaining cases for which prior MSSDs were suspended. Further review is required by the Army in the one case for which an MSSD has not been issued.
4. At this moment, none of the remaining named Plaintiffs are at risk of imminent deportation. A Notice to Appear issuance (followed by removal proceedings, then a final finding of removability, then possibly further appeals) is a necessary predicate to a final removal order for any of these named Plaintiffs. No named Plaintiff has been issued a Notice to Appear.
5. USCIS has informed DOJ that it has not changed, and is complying with, its July 7, 2017 guidance.

There are no further updates regarding the Court's September 15, 2017 questions (ECF No. 46). Thus, the responses to the Court's questions submitted on September 22, 2017 and October 13, 2017 (ECF Nos. 51, 58), remain accurate.

DATED: November 21, 2018

Respectfully submitted,

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ATTORNEYS FOR DEFENDANTS

November 21, 2018, Bi-Weekly REPORT

PLAINTIFF	Enlistment Date	N-400 Filing Date	Immigration Status	N-426 Remains Certified*	DTP Time Out	NIAC (National Intelligence Agency Check) Complete	SSBI Open	SSBI Closed	CI Focused Security Interview	CAF Status	MSSD Status	Notes
Li, Wanjing	2/5/2016	8/17/2016	Ms. Wanjing Li, has successfully adjusted status based on her marriage to a U.S. citizen and is now a Lawful Permanent Resident.	Yes	2/4/2019	1/24/2017	2/10/2016	7/24/2017 (530 days to completion)	Occurred: 9/22/2017	CAF Adjudication complete.	MSSD issued on July 11, 2018. As part of the Army's review of its separation procedures, the Army suspended this determination. A new MSSD is pending.	No Notice to Appear issued.
Calisto Alves de Almeida, Haendel Crist	5/26/2016	2/6/2017	Based on the information known to DHS, Mr. Calisto Alves de Almeida has lawful immigration status. He is an F-1 nonimmigrant student admitted for duration of status.	Yes	5/26/2019	2/3/2017	8/29/2016	9/6/2017 (373 days to completion)	Occurred: 9/12/2017	CAF adjudication complete.	Further review required by Army.	No Notice to Appear issued.
Batchu, Prashanth	6/7/2016	3/23/2017	Became a United States Citizen on 4/25/2018	Yes	6/7/2019	8/4/2016	6/10/2016	9/28/2017 (475 days to completion)	Occurred: 1/23/2018	CAF Adjudication complete.	Received an MSSD on April 10, 2018.	No Notice to Appear issued.
Calixto, Lucas	3/16/2016	3/7/2017	Lawfully present. No nonimmigrant visa, Deferred Action for Childhood Arrivals (DACA) grant, valid through April 5, 2020. Mr. Calixto's N-400 application remains pending.	Yes	5/16/2019	1/6/2017	6/9/2016	7/19/2017 (405 days to completion)	Occurred: 9/26/2017	CAF Adjudication complete.	Received an MSSD on June 7, 2018. The Army notified USCIS of its determination on June 8. As part of the Army's review of its separation procedures, the Army suspended this determination. A new MSSD is pending.	No Notice to Appear issued.
Cheng, Shu	2/23/2016	2/27/2017	Became a United States Citizen on 3/23/2018.	Yes	2/22/2019	1/6/2017	2/25/2016	7/26/2017 (517 days to completion)	Occurred: 9/12/2017	CAF Adjudication complete.	Received an MSSD on March 1, 2018.	No Notice to Appear issued.
Hong, Seung Joo	5/13/2016	2/28/2017	Based on the information known to DHS, Mr. Hong has no lawful immigration status. Deferred Action application denied on 9/5/2017.	Yes	5/13/2019	1/24/2017	5/17/2016	10/12/2017 (513 days to completion)	Occurred: 10/24/2017	CAF Adjudication complete.	MSSD issued on July 11, 2018. As part of the Army's review of its separation procedures, the Army suspended this determination. A new MSSD is pending.	No Notice to Appear issued.
Liu, Ye	3/16/2016	9/30/2016	Lawfully present. No nonimmigrant visa, deferred action grant, valid through 3/2019.	Yes	5/16/2019	1/6/2017	3/17/2016	12/28/2017 (651 days to completion)	Occurred: 9/27/2017	CAF Adjudication complete.	MSSD issued on July 11, 2018. As part of the Army's review of its separation procedures, the Army suspended this determination. A new MSSD is pending.	No Notice to Appear issued.
Udeigwe, Emeka	3/17/2016	1/13/2017	Based on the information known to DHS, Mr. Udeigwe has lawful immigration status. He is an F-1 nonimmigrant student admitted for duration of status.	Yes	3/17/2019	2/10/2017	3/21/2016	8/30/2016 (162 days to completion)	Occurred: 9/28/2017	CAF Adjudication complete.	Received an MSSD on November 6, 2018	No Notice to Appear issued.

*Pursuant to the Court's Order on Plaintiffs' preliminary injunction motion (ECF No. 74), DoD will not implement Section III of DoD's October 13, 2017 policy, Certification of Honorable Service for Members of the Selected Reserve of the Ready Reserve and Members of the Active Components of the

** The Counterintelligence Focused Screening Report is generated after the CI interview.

CERTIFICATE OF SERVICE

Civil Action No. 1:17-00998-ESH-RMM

I HEREBY CERTIFY that on this **21st day of November, 2018**, a true copy of the foregoing was filed with the Clerk of the Court using the CM/ECF system which sent notification of such filing via e-mail to the following:

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