IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

USAMA JAMIL HAMAMA, et al., Petitioners and Plaintiffs, v. **REBECCA ADDUCCI**, et al., Respondents and Defendants.	Case No. 2:17-cv-11910 Hon. Mark A. Goldsmith Mag. David R. Grand Class Action

RESPONDENTS' OPPOSITION TO PETITIONERS' EMERGENCY MOTION REGARDING COERCION AND INTERFERENCE WITH CLASS MEMBERS

On June 13, 2018, at 5 p.m., Petitioners filed their emergency motion alleging coercion by ICE officials and interference with the ability of class counsel to meet with individual detainees. Pet'rs' Mot., ECF No. 307, Page ID #7280. Shortly thereafter, the Court ordered the government to respond by noon on Friday, June 15, 2018. Petitioners' motion and accompanying memorandum is 25 pages, and includes 15 exhibits—amounting to 72 additional pages. Respondents will attempt to address the points raised in the motion to the extent possible in the time allotted, but request additional time to look into the allegations raised in the declarations before the Court grants the relief Petitioners request in their motion.

At the outset, it is important to understand the context in which this motion arose and attempts the parties made to look into these allegations before Petitioners filed this motion. As Petitioners' Local Rule 7.1(a)(1) statement indicates, Petitioners sent a letter to Respondents on June 6, 2018, providing generalized allegations that ICE officers "have intimated and coerced numerous class members into signing documents attesting that they desire to be removed to Iraq." Letter from ACLU to DOJ, June 6, 2018 (attached hereto as "Exhibit A"). Petitioners demanded that:

> [Respondents] immediately cease coercing detainees; that all detainees be given an opportunity to retract their coerced statements; that ICE provide us, going forward, with notice of transfers to meet with Iraqi consular officials and the opportunity for client meetings prior to consular interviews; and that Respondents stipulate to a court order that they will educate their employees and contractors that they are not permitted to discuss with *Hamama* class members their immigration cases, likely length of detention, or likelihood of removal, or employ methods that could be construed as coercion when seeking signatures or statements from detainees.

Id. at 1-2. The allegations in the letter were largely conclusory, however, and did not provide Respondents an adequate basis for determining the veracity of the claims, or why the broad relief requested was appropriate. Accordingly, in response to the letter, Respondents asked for information about the allegations (i.e. the who, what, where, when) as well as to speak with the two attorneys working with Petitioners who apparently had first-hand information–Marty Rosenbluth and Lauren Gilbert.

Email between ACLU and DOJ re June 6, 2018 letter (attached here to "Exhibit B"), at 2. In response the following day, June 7, Petitioners provided the names of four detainees who had signed statements purporting to retract their Iraqi passport applications, but did not provide *any* details or information about the underlying claims, and did not offer the opportunity for Respondents to speak with Rosenbluth or Gilbert. *Id.* at 1. Nevertheless, Petitioners offer the uncontested declarations of both Rosenbluth and Gilbert in support of their motion. *See* Gilbert Decl., ECF No. 307-2; Rosenbluth Decl., ECF No. 307-5. In addition, despite Respondents' timely request for additional information to enable investigation of the skeletal conclusory allegations of coercion, Petitioners failed to provide additional detailed information until the filing of the instant motion, despite the fact that 5 of the declarations filed in support of their motion had *already been signed by detainees* as of the date of Petitioners response to the request for additional information. *See* Arthur Decl., ECF No. 307-8, signed June 6, 2018; Kattoula Decl., ECF No. 307-9, signed June 6, 2018; Darmo Decl., ECF No. 307-11, signed June 6, 2018; Al-Atawna, ECF No. 307-12, signed June 6, 2018; Jado Decl., ECF No. 307-16, signed June 2, 2018. Accordingly, Petitioners' statement that on "June 7, 2018, Petitioners provided such additional information as they had available and were able to share" is inaccurate, and demonstrates that there was no genuine attempt to resolve this issue before filing a

116 page "emergency" filing with the Court. *See* Pet'rs' Mot., ECF No. 307, Page ID #7280. Petitioners' emergency filing was designed so that Respondents would not have adequate time to respond or look into the allegations contained in the 12 declarations filed in support before the Court ordered relief. In any event, for the reasons addressed below Petitioners' claim is not ripe and this Court should not grant the relief requested.

Petitioners' motion is premised on what they allege are "significant questions about whether Iraq will agree to repatriation of its nationals who do not have passports and do not wish to return to Iraq." Pet'rs' Mot., ECF No. 307, Page ID 7293. In their view, Respondent, "in an apparent effort to obtain such individual affirmations," is transferring detainees for consular interviews, where allegedly "numerous misleading and abusive tactics were employed to obtain the detainees' signatures on documents expressing their 'desire to return voluntarily to Iraq,' even when the detainees do not actually so desire." *Id.* In Petitioners' view, if detainees are advised before their consular interviews that they do not have to sign any forms indicating that they want to go back to Iraq (if, indeed, their true desire is to stay in the United States), and those detainees refuse to sign the form, then Iraq will not repatriate those detainees and they will eventually be released under *Zadyvdas v. Davis*, 533 U.S. 678 (2001). Accordingly, they request that the Court require

Respondents to facilitate client meetings before detainees are transferred for consular interviews. And, for detainees who have already signed the Iraqi passport application at issue in this case, Petitioners ask that the Court order Respondents to identify these detainees and facilitate phone or video conferences within 24 hours of a request from Petitioners. Finally, Petitioners ask the Court to enter an order prohibiting ICE officers from discussing detention or the prospects for removal with detainees, an order barring the Department of Justice from prosecuting detainees who refuse to sign the Iraqi passport application, and an order requiring Respondents to post a notice about the relief the Court has ordered.

Given the truncated response period, Respondents are not able to address all of Petitioners' allegations. However, Respondents provide the declaration of James Maddox, the Detention and Deportation Officer with United States Immigration and Customs Enforcement who is in charge of obtaining the travel documents for those with final removal orders to Iraq. Declaration of James Maddox, Detention and Deportation Officer (DDO), Removal and International Operations (RIO), United States Immigration and Customs Enforcement (ICE), Department of Homeland Security (DHS), Washington D.C. ("Maddox Decl.") (attached hereto as "Exhibit C"). DDO Maddox's declaration and Respondents' discovery responses to date

provide important context about the consular interviews process, which precipitated Petitioners' filing, and demonstrates why the Court should deny the motion.

First, contrary to Petitioners' suggestion that the consular interviews are being scheduled simply to facilitate "individual affirmations" that detainees want to voluntarily return to Iraq, in discovery Respondents explained that these consular interviews are a required step in the repatriation process. *See* Respondents' Response to Interrogatory 1 (attached hereto as "Exhibit B"). In fact, Respondents are actively seeking travel documents for detainees with administratively final orders of removal for whom the stay of removal has been or will be lifted. Maddox Decl. ¶ 5. To this end, Respondents are prioritizing requests for travel document requests for detainees who have requested that the stay of removal be lifted as to them, detainees who have failed to file motions to reopen, and detainees who have failed to timely appeal when their motions to reopen have been denied. *Id.*

Pertinent here, Respondents made arrangements for the government of Iraq (GOI) to conduct in-person consular interviews of 42 individuals on May 23, 2018 at the Stewart Detention Facility in Georgia. Maddox Decl. ¶ 6. Prior to the interviews, Respondents provided the GOI officials with copies of citizenship related documents. *Id.* To establish citizenship, the GOI has decided to accept a wide range of photocopied evidence from U.S. government information systems,

including various citizenship documentation or secondary information (including relatives' identification documents) confirming citizenship located in the Alien files. *Id.*

Petitioners' motion appears to rely on detainees' allegations that they are being coerced by ICE officers at the Stewart Detention Facility. The travel document packages, however, are prepared by the Enforcement and Removal Operations (ERO) field offices in the detainees' original location, not at the Stewart Detention Facility, before being sent to headquarters for submission to the GOI in Washington D.C. Maddox Decl. ¶¶ 6-7. The ERO officers and contract staff at the Stewart Detention Facility were only there to facilitate the flow of the detainees' movements during the interviews process, and to take some photographs when needed in support of the applications. *Id.*, ¶ 7. Accordingly, while Respondents have not had the opportunity to look into the allegations in Petitioners' 12 declarations, there would be little reason for the ERO officers and staff at Stewart to coerce detainees into signing forms because they were not involved in the passport application process.

DDO Maddox was present at Stewart for all 42 interviews, but he did not speak with any of the detainees before their consular interviews. Maddox Decl. ¶ 8. DDO Maddox was not in the interview room for any of the interviews of the detainees by the GOI officials, nor was anyone else from ICE or the contract staff.

Id. For this reason, Respondents do not know what was said during those interviews, and do not know which forms the GOI officials asked the detainees to sign. Maddox Decl. ¶¶ 8, 10. Based on his past experience, DDO Maddox is aware that the GOI usually uses two forms for travel documents, but for these interviews the GOI officials brought their own forms. *Id.; see also* Exhibits 1 and 2 to Maddox Decl. Moreover, the GOI officials did not give Maddox any of the forms that they used during the interviews. *Id.* And neither Maddox, nor anyone else to his knowledge with ICE or the contract staff, gave any of the detainees any GOI forms to sign. Maddox. Decl. ¶ 9.

Following the conclusion of all 42 interviews, DDO Maddox spoke with the GOI officials about the results, which were as follows:

a. Thirty-three (33) detainees had their citizenship verified and the GOI would agree to issue travel documents.

b. Six (6) detainees refused to sign the GOI travel document form and the GOI indicated that further approval from Baghdad was required to issue those travel documents. The GOI did not deny these requests. Rather, the GOI must facilitate a different internal GOI process to complete the issuance of a travel document.

c. One (1) detainee needed additional identity documents to demonstrate his citizenship prior to approval of a travel documents. XXX-XXX-483 JAE.

d. Two (2) detainees were denied citizenship based on the information ICE submitted. The GOI did not deny on the basis that either individual refused to sign the GOI form.

   i. A XXX-XXX-821 AG; the GOI denied citizenship on the basis of having no identity documents, no citizenship documents and also on the basis that his Arabic accent was not Iraqi.

   ii. XXX-XXX-945 HAA; the GOI denied citizenship on the basis that they believe he is a Palestinian citizen, but was born in an Iraqi refugee camp.

On May 24, 2018, DDO Maddox, as the ERO officer responsible for obtaining travel documents for this group, asked the six detainees who the GOI had indicated had not signed the forms why they had not done so. Maddox Decl. ¶ 12. He did not ask them to sign any GOI forms, and he did not threaten them with criminal prosecution. *Id.*

On June 8, 2018, DDO Maddox received 33 travel documents from the GOI in Washington D.C., for the detainees who were interviewed on May 23, 2018.

Maddox Decl. ¶ 13. The GOI has repeatedly told DDO Maddox that the 6 travel documents requests for the detainees who did not sign the GOI travel document form are pending as is the 1 travel document request that required additional information as to citizenship. *Id.* This is very much an ongoing process between Respondents and the GOI. *Id.*

As evidenced by DDO Maddox's declaration, therefore, the GOI has *not* refused to issue travel documents simply because detainees have not signed the GOI form at issue in Petitioners' motion. Moreover, at the very least there is a factual dispute between the parties about who, *if anyone*, required the detainees to sign the forms at issue in this case, and what, *if anything*, was said to the detainees about whether they were required to sign the GOI form, regardless of whether it expressed their true intent. On this record, this Court should not grant Petitioners' motion. Moreover, to the extent the GOI will either grant or deny the travel documents to the six individuals who refused to sign the GOI form, it would be prudent to see how that process unfolds before ruling, since a detainee's willingness to return to Iraq may ultimately prove to be a moot point.

The relief Petitioners seek aims to prevent or hinder ICE operations and removal efforts. ICE is transferring detainees to certain detention centers to facilitate interviews with officials from the Iraqi consulate and thereby secure travel

documents for individuals with final orders of removal. ICE has prioritized individuals who have elected to return to Iraq, those who have not filed motions to reopen within the 90-day time period set by this Court, and those individuals who have availed themselves of the protections of the preliminary injunction, but have nonetheless been denied the relief they sought and not timely filed for appeal. Petitioners have this information available to them through the biweekly reports. Respondents' removal efforts with regard to Iraqis at issue in this case class counsel should begin with the individuals who fit into these categories or their attorneys if they wish to continue seeking relief far beyond what this Court and the administrative immigration scheme have determined is appropriate.

Addressing the relief requested in Paragraphs A & B:

Respondent ICE can agree to provide the approximate number of detainees being transferred, the facility where consular interview are being conducted, and the anticipated date(s) of arrival and of the consular interviews for the next round of interviews only. Respondents do not agree to provide the names of individuals due to logistical complications that often prevent the list of individuals being transferred finalized until the transfer has already been initiated.

Respondents offer a revised proposal. For the next round of interviews, ICE will tell class counsel how many individuals are being transferred and where the

consular interviews are being held. Then, ICE will give class counsel 5 days' notice so they can schedule a meeting before consular interviews, to start in the mid-afternoon. Class counsel can meet with individuals for whom the stay has not been lifted and anyone who did not sign a voluntary opt out form. Consular interviews will follow. Further, is a detainee transfer is late and misses the pre-meeting due to logistical problems, then ICE will offer to schedule a make-up session the following day. Respondents cannot, however, identify individuals prior to their transfer, as this information is often not set until the date of the transfer and is subject to change until the transfer has been initiated.

For rounds of consular interviews after this next round, class counsel is now on notice and should work through the normal detention standards for setting up legal meetings at facilities. Class counsel is aware of individuals who may meet with Iraqi officials because as mentioned in the Maddox Declaration, Ex. C, ICE prioritizes 1) individuals who have elected to opt out of the class (class counsel submits joint stipulations to the court), 2) individuals who have not timely filed motions to reopen and 3) those who have exhausted appeal remedies.

Addressing the relief requested in Paragraph C:

Respondents object to this request because class counsel already receives this information in a variety of court-ordered processes. Under the court-ordered process

for removing an individual from the class, Respondent sends the requests to be removed from the class to class counsel so that class counsel can meet with the individual or the individual's attorney to verify the individual does indeed wish to opt out of class protection. Then, class counsel files a joint stipulation with the court to have the stay lifted. Thus, class counsel has the same information as the government and the government should not be required to produce it again. To the extent class counsel seeks a list of individuals who may or may not have signed forms for the Government of Iraq, Respondents do not have that information.

Addressing the relief requested in Paragraph D:

ICE's mission is first and foremost to enforce the immigration laws of this country, and frequent demands to facilitate phone calls outside of the national detention standards detracts from that mission. Petitioners have yet to articulate a reason for why these phone calls must occur within 24 hours, as detainees cannot be removed without a travel document and it is not possible for the GOI conduct an interview, issue travel documents, Respondents then facilitate removal in that short amount of time. ICE, however, is willing to work with class counsel to set up phone calls within 48 hours of class counsel's notification that they have been unsuccessful through the normal process under the applicable detention standards.

If class counsel can articulate an urgent scenario where a detainee's signature would be required on a legal document that cannot be obtained through the normal course under the detention standards, ICE can consider that on a case-by-case basis.

Addressing the relief requested in Paragraph E:

Due to the limited time which Respondents had to respond to this filing, Respondents are not prepared to address this request by Petitioners. Respondents wish to note that under 8 C.F.R. 241.4(d)(5), aliens are obligated to cooperate with ERO to obtain travel documents. This necessitates ERO officers working with individual detainees throughout the travel document process.

Addressing the relief requested in Paragraph F:

It should be left to the courts to decide in individual criminal cases, whether a detainee's actions violate 1253(a), and whether such an individual should be prosecuted for violation of statute, rather than offering an advisory opinion and barring the Department of Justice from prosecuting a crime that Congress has enacted.

Addressing the relief requested in Paragraph G:

Respondent ICE has offered to hand deliver a notice to class members who have not had the stay lifted by this Court and who went to the Stewart Detention Facility for a consular interview. Respondent ICE has also offered to draft the notice.

However, it should be noted that Respondents do not believe this process will actually resolve any open disputes because the consular meetings already happened, class counsel has already been granted access to individuals who were transferred to Stewart, and it appears to be an unnecessary and a waste of the Court's time and resources.

Addressing the relief requested in Paragraph H:

Due to the limited time which Respondents had to respond to this filing, Respondents are not prepared to address this request by Petitioners. Respondents have not asked any class members to sign any document expressing a desire to be removed to Iraq. Respondents are not in possession of a list of who, if anyone at all, was asked to sign a document by the Government of Iraq. Respondents cannot verify statements made by the government of Iraq as Respondents were not present during the consular interviews. Respondents request additional time to determine whether they believe a list of employees would serve the interests of this litigation.

CONCLUSION

For the reasons stated herein, Respondents respectfully request that the Court deny Petitioners' motion.

Dated: June 15, 2018 Respectfully submitted,

Chad A. Readler
Acting Assistant Attorney General

William C. Peachey
Director

Nicole N. Murley
Cara E. Alsterberg
Trial Attorneys

/s/ William C. Silvis
William C. Silvis
Assistant Director
United States Department of Justice
Office of Immigration Litigation
District Court Section
PO Box 868, Ben Franklin Station
Washington, DC 20044
Tel: (202) 307-4693
Fax: (202) 305-7000

CERTIFICATE OF SERVICE

I hereby certify that on June 15, 2018, I electronically filed the foregoing document with the Clerk of the Court using the electronic filing system, which will send notification of such filing to all counsel of record.

By: */s/ William C. Silvis*
William C. Silvis
Assistant Director

ACLU Michigan

State Headquarters
2966 Woodward Avenue
Detroit, MI 48201
Phone 313.578.6800
Fax 313.578.6811
E-mail aclu@aclumich.org
www.aclumich.org

Legislative Office
115 West Allegan Street
Lansing, MI 48933
Phone 517.372.8503
Fax 517.372.5121
E-mail aclu@aclumich.org
www.aclumich.org

West Michigan Regional Office
1514 Wealthy St. SE, Suite 242
Grand Rapids, MI 49506
Phone 616.301.0930
Fax 616.301.0640
Email aclu@aclumich.org
www.aclumich.org

June 6, 2018

VIA E-MAIL

William C. Silvis
Nicole Murley
United States Department of Justice
Office of Immigration Litigation
PO Box 868
Ben Franklin Station
Washington, DC 20044

Re: *Hamama et al. v. Adducci*, No. 2:17-cv-11910

Dear Mr. Silvis and Ms. Murley:

We have learned from class members, their immigration counsel, and our designees who met with detainees in the Stewart Detention Facility that U.S. Immigration and Customs Enforcement (ICE) employees have intimidated and coerced numerous class members[1] into signing documents attesting that they desire to be removed to Iraq. We are writing to demand that your client immediately cease coercing detainees; that all detainees be given an opportunity to retract their coerced statements; that ICE provide us, going forward, with notice of transfers to meet with Iraqi consular officials and the opportunity for client meetings prior to consular interviews; and that Respondents stipulate to a court order that they will

[1] By "class members" we mean Iraqi detainees who had a final order of removal at any point between March 1 and June 24, 2017 (regardless of whether they have agreed to waive the protection of the preliminary injunction). The class and subclass definitions include individuals for whom the Court has entered an order lifting the injunction staying removal. *See* Removal Op., ECF 87, Pg.ID# 2355; Detention Op., ECF 191, Pg.ID# 5359-60. While some of the relief we seek does not extend to class members who have agreed to removal through the court-approved prompt removal process, such individuals remain part of the class.

educate their employees and contractors that they are not permitted to discuss with *Hamama* class members their immigration cases, likely length of detention, or likelihood of removal, or employ methods that could be construed as coercion when seeking signatures or statements from detainees.

As you know, this is not the first time that ICE has coerced and harassed the detainees. In September, Petitioners presented the Court with extensive evidence of abuse, coercion, and misinformation directed at *Hamama* class members. *See* Petitioners' Status Report, ¶ G, ECF 94, Pg.ID# 2428-29; Elias Declaration, ECF 94-4; Mallak Declaration, ECF 94-5; Alkadi Declaration, ECF 94-6; Peard Declarations, ECF 94-7, 94-10; Free Declaration, ECF 94-8; Hernandez Decl, ECF 94-11; Free Letter, ECF 94-13. The Court found:

> Petitioners have presented evidence that certain detainees have been subject to coercion and harassment as a result of this litigation. The Government has provided evidence that ICE has since instructed its personnel not to discuss the litigation with detainees, other than to instruct them to speak with their attorneys, or how to contact a pro bono attorney. Petitioners do not ask for further direction to ICE personnel, and the Court deems the current instruction sufficient. The Court agrees with Petitioners regarding notice to detainees, and orders that ICE shall post a notice in each facility, by September 28, 2017, instructing detainees on how to notify Petitioners' counsel regarding any future instances of coercion or harassment related to this litigation.

Order Regarding Further Proceedings, ¶ E, ECF 110.

As you know, when we first learned on May 24th that a significant number of *Hamama* detainees have been moved to Stewart Detention Center in Lumpkin, Georgia, we immediately requested that ICE allow our designee, attorney Marty Rosenbluth, to meet with *Hamama* class members so that we could investigate and inform class members of their rights. When ICE refused to allow Mr. Rosenbluth to conduct group meetings at Stewart, despite the court order requiring that such visits be permitted within five days of the request, we were forced to go to the Court. *See* Order Regarding Further Proceedings, ECF 203, ¶ 10, Pg.ID# 5461. We were similarly denied timely access to the Calhoun facility, an issue that was resolved only after we raised it with the Court. The fact that two different facilities failed to comply with the order, and that the Court's intervention was required, raises serious questions about whether ICE was purposefully obstructing our

access to our clients in an effort to prevent us from investigating and addressing the illegal coercion that is occurring.

Yesterday, Mr. Rosenbluth and another designee, attorney Lauren Gilbert, met with detainees at Stewart. Their investigation confirmed that the class members, who had been transferred to Stewart to meet with Iraqi consular officials, are being coerced by ICE to sign a letter to the Iraqi Consul stating that they want to return to Iraq. *See* Letter to Iraqi Consul, Exhibit A. ICE employees threatened detainees that if they do not sign the letter, they will be charged with a felony for refusal to cooperate, and sent to prison for five years. ICE employees also told detainees that if they do not sign, they would be kept in detention forever and would never be released. In addition, ICE employees told detainees that they will ultimately be removed to Iraq, no matter how long it takes.

We have also heard reports of horrific psychological abuse. For example, ICE officers told one detainee, a torture survivor, that he was no longer in the *Hamama* class and no longer protected by the stay of removal, and that he was being deported that night to Iraq; it was not until they reached the airport that he was told he was being transferred to Georgia. Consumed by fear, this individual threw away his Bible, since it signifies his faith, and his immigration papers because they include many private details about his situation that he did not want accessible to authorities in Iraq.

Some detainees succumbed to these threats, and signed the letter to the Iraqi Consul saying they want to return to Iraq. Others refused. They were then berated the following day by ICE staff for refusing to sign.

Four of the detainees with whom Mr. Rosenbluth and Ms. Gilbert met signed a statement revoking their prior statement that they want to go to Iraq, saying that they had been coerced and they in fact do not want to return. In other words, when Mr. Rosenbluth and Ms. Gilbert were able to provide accurate information to the detainees about their rights and counter the misinformation provided by the ICE officers, these detainees decided to continue their fight for freedom, despite the threats by ICE officers that they would be prosecuted and detained indefinitely. Mr. Rosenbluth and Ms. Gilbert were not able to meet with some of the detainees who had been coerced into signing the letter, in large part because ICE's refusal to grant timely access to the facility meant that the detainees had already been transferred out of Stewart. As we have the opportunity to speak with additional detainees, there may be others who wish to retract their coerced statements.

The evidence is becoming increasingly clear that Iraq will not accept its nationals unless the detainees expressly volunteer to return. ICE's coercion of class members is all the more outrageous because it appears clearly designed to force the detainees to mislead Iraq into believing that the detainees desire to return. In other words, individuals who cannot be repatriated, and who are therefore entitled to release under *Zadvydas*, are being falsely told that they will never be released and induced, fraudulently, to sign documents that will result in their deportation to a country where they may well be tortured or killed.

Any threats of prosecution by an ICE officer, any discussion with class members about the potential length of their detention, or any suggestion that a class member will be removed to Iraq are statements to the class member that he or she will not prevail in this litigation. This is improper conduct on behalf of Respondents and their employees and constitutes intentional interference with this class litigation. Efforts by a defendant or third party to mislead, coerce, or intimidate class members into opting out of a class or waiving relief they might obtain through the class action is impermissible and subject to sanctions. *See e.g. Kleiner v. First Nat'l Bank of Atlanta* (11th Cir. 1985) 751 F.2d 1193, 1203 ("Unsupervised, unilateral communications with the plaintiff class sabotage the goal of informed consent by urging exclusion on the basis of a one-sided presentation of the facts, without opportunity for rebuttal."); *In re Sch. Asbestos Litig.*, 842 F.2d 671, 682 (3d Cir. 1988) (noting propriety of orders restricting defendants' communications with class where such communications "sought either to affect class members' decisions to participate in the litigation or to undermine class plaintiffs' cooperation with or confidence in class counsel"); *Romano v. SLS Residential Inc.*, 253 F.R.D. 292, 299 (S.D.N.Y. 2008) (imposing sanctions based on communications by defendants seeking opt-outs where defendants threatened to make class members' psychiatric records public); *In re Currency Conversion Fee Antitrust Litig.*, 361 F. Supp. 2d 237, 253 (S.D.N.Y. 2005) (finding improper "defendants' unsupervised communications" with class members that "sought to eliminate putative class members' rights in this litigation" and noting that "when a defendant contacts putative class members for the purpose of altering the status of a pending litigation, such communication is improper without judicial authorization"); *Belt v. Emcare Inc.*, 299 F. Supp. 2d 664, 667-69 (E.D. Tex. 2003) (sanctioning and requiring corrective notice of "misleading" and "coercive" letter that "prey[ed] upon [class members'] fears and concerns"); *Cobell v. Norton*, 212 F.R.D. 14, 19 (D.D.C. 2002) ("The Court is thus at an utter loss to understand why defendants thought this Court would consider it acceptable for them to include language that extinguishes the very rights that are at the heart of this class action litigation without prior consultation with the Court."); *In re Lutheran Bhd.*

Variable Ins. Prod. Co., No. 99-MD-1309PAMJGL, 2002 WL 1205695, at *2 (D. Minn. May 31, 2002) (finding misleading letter from non-party attorney to be "'misconduct of a serious nature'" requiring retraction to the plaintiff class); *Georgine v. Amchem Prods., Inc.*, 160 F.R.D. 478, 498-503 (E.D. Pa. 1995) (providing class members second opportunity to opt out where attorneys sent misleading communications to class members that "unduly influenced" opt-out decision); *see also Gulf Oil Co. v. Bernard*, 452 U.S. 89, 101 (1981).

Threats to prosecute detainees are particularly coercive and misleading. As you know – and as most detainees know from having spent years under orders of supervision – individuals with final orders are required under 8 U.S.C. §1253(a)(1)(B) "to make timely application in good faith for travel or other documents necessary to the alien's departure." The letter the detainees are being coerced to sign purports to be an application for travel documents. The letter is in English and Arabic. The English version states:

> Dear Consul,
>
> Subject: Passport
>
> I the Iraqi citizen ( ) would like to request the issue of a passport allowing me to enter Iraq due to my particular situation and my desire to return voluntarily to Iraq.
>
> I would like to inform you that I have an old Iraqi passport that is not valid with the number ( )
>
> With thanks and appreciation,
>
> [Lines for contact information]

This is no mere application for travel documents, like a passport application form. Rather, it requires detainees to affirmatively express a "desire to return voluntarily to Iraq," whether they wish to do so or not. And that statement, given Iraq's apparent unwillingness to repatriate those who are unwilling to return, is what will trigger the issuance of travel documents for those who are otherwise not repatriatable.

ICE's threats to prosecute detainees for failing to express a desire to return to a country where they face grave danger are particularly outrageous. Such threats

clearly contravene the law about what constitutes a failure to cooperate with removal under 8 U.S.C. §1253(a). As one court noted, in dismissing such a theory:

> Respondents cite no case law to support their view that petitioner's truthful (and somewhat self-evident) statement [about lack of desire to return] constitutes a lack of cooperation or failure to assist in his removal under 8 U.S.C. § 1231(a)(1)(C). The limited case law construing what constitutes an affirmative act that prevents one's return does not support the proposition that an alien's statement of a lack of desire to return to his country of origin, without more, amounts to a bad faith failure to cooperate.

Seretse-Khama v. Ashcroft, 215 F.Supp.2d 37, 51 (D.D.C. 2002) (detainee's truthful admissions to Liberian officials that he did not want to return home because he had few ties to the country was not a failure to cooperate even though it was the only reason Liberian officials refused to issue travel documents). *See also United States v. Ashraf*, 628 F.3d 813, 825(6th Cir. 2011) ("Section 1253's proper-steps exception, in other words, prevents [the immigrant's] efforts to challenge his removal from being used as evidence of his failure to obtain his travel documents."); *Rajigah v. Conway*, 268 F.Supp.2d 159, 164–67 (E.D.N.Y. 2003) (no bad faith preventing release where detainee's counsel truthfully advised Guyanese Ambassador that he intended to file a court action and the policy of the Guyanese government was to decline to issue travel documents while action was pending); *Bah v. Cangemi*, 489 F.Supp.2d 905, 922 (D. Minn. 2007) (a foreign government's refusal to issue travel documents while the applicant is seeking legal relief from his removal does not constitute an action by respondent frustrating his removal). Detainees with final orders can be required to cooperate in obtaining travel documents, but they cannot be required to state that they *want* to go to Iraq.

We also note that, notwithstanding ICE's policy requiring that immigration counsel be notified of transfers of their clients, no such notifications were made. *See* ICE Policy 11022.1 (Detainee Transfers), at 5.3(2), https://www.ice.gov/doclib/detention-reform/pdf/hd-detainee-transfers.pdf ("If a detainee has an attorney of record (Form G-28 on file), the sending field office will: a) Notify the attorney that the detainee is being transferred and include the reason for the transfer and the name, location, and telephone number of the new facility as soon as practicable on the day of the transfer, but in no circumstances later than twenty four (24) hours after the transfer occurs.").

In order to address the serious abuses that have occurred and prevent further such abuses, we ask that Respondents agree to the following remedial steps, memorialized in a stipulated order:

1. With respect to the coercion and intimidation:

    a. Prohibit ICE and DHS employees, agents, or contractors (including all detention facility staff) from discussing this litigation in any way with class members including making any statement threatening prosecution; any statement projecting or suggesting how long an individual may remain in detention or their likelihood of removal to Iraq; or any statement suggesting that an individual will be returned to Iraq, unless Respondents have an order from this Court stating that the Court's stay of removal has been lifted;
    b. Require that all communications with class members by ICE or DHS, or by ICE or DHS employees, agents, or contractors regarding this litigation (including statements about the length of an individual's potential detention or likelihood of removal to Iraq, statements suggesting an individual is being removed to Iraq when the Court has not issued an order lifting the stay of removal), or statements that the individual is not in compliance with 8 U.S.C. §1253(a), must be in writing, and must be approved in advance by Petitioners' counsel or by the Court;
    c. Prohibit ICE or DHS employees, agents, or contractors from being present during interviews of *Hamama* class members by Iraqi consular officials;
    d. Prohibit ICE or DHS from using forms, outside of those that the Court has approved as part of the prompt removal process, ECF 110, Pg.ID #2816, or that are approved by the Court in the future, as a way for Iraqi detainees to indicate a desire to return to Iraq;
    e. Bar ICE, DHS or DOJ from penalizing or prosecuting any *Hamama* class member under 8 U.S.C. §1253(a) or in any other way on the basis that the class member is unwilling to state that s/he desires to be removed to Iraq[2];

[2] Class members can, pursuant to 8 U.S.C. §1253(a)(1)(B), be required to cooperate in providing documents or other information necessary to obtain travel documents, but they cannot be penalized for being unwilling to state that they wish to return to Iraq.

f. Enable class members who wish to retract a prior statement indicating a desire to return to Iraq to do so using a retraction form approved by Petitioners or the Court, and require ICE or DHS, when they receive such signed forms, to provide a copy to the Iraqi consulate and to Petitioners' counsel within 2 days of signing;
g. Require ICE to post a notice, approved by Petitioners or by the Court, in all facilities housing *Hamama* class members in a location visible to them, that informs *Hamama* class members that:
    i. It is Iraq's policy that it will not accept nationals if the national does not agree to removal;
    ii. ICE officers are not allowed to communicate with them about their immigration cases, length of their detention, or prospect of removal to Iraq;
    iii. While detainees with final orders must cooperate with obtaining passports or travel documents, they cannot be required to state that they wish to return to Iraq, and they will not be penalized under 8 U.S.C. §1253(a) or otherwise if they refuse to state that they wish to be removed to Iraq; and
    iv. What steps detainees can take to retract, if they desire, any written statement they signed stating that they agreed to removal;
h. Require ICE to hand deliver to each *Hamama* class member that met with Iraqi consular officials in the last 2 months the notice referenced in subparagraph g and a copy of the retraction form referenced in subparagraph f;
i. Require ICE to inform all employees, agents, or contractors who have or could have contact with class members of the order, and require ICE to instruct ICE employees, agents, and contractors on a monthly basis that that they are prohibited from engaging in conduct prohibited is subparagraphs a through e;
j. Require ICE employees, agents, or contractors (including all detention facility staff) responsible for any class member to sign an acknowledgement that they received the stipulated order, read the provisions pertaining to subparagraphs a-e, will abide by the stipulated order, and acknowledge that ICE or the individual could be sanctioned by the Court (including monetary sanctions) if they violate the stipulated order; and
k. Require each Field Office Director whose Area of Responsibility has detained any *Hamama* class members to submit monthly declarations

confirming compliance with subparagraphs a-j and that all notices continue to be posted as instructed under these subparagraphs.

2. With respect to the access issues:
    a. Permit Petitioners' counsel or their designees to meet with detainees in either group or individual client meetings prior to Iraqi consular interviews, so that detainees have accurate information and can make knowing and informed choices about what documents to sign;
    b. Provide notice to Class Counsel prior to transferring detainees to a location where they will be interviewed by Iraqi consular staff so that Class Counsel can arrange for the client meetings under subparagraph a to occur promptly; such notice can be designated as Highly Confidential under the Second Amended Protective Order, and need not include the names of class members being transferred but only the approximate number of detainees, the facility where consular interviews are being conducted, and the anticipated date(s) of the consular interviews; Class Counsel will share the information only in order to make appropriate arrangements under subparagraph a;
    c. Allow Class Counsel or their designees access to conduct group and individual meetings with Iraqi detainees within 48 hours of the request (given the rapid pace of events, the current five-day window for arranging visits does not allow us to ensure that we can meet with detainees in time to give them the information they need to make informed decisions, or before they are retransferred out of the facilities to which they have been moved for consular interviews);
    d. For any class members who has already signed a letter to the Iraqi Consul stating that they desire to return to Iraq (other than class members for whom the court has signed a stipulated order lifting the stay of removal), facilitate confidential phone calls or video interviews within 24 hours of the request unless the detainee has already participated in a group or individual meeting with Mr. Rosenbluth or Ms. Gilbert;
    e. Notify all class members' immigration counsel about transfers, in compliance with ICE Policy 11022.1.

3. By Monday, June 11, provide Petitioners with a list of the names and A-numbers of all *Hamama* class members who have to date been presented with any document seeking a detainee's acquiescence to removal to Iraq, and the following information, and, going forward, provide such names, A-

numbers and information within 2 days of the document being presented to the detainee:

a. which individuals have signed the document and which have not;
b. copies of every such document that has been signed;
c. the names of the ICE or DHS employees who were present when the document was presented the document(s) to the individual;
d. the names of the ICE or DHS employees, agents and contractors who were present during any interview of that individual by the Iraqi government;
e. all statements made by the Iraqi government regarding whether Iraq will issue a travel document or otherwise accept the individual for removal; and
f. the estimated date removal will take place (which information may be designated as Highly Confidential under the Second Amended Protective Order).

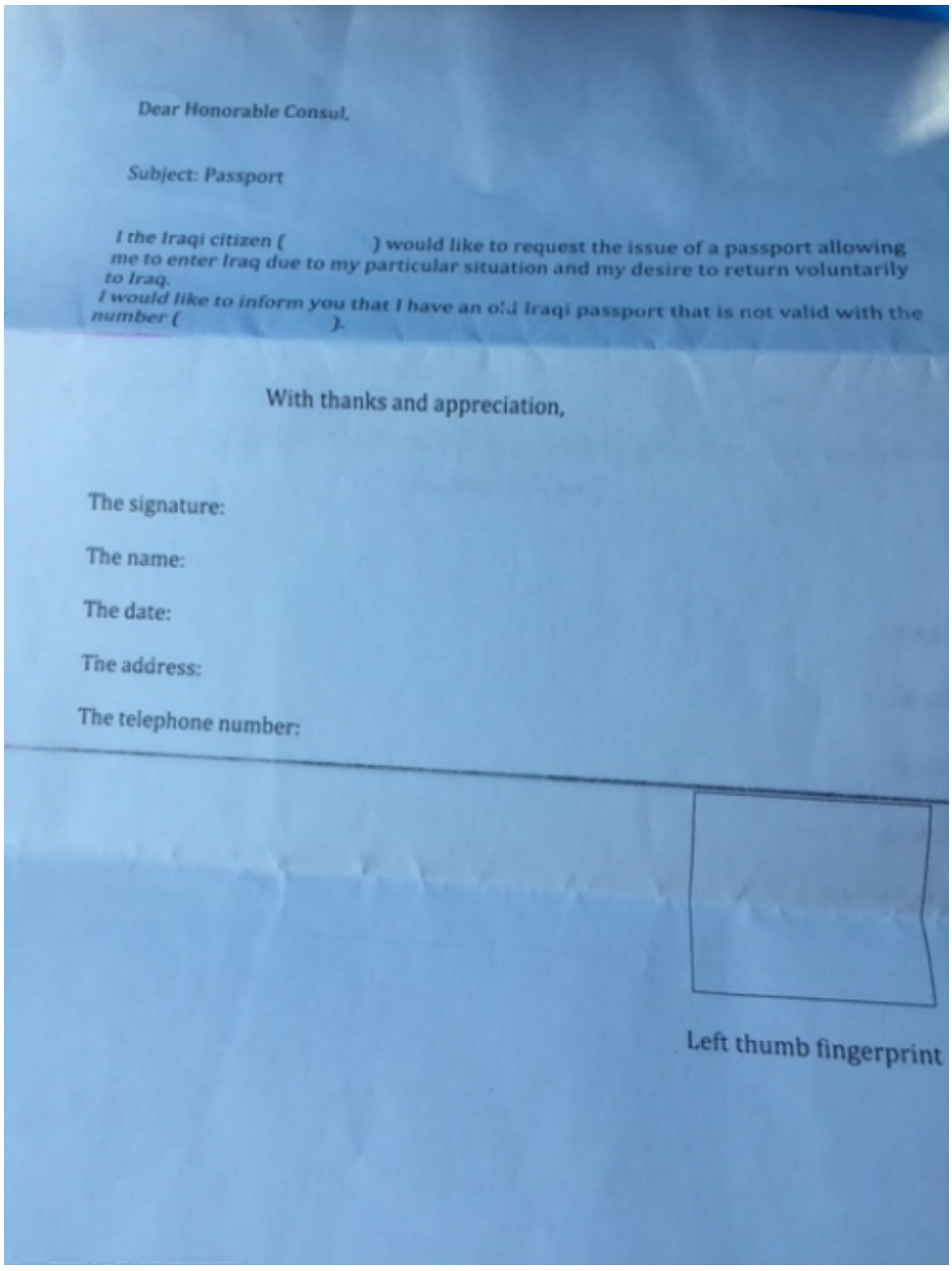
4. By Monday, June 11, provide Petitioners with a list of the ICE and DHS employees who were involved in facilitating the consular interviews at the Stewart Detention Facility and/or who were present during those interviews, including the names and job titles. We ask that you specifically identify the individual who was present at several of the consular interviews in Stewart and who was described by detainees as a white man in glasses, slender, about 40 years old, and about 6 feet tall wearing a blue shirt.

Given the urgency of the situation, we will seek emergency relief if you do not agree to these requests by 9 a.m. tomorrow, June 7.

Sincerely,

Miriam J. Aukerman
Margo Schlanger
Kimberly Scott

EXHIBIT A



Dear Honorable Consul,

Subject: Passport

I the Iraqi citizen ( ) would like to request the issue of a passport allowing me to enter Iraq due to my particular situation and my desire to return voluntarily to Iraq.
I would like to inform you that I have an old Iraqi passport that is not valid with the number ( ).

With thanks and appreciation,

The signature:

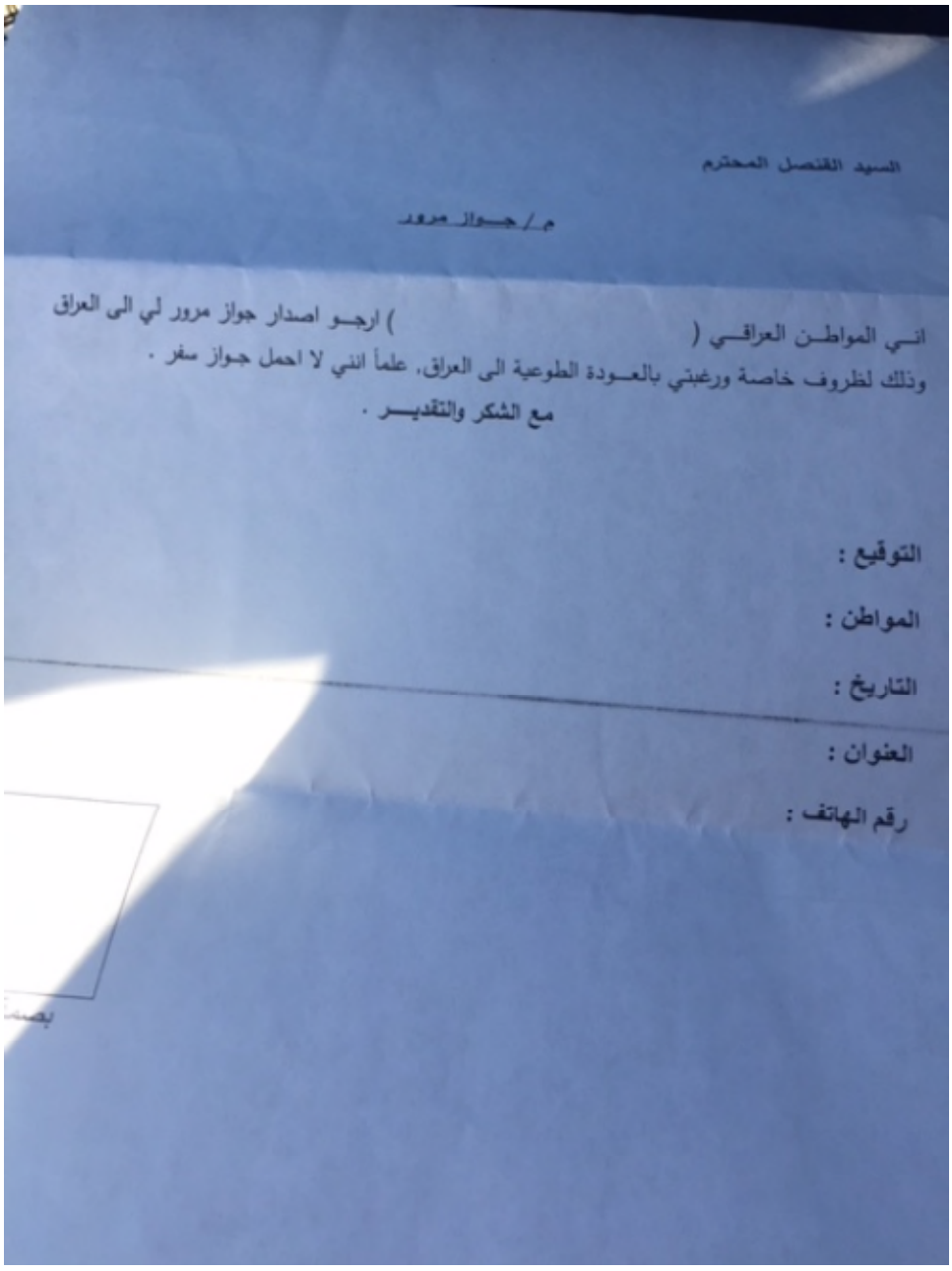
The name:

The date:

The address:

The telephone number:

Left thumb fingerprint



السيد القنصل المحترم

م / جـــواز مرور

انـــي المواطـــن العراقـــي ( ) ارجـــو اصدار جواز مرور لي الى العراق
وذلك لظروف خاصة ورغبتي بالعـــودة الطوعية الى العراق، علماً انني لا احمل جـواز سفر .

مع الشكر والتقديـــر .

التوقيع :

المواطن :

التاريخ :

العنوان :

رقم الهاتف :

From: Margo Schlanger
To: Silvis, William (CIV)
Cc: Witkowski, Katie J.; Murley, Nicole (CIV); Alsterberg, Cara E. (CIV); Scott, Kimberly L.; maukerman@aclumich.org
Subject: Re: Hamama et al. v Adducci, No. 2:17-cv-11910 - Letter re Coercion
Date: Thursday, June 07, 2018 10:12:54 AM

Thanks, Will.

We appreciate the government's investigation of this problematic situation.

The two things that we most urgently need are:

1) We gather that there are more mass consular interviews planned, but we don't know when or where. We request that the government tell us, ASAP, so that we can arrange for a group meeting with affected class member detainees, prior to those interviews.

2) We ask for the government's acknowledgement that at this time, Iraq is issuing travel documents only for individuals who expressly desire to return to Iraq.

Please let us know your response today.

As far as your requests for additional information, we cannot give you the retraction forms, because they inadvertently have confidential information on them. In the meantime, however, we can tell you that those individuals are:

Ahmed Tayyeh, 212-205-415
Zaia Darmo, 026-808-763
Ali Al-Sultan, 071-732-907
Abulmohsin Al Zubeidy, 075-052-957

While we are providing these names, any discussion with these individuals may be construed as an attempt to force them to retract their statements; they should not be approached unless class counsel is present.

We have not yet talked to everyone concerned--so there may be additional individuals who signed the letter stating they wish to return to Iraq, but felt coerced and wish to retract it.

The detainees do not know the names of the ICE officers involved, but we've given you a physical description of one of them--it should be easy for your client to identify him. The class member who is a torture survivor is George Arthur, 209-151-821. He does not know the names of the ICE officers he encountered, but again, it should be easy for the government to identify them.

Best,
Margo

Margo Schlanger
margo.schlanger@gmail.com

On Wed, Jun 6, 2018 at 9:02 PM, Silvis, William (CIV) <William.Silvis@usdoj.gov> wrote:

> Counsel,
>
> We are in receipt of the attached letter and have forwarded it to DHS and ICE. As an initial matter, we dispute the premise that there was any finding of past coercion by Respondents and find it unproductive for Petitioners to insert that issue into the beginning of the letter, especially where the Court has been clear that it would like to parties to attempt to resolve issues without Court intervention. We further dispute Petitioners' allegations that ICE is obstructing access to detained class members. Past practice has undeniably shown that, when given sufficient notice of a scheduling issue with a particular facility, Respondents are willing to work with Petitioners and the facility to accommodate attorney meetings.
>
> Moving on the remaining portions of the letter, we take seriously all allegations of coercion and harassment and are working to learn the underlying facts. To that end, it would be helpful if we could speak with Mr. Rosenbluth and Ms. Gilbert to get a better understand of the who, what, when, and where the alleged coercion took place. At a minimum, we need: (1) the names of ICE employees or others working at the facility who allegedly threatened class members (page 3); (2) the name of the ICE employee who allegedly threatened the detainee who is a torture survivor (page 3); (4) the names of the "ICE staff" who allegedly berated class members who refused to sign exhibit A to the attached letter; (5) to see the four statements identified on page 3 "revoking their prior statement that they want to go to Iraq;" and (6), the names of the detainees allegedly harassed. Without a better understanding of the underlying facts Respondents cannot simply agree with Petitioners numerous requests (pages 7-10). We look forward to working with you to resolve these issues, but cannot do so unless Petitioners are willing to share the underlying facts.
>
> **William C. Silvis**
>
> **Assistant Director**
>
> **United States Department of Justice**
>
> **Office of Immigration Litigation – District Court Section**
> Post Office Box 868 | Ben Franklin Station | Washington, D.C. 20044-0868
> (direct) 202-307-4693
>
> (fax) 202-305-7000

From: Witkowski, Katie J. [mailto:Witkowski@millercanfield.com]
Sent: Wednesday, June 06, 2018 12:39 PM
To: Silvis, William (CIV) <WSilvis@civ.usdoj.gov>; Murley, Nicole (CIV) <NMurley@civ.usdoj.gov>
Cc: Alsterberg, Cara E. (CIV) <caalster@CIV.USDOJ.GOV>; Scott, Kimberly L. <Scott@millercanfield.com>; Margo Schlanger <margo.schlanger@gmail.com>; maukerman@aclumich.org
Subject: Hamama et al. v Adducci, No. 2:17-cv-11910 - Letter re Coercion

Mr. Silvis and Ms. Murley,

Please see attached letter regarding the above-referenced matter.

Respectfully,

Katie J. Witkowski | Administrative Assistant

Miller Canfield
101 North Main Street, 7th Floor
Ann Arbor, Michigan 48104 (USA)

T +1.734.668.8849 |**F** +1.734.747.7147

witkowski@millercanfield.com

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

USAMA JAMIL HAMAMA, et al.,

Petitioners and Plaintiffs,

v.

REBECCA ADDUCCI, et al.,

Respondents and Defendants.

Case No. 2:17-cv-11910
Hon. Mark A. Goldsmith
Mag. David R. Grand
Class Action

DECLARATION OF JAMES MADDOX

I, James Maddox, hereby make the following declaration with respect to the above-captioned matter:

1. I am a Detention and Deportation Officer (DDO) in Removal and International Operations (RIO) assigned to the Headquarters Office of Enforcement and Removal Operations (HQ ERO), United States Immigration and Customs Enforcement (ICE), within the Department of Homeland Security (DHS) in Washington D.C. RIO is responsible for assisting field offices in obtaining travel documents necessary to execute administratively final orders of removal. I have been employed with ICE and the former Immigration and Nationality Service (INS) since April 1997. I have worked in the HQ ERO within ICE from March 2018 to present. I was employed most recently as a Deportation Officer (DO) and a Supervisory Detention and Deportation Officer (SDDO) in the Washington Field Office from January 2001 until March 2018.
2. In my capacity as a DDO for RIO, I am in charge of the Iraqi Docket, which includes assisting the ERO field offices in obtaining travel documents and coordinating removal of aliens with final orders of removal. RIO is also responsible for post-order custody

reviews (POCRs) of aliens detained pursuant to Immigration and Nationality Act section 241 who are in ICE custody for more than 180 days from commencement of the removal period. I am the DDO over all Iraqi cases.

3. This declaration is based on my personal knowledge, and information conveyed to me in the course of my official duties and responsibilities, including information obtained from other individuals employed by ICE and information obtained from DHS records. I am aware of the facts and circumstances of *Hamama, et al., v. Adducci*, et al., 2:17-cv-11910, in the U.S. District Court for the Eastern District of Michigan, Southern Division. I also have knowledge of ICE's efforts to arrange for the removal of Iraqi nationals that have been ordered removed from the United States.
4. The Government of Iraq (GOI) has recently issued travel documents. On April 4, 2018, the GOI provided 8 travel documents. ICE has executed removal or is in the process of executing removal for these individuals via commercial or an ICE charter plane.
5. ICE continues to actively seek travel documents for individuals with final administrative orders for whom the stay of removal has been ordered or will be ordered. ICE has tried to prioritize travel document requests for individuals who have requested that their stays of removal be lifted, individuals who have failed to file a Motion to Reopen, and individuals who have failed to appeal when their Motions to Reopen have been denied.
6. In order to facilitate travel document processing, ICE made arrangements for the GOI to conduct in-person interviews of 42 individuals on May 23, 2018 at the Stewart Detention Facility in Georgia. Prior to the interviews, ICE provided the GOI officials with copies of citizenship related documents. To establish citizenship, the GOI has decided to accept a wide range of photocopied evidence from U.S. government information systems,

including various citizenship documentation or secondary information (including relatives' identification documents) confirming citizenship located in the Alien files. The travel document packages are prepared by the field offices and sent to headquarters for submission to the GOI in Washington D.C.

7. Prior to the interviews, all discussions about travel document preparation or the submission of identity documents were handled by the local ERO assigned officers in the detainees' original location, not at the Stewart Detention Facility. ERO Officers and contract staff at the Stewart Detention Facility were only there to facilitate the flow of the detainees' movements during the interview process with the GOI. Officials at the Stewart Detention Facility were not involved with the travel document application, except to facilitate a few photographs upon my request to replace ones that were not of sufficient quality.

8. During the interviews on May 23, 2018, the detainees were placed in a large room to wait for their individual interviews. I was present at the facility during all 42 interviews, however, I did not have any conversations with any of the detainees prior to the interviews with the GOI. Neither I nor anyone else from DHS or ICE was present in the room during the interviews. Accordingly, I do not know what the GOI officials said to any of the 42 detainees, and I cannot confirm which GOI form if any, that the GOI officials had asked detainees to sign. In my prior experience, the GOI has generally used the two forms attached to this declaration to facilitate a travel document. (See attached Exs. A and B). In this instance, however, the GOI officials brought their own forms with them and did not provide a copy of any signed or unsigned forms to ICE.

9. I did not ask any of the interviewees to sign any GOI form on May 23 or 24, 2018. To my knowledge, none of the officials at the Stewart Detention Facility requested interviewees to sign any GOI forms because they would not have had those documents and they are not involved in the process of obtaining travel documents.
10. The interviews were conducted by two GOI officials in a small interview room. I was not present in the room during the interviews, I was sitting in the office next door. Due to the noise level, the GOI usually closed the interview room door. I was unable to hear any of the conversations that were occurring, except for occasionally hearing some Arabic being spoken which I did not understand.
11. At the conclusion of the interviews, I spoke directly with the GOI interviewing officials about the results of their interviews. The results were as follows:
    a. Thirty-three (33) individuals had their citizenship verified and the GOI would agree to issue travel documents.
    b. Six (6) individuals refused to sign the GOI travel document form and the GOI indicated that further approval from Baghdad was required to issue those travel documents. The GOI has not denied these requests. Rather, the GOI must facilitate a different internal GOI process to complete the issuance of a travel document.
    c. One (1) individual needed additional identity documents to demonstrate his citizenship prior to approval of a travel documents. Xxx-xxx-483 JAE.
    d. Two (2) individuals were denied citizenship based on the information ICE submitted. The GOI did not deny on the basis that either individual refused to sign the GOI form.

i. A XXX-XXX-821 AG; the GOI denied citizenship on the basis of having no identity documents, no citizenship documents and also on the basis that his Arabic accent was not Iraqi.

ii. Xxx-xxx-945 HAA; the GOI denied citizenship on the basis that they believe he is a Palestinian citizen, but was born in an Iraqi refugee camp.

12. On May 24, 2018, the day after the interviews, I spoke with the 6 individuals who the GOI indicated did not sign the GOI form. As the ERO Officer responsible for travel documents, I was trying to understand why they refused to comply with the travel document process and the GOI's request to sign an application. I did not ask any of these individuals to sign any GOI forms, nor did I threaten to criminally prosecute them for failing to sign any forms. In fact, at the time I spoke with them I did not have copies of the GOI forms with me at the facility. I simply asked why they did not sign the form. During the discussion, one individual requested a copy of the GOI form so that he could provide it to his attorney and I had to call my office and have them e-mail a copy of the form I thought he was referring to.

13. On June 8, 2018, I received 33 travel documents from the GOI in Washington D.C., that match up with the 33 individuals who were interviewed on May 23, 2018. The GOI has repeatedly informed me that the 7 travel documents requests for the detainees discussed in paragraphs 11(b) and (c) are pending, including the 6 who did not sign the GOI travel document form. ICE continues to engage with the GOI to have these additional travel documents issued.

14. The GOI travel document application forms have been in use by the GOI for many years now. These forms have been a regular part of the travel document procurement process

and ICE has requested Iraqis sign the documents so that they could be submit as part of a travel document package. However, due to these in-person interviews, the GOI wanted the interviewee to sign or resign a GOI travel document application form in person during the interviews. As stated earlier, for the interviews at Stewart, the GOI officials were the only individuals who requested that detainees sign the GOI forms. Neither ICE nor facility staff, to my knowledge, requested that detainees sign GOI forms.

Pursuant to 28 U.S.C. § 1746, I declare, under penalty of perjury, that the foregoing is true and correct based upon reasonable inquiry, knowledge, information, and belief.

Executed this 15th day of June, 2018.

06/15/2018

Date

James Maddox
DDO
Department of Homeland Security
U.S. ICE
Washington, D.C.

Exhibit A

EMBASSY OF THE REPUBLIC
OF IRAQ
3421 Massachusetts Avenue, NW
Washington, DC 20007

سفارة جمهورية العراق
واشنطن
بالیۆزخانة ي كۆماری عیراق لة واشنتن

In the original form, the text in black is in Arabic and below the text in blue is Kurdish (As the Kurdish language is the second official language of Iraq).

Application form for the Iraqi passport

Identity of the applicant:

1/ The three names (i.e. first name of the applicant, father's name and paternal grandfather's name)

2/ The surname:

3/ Mother's name

4/ Marital Status

5/ Date and place of birth

6/ Occupation

7/ Number and date of Iraqi citizenship certificate

8/ Number and date of identity of civil status

Description of the passport applicant

1/ Height

2/ Eyes color

3/ Hair color

4/ Color of the face

5/ Address and phone number in the United States of America

Signature and date

Name of the consular officer
Passport's number
Release Date

Notes

EMBASSY OF THE REPUBLIC
OF IRAQ
3421 Massachusetts Avenue, NW
Washington, DC 20007

سفارة جمهورية العراق
واشنطن
بالَيوَزخانة ي كؤماری عيَراق لة واشنتن

إستمارة طلب الحصول على جواز السفر العراقی
فۆرمی داخوازی بۆ وەرگرتنی پاسپۆرتی عیراقی

هوية طالب/ طالبة جواز السفر / ناسنامەی داواکاری پاسپۆرت

1- الإسم الثلاثی / ناوی سیانی :

1- The full names : . . . . . .

2- اللقب / لەقەب :

2- The Surname (If any) : . . . . . .

3- إسم الأم / ناوی دایک :

3- Mothers name : . . . .

4- الحالة الزوجية / باری خێزانی :

5- تأريخ و مكان الولادة / بەروارو شوێنی لەدایکبون :

5- Date and Place of birth : . . . . . .

6- المهنة / پیشە :

7- رقم و تأريخ شهادة الجنسية العراقية / ژمارەو بەرواری ڕەگەزنامەی عیراقی :

8- رقم و تأريخ هوية الاحوال المدنية / ژمارەو بەرواری پێناسەی نەحوالی مەدەنی :

أوصاف طالب الجواز / روخساری داواکاری پاسپۆرت :

1- الطول / بالا :

2- لون العينين / رەنگی چاو :

3- لون الشعر / رەنگی قژ :

4- لون الوجه / رەنگی پێست :

5- العنوان والهاتف فی الولايات المتحدة الامريكية / ناو ونانیشانو تە لە فونت لە امریکا

التوقيع و التأريخ / نیمزاو بەروار

إسم الموظف القنصلی / ناوی کارمەندی کونسولیە :
- رقم الجواز / ژمارەی پاسپۆرت :
- تأريخ الإصدار / بەرواری دەرکردنی :

الملاحظات/تێبینیەکان :

Exhibit B

Dear Honorable Consul,

Subject: Passport

I the Iraqi citizen ( ) would like to request the issue of a passport allowing me to enter Iraq due to my particular situation and my desire to return voluntarily to Iraq.
I would like to inform you that I have an old Iraqi passport that is not valid with the number ( ).

With thanks and appreciation,

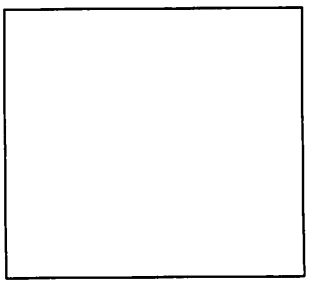
The signature:

The name:

The date:

The address:

The telephone number:



Left thumb fingerprint

السيد القنصل المحترم

م / جـــواز مرور

انـــي المواطـــن العراقـــي ( ) ارجـــو اصدار جواز مرور لي الى العراق
وذلك لظروف خاصة ورغبتي بالعـــودة الطوعية الى العراق, علماً انني لا احمل جـواز سفر .

مع الشكر والتقديـــــر .

التوقيع :

المواطن :

التاريخ :

العنوان :

رقم الهاتف :

بصمة الابهم الايسر

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF
MICHIGAN SOUTHERN DIVISION

USAMA JAMIL HAMAMA, et al.,

Petitioners and Plaintiffs,

v.

REBECCA ADDUCCI, et al.,

Respondents and Defendants.

Case No. 2:17-cv-11910
Hon. Mark A. Goldsmith
Mag. David R. Grand
Class Action

RESPONDENT/DEFENDANT ICE'S RESPONSE TO PLAINTIFF USAMA JAMIL HAMAMA'S FIRST SET OF INTERROGATORIES TO RESPONDENT KIRSTJEN NIELSEN

Pursuant to Federal Rule of Civil Procedure 33, Defendant ICE hereby objects and responds to Petitioners'/Plaintiffs' First Set of Interrogatories to All Respondents as follows:

INTERROGATORIES

1. **Describe each term of the Iraqi Agreement pertaining to the repatriation of and process for repatriating Iraqi Nationals under the Iraqi Agreement.**

RESPONSE:

Subject to and without waiver of the foregoing objections, Defendant ICE responds

as follows:

There has been no international agreement in force, nor any written arrangement in effect, between the governments of Iraq and the United States regarding the repatriation of Iraqi nationals. However, through discussions during this time, the governments of Iraq and the United States have reached an understanding of the process for repatriating Iraqi nationals.

As an initial matter, Iraq informed the United States that they had created an Inter-ministerial Committee of Deportation to commence the return of over 1,400 Iraqi nationals in the United States with final orders of removal. Defendant ICE understands that this committee is made up of representatives from the Prime Minister's Office, the Ministries of Justice, Foreign Affairs and Interior.

Defendant ICE understands that the Committee is intended to ensure that the appropriate Iraq ministries were reviewing deportation notices thoroughly and quickly and would be responsible for the following:

1. Consular access
2. Iraqi citizenship verification
3. Deportation court order review
4. Travel document issuance

As part of the removal process, the Government of Iraq (GOI) has indicated that it requires, after an alien's identity has been verified, that Iraqi embassy officials meet

with the individual. The interviews have been conducted either in person (including at designated points of embarkation) or via video with Iraqi nationals.

To establish citizenship, the GOI has decided to accept a wide range of photocopied evidence from U.S. government information systems, including various citizenship documentation or secondary information (including relatives' identification documents) confirming citizenship located in the Alien files. Previously, the Iraqi government had limited the type of identity documents that would be acceptable for issuance of a travel document, such as an original Iraq identification card or an original Iraq citizenship card.

2. Describe each criterion an Iraqi National must meet before Iraq will accept an Iraqi National for repatriation, under the Iraqi Agreement or otherwise.

RESPONSE:

It is ICE's understanding that there has been no international agreement in force, nor any written arrangement in effect, between the GOI and the United States regarding the criteria an Iraqi National must meet before the GOI will accept him or her for repatriation. However, through discussions in 2017, with the GOI, ICE's current understanding is that three criteria must be present before the GOI agrees to

authorized to enter into any agreement reached by the governments regarding the repatriation of Iraqi Nationals."

VERIFICATION

I, John A. Schultz, Jr. declare under penalty of perjury:

I am employed by U.S. Immigration and Customs Enforcement as the Deputy Assistant Director for the Removal Management Division (East).

I have read and know the contents of these responses. These responses on behalf of ICE were prepared after obtaining information available to ICE through its officers and employees and through its documents and records. These responses, subject to inadvertent and undiscovered errors, are based upon, and necessarily limited by, the records and information still in existence, able to be located, presently recollected, an thus far discovered in the course of preparing these responses. The responses regarding ICE are true and correct to the best of my knowledge, information, and belief.

Executed on March 23, 2018

John A. Schultz, Jr.
Deputy Assistant Director
Removal Management Division- East
Enforcement and Removal Operations
Immigration and Customs Enforcement
U .S. Department of Homeland Security