

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

KUSUMA NIO, *et al.*,

Plaintiffs,

v.

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

Defendants.

Civil Action No. 17-0998 (ESH)

ORDER

For the reasons stated at the April 11, 2018 hearing, it is hereby

ORDERED that plaintiffs' motion for temporary restraining order, preliminary injunction, ECF No. 119 is **DENIED**; it is further

ORDERED that plaintiffs' motion for leave to file a third amended complaint, ECF No. 115, is **DENIED**. The Court will consider plaintiffs' allegations regarding USCIS's waiting for the results of the MSSD to be part of the second amended complaint; it is further

ORDERED that defendants shall file any supplements to the administrative record concerning the legality of USCIS waiting on MSSD/NSD determinations from DOD before naturalizing enlistees on or before **April 25, 2018, at 12:00 PM**; it is further

ORDERED that plaintiffs' motion regarding defendants' certified administrative record for the July 7th Policy, ECF No. 133, is **GRANTED IN PART**. Renaud's 7/7/17, 7/28/17, and 3/5/18 declarations will be considered part of the administrative record. DOD's September 30, 2016 Memo will be considered part of the administrative record. Plaintiffs may file the three pre-September 2016 DOD Memos in appendices to their opposition to defendants' motion to

dismiss/motion for summary judgment; and it is further

ORDERED that the above-captioned case is referred to Magistrate Judge Meriweather to

(1) litigate the admissibility of defendants' USCIS CAR at 7 regarding attorney-client privilege and deliberative privilege;

(2) work with the parties to minimize the delay between when DOD completes an MSSD and uploads it to the portal to share with USCIS, and when USCIS begins to undertake the remaining steps of the naturalization process;

(3) work with the parties and FBI's general counsel to avoid the need for two FBI background checks (one at the DOD stage and one at the USCIS stage);

(4) work with the parties to develop a policy for naturalizing MAVNIs with completed MSSDs before they ship to basic training.

ORDERED that beginning on **May 9, 2018, at 12:00PM** and occurring thereafter every four weeks defendants shall file a report with the Court detailing class members'

(1) date of enlistment

(2) date DOD completed their CI report

(3) date DOD completed their MSSD

(4) date DOD uploaded completion of the MSSD to the shared portal

(5) filing date for the N-400

(6) date USCIS schedules the naturalization interview

(7) naturalization date.

SO ORDERED.

/s/ Ellen Segal Huvelle
ELLEN SEGAL HUVELLE
United States District Judge

Date: April 12, 2018

CC: Magistrate Judge Robin Meriweather