

EXHIBIT 49

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Citizenship Hurdle for Foreign Nationals in U.S. Military Tossed

By Bernie Pazanowski May 23, 2019

- USCIS waits for military investigation to decide citizenship
- Policy arbitrary, capricious

Foreign nationals trying to use a military program to expedite their path to U.S. citizenship successfully removed an obstacle to reaching their goal May 22.

Under the Military Accessions Vital to the National Interest program, foreign nationals who are legally present in the U.S., possess critical foreign language or medical skills, and serve honorably during designated periods of hostilities may become U.S. citizens more quickly.

Because of security concerns, the military does an in-depth background check of program applicants and issues a military service suitability determination.

The recruit still has to apply with the U.S. Citizenship and Immigration Service for naturalization. Starting in July 2017, however, USCIS waited for the MSSD to determine whether the recruit should be naturalized.

Kusuma Nio filed a class action against USCIS's policy, claiming it violated the Administrative Procedure Act.

USCIS argued its policy was valid, because it still makes an independent assessment concerning the recruit's naturalization. In practice, that isn't true, the opinion by Judge Ellen Segal Huvelle of the U.S. District Court for the District of Columbia said.

Although there are significant differences between naturalization standards and the Department of Defense's standards for military suitability, a naturalization application is automatically rejected if the recruit receives an unfavorable MSSD. This contravenes USCIS's statutory obligation to conduct its own investigations of eligible applicants, the court said.

Fried Frank Harris Shriver & Jacobson LLP represented Nio. DOJ represented the government.

The case is *Nio v. DHS*, 2019 BL 187578, D.D.C., No. 17-0998 (ESH), 5/22/19.

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General Information

Court

District Court, District of Columbia