



## Detail

Complaint Number: 721

Immigration Judge: (b)(6)

Complaint Received Date: 02/11/13

Current ACIJ  
Santoro, Christopher A.

Base City  
(b) (6)

Status  
CLOSED

Final Action  
Complaint dismissed because it  
was disproven

Final Action Date  
02/19/13

**Past ACJIS:**

A-Numbers(s)	Complaint Nature(s)	Respondent Atty	Complaint Source(s)
(b)(6)	In-court conduct	(b) (6)	(b) (6)

**Complaint Narrative:** Complainant alleges that Jis in court conduct was belittling as well as contrary to regulation. Complainant also requests that JJ be forced to recuse (b) (6) from all future cases involving complainant.

### Complaint History

02/11/13	Complaint referred to ACIJ
02/14/13	ACIJ spoke with Source concerning the complainant
02/19/13	Complaint dismissed because it was disproven
02/21/13	Database entry created

Sep 11, 2013

1 of 1

(b) (6)

VIA E-MAIL and CRRR

February 11, 2013

Christopher A. Santoro  
Assistant Chief Immigration Judge

(b) (6)  
5107 Leesburg Pike, Ste. 2500  
Falls Church, VA 22041

RE: Complaint Regarding Immigration Judge's Conduct  
Immigration Judge: (b) (6)  
(b) (6) Immigration Judge  
Dates of Professional Misconduct and Alien Number  
(1) (b) (6) Merits Hearing, February 8, 2013  
(2) (b) (6) Master Calendar Hearing, June 27, 2012

Honorable Judge Santoro:

This is a formal complaint regarding Judge (b) (6) misconduct in court, conduct not comporting with EOIR Ethics and Professionalism Guide applicable to Immigration Judges. See 5 CFR Section 2635.101; see also, Ethics and Professionalism's Guide for Immigration Judges ("Professionalism Guide for Judges") (<http://www.justice.gov/eoir/sibpages/IIConduct/EthicsandProfessionalismGuideforIJs.pdf>). Such conduct is unbecoming of an Immigration Judge handling sensitive cases.

The first and more serious incident of professional misconduct occurred on February 8, 2013 during the merits hearing. The incident is on record; and there are witnesses if that becomes necessary. The Judge's conduct showed uncalled and unexplained for personal hostility toward the respondent's counsel in a clear attempt to belittle (b) (6). This conduct is in violation of 5 CFR 2635.101(b)(14), *Appearance of Impropriety*; Section IX of the Professionalism Guide for Judges, *Acting with Judicial Temperament and Professionalism*.

Professional Misconduct Complaint, Judge (b) (6) Immigration Court

The second incident on a different case (see above A# (b) (6)) occurred on June 27, 2012 during a master calendar hearing. This incident establishes a violation of section IV of Professionalism Guide for Judges, *Professional Competence*; and of 5 CFR 2635.101(b)(14), *Appearance of Impropriety*; and of Section IX of the Professionalism Guide for Judges, *Acting with Judicial Temperament and Professionalism*.

This counsel respectfully requests the following:

1. That a formal investigation into the misconduct be initiated and that remedial action, as deemed appropriate by EOIR, be taken as per Section XXXIV of the Professionalism Guide for Judges, *Disciplinary Action or Action for Failure to Follow Guide*. It is also respectfully requested that EOIR provide assurances that any personal comments or insults that demean and belittle private attorneys will not occur again.
2. That, pending the results of a formal investigation of this complain, and because of the Judge's disparaging comments at counsel, that the Judge be recused from any cases that counsel has pending before (b) (6) and that it be transferred to another Judge. The Judge has shown a lack of temperament and professionalism; it only follows that now that counsel has filed a complaint, the Judge will be even more incapable of controlling (b) (6) and of exerting the necessary self-control to perform (b) (6) duties in a rational manner. I respectfully submit that this last request that my cases be transferred to another Judge, will not create any major inconvenience to the (b) (6) Court because counsel has only two case pending before the Judge above referenced (A(b) (6)); and A(b) (6) (b) (6). This will help take away the appearance of personal hostility that the referenced Judge has shown towards this counsel. See Section VI, Professionalism Guide for Judges, *Appearance of Impropriety*.
3. That the case referenced as A number, be readjudicated by another Immigration Judge.

The full extent of the misconduct is explained in the following pages. I am willing to, if needed, testify about the contents of this complaint in any proceedings. I may be contacted at any time at the cell number found below my signature.

(b) (6)

Professional Misconduct Complaint, Judge (b) (6) Immigration Court

My name is (b) (6). I am duly admitted in the states of (b) (6) and (b) (6). I started my legal career as a prosecutor in (b) (6). I later worked as an associate at a top deportation defense firm in (b) (6) and then was years later hired by U.S. ICE Headquarters, where I handled nationwide policy on law enforcement for different sections within headquarters, but generally involving detention and removal matters. I then worked for years as a government attorney for the (b) (6) Office of the Chief Counsel representing the U.S. government in immigration proceedings and advising ICE officers on legal issues. As an Assistant Chief Counsel, I developed a reputation with all the Judges as always being fair, prepared, and respectful towards the Judges and members of the private bar. I knew and always kept in mind that as a government representative I was held to a higher standard than other members of the profession; and more so as I was conscious of always having to handle sensitive cases. I always comported myself according to that standard and I was always proud of those standards. Further, a couple of years ago, I even applied and was granted an interview for a position as an Immigration Judge for (b) (6). Although the interview went well, budgetary constraints prevented DOJ from hiring and I was informed that I would have to reapply in the future. I opened my own law office one year ago.

The only reason I am providing this background is to inform you that I have been vetted numerous times. Also, I am not the type of person that files a complaint because my client has been denied relief. In fact, I have never filed a complaint before. Grants or denials of relief are part of the nature of the practice. I do my best to try to obtain relief for my clients within the parameters allowed by law and in an ethical manner. But this case is different. The Judge's unprofessional conduct were too much for this counsel to stay quite. More important, I am concerned that the Judge's behavior will negatively affect other cases that I may bring before this Judge. Thus, I had to formalize this grievance.

#### **Incident #1.**

A# (b) (6) Merits Hearing, Feb. 8, 2013 at 8AM.

Approximately 5 to 10 minutes into the hearing, the Judge began making personal comments about the quality of the counsel's presentation. (b) (6) believed the case was chaotic, stating that my questions were all over the place. I was too focused on the case to give any weight to (b) (6) comments. Besides, I did not think it was complicated, as the facts were straightforward and were laid out in the affidavit. If anything, (b) (6) comments made me believe that the Judge (b) (6) was not prepared for the case. The Judge then started asking questions to the respondent. At one point, as I was making notes in my legal pad, the Judge asked: "Do you know this person?" Because the question did not make any sense in the context of what had been asked before, I raised my head to look at my client. The Judge then asked

Professional Misconduct Complaint, Judge (b) (6) Immigration Court

again: "Do you know this person?" I looked at the Judge who was looking straight at me. I might have looked puzzled, and I was. In my naiveté (or in my decency), I still thought that the question was being directed at the respondent and not as an attempt to disparage me. "Do you know this person?", was asked yet again. While asking this question, the Judge looked at me and pointed (b) (6) hand at the respondent. I then realized (b) (6) had been asking me if I myself knew my client. I also realized that the question was not a serious one; it was only meant as an insult, as a way of saying that I was not prepared. What followed after that was a back and forth as if it was street fight—the Judge trying to demean me with each follow up comment and question, while I was trying to defend myself from suggestions of incompetence and asking (b) (6) to stop being condescending and to ask me a legitimate question instead of using sarcasm. Of course there was no legitimate question. (b) (6) said something like "You haven't seen me yet when I get condescending." (b) (6) tone was threatening. I started thinking, what is happening here? The Judge's degrading personal attacks came out of nowhere. What did I do to deserve this abuse? It was a bizarre and nonsensical exchange since it had no purpose other than to demean and insult the counsel. The questions and comments by the Judge did not in any manner move forward the case or help elucidate the facts being presented. If anything, it made the respondent more nervous than he already was, and it made the counsel worried and unsure about what was happening.

After the hearing, I spoke to the respondent, who after the Judge's attacks on me, indicated that he had felt uncomfortable by the exchange, afraid about the Judge and with a sense that the entire process was stacked against his attorney and against him. He felt that he was being treated unfairly and that the Judge had something against him. I also spoke with the daughter of the respondent, a teenager, fluent in English and Spanish, who was not called as a witness, but who witnessed and was present at the hearing and listened at the Judge's comments. She asked me after the hearing what was going on with the Judge, attacking me personally in regards to my competence. We were all at a loss.

As someone not used to treating anyone with disrespect and who expects to be treated in the same manner, the exchange, I am not proud to admit, threw me off. As much experience as I have, and as someone who has appeared before immigration and state and federal criminal court judges who have indicated in forceful ways their legal position on issues, to be insulted on a personal level is not something I ever expected. A legal challenge? I have no issues with; a factual misunderstanding in need of clarification? That is what I am there for. But to be treated with such disrespect, of being lectured, and then threatened to be the target of further sarcasm, that is different. I myself felt uncomfortable for the rest of the hearing. The Judge's conduct and comments, I am sorry to say, damaged the entire proceedings.

For the respondent and the family, the Judge comments were so out of place that as soon as that happened they were convinced the respondent had no chance.

Professional Misconduct Complaint, Judge (b) (6) Immigration Court

They blame the system, specifically, they started wondering, as I did, why is this type of Judge working in such capacity and allowed to rule on cases of life and death in such a lighthearted manner. The process was damaged and the (b) (6) court reputation tarnished because one Judge decided to debase (b) (6). Does Judge (b) (6) treat (b) (6) attorneys this way? Regardless of race, no one should be treated in such a disrespectful manner.

I also thinks that the Judge's conduct has the potential of disturbing my practice. What happens if I go before the judge again (b) (6) decides to continue (b) (6) bullying and ridiculing in front of my clients? Will my clients start losing confidence in me? Will I start losing business because the word is out in the community that Judge (b) (6) makes fun of (b) (6)? This affects my livelihood as well and I have a family to support.

## **Incident # 2.**

A#(b) (6) Master Calendar Hearing, June 27, 2012

At a master calendar hearing on this case, I respectfully asked for a change of venue since the respondent resides in the state of (b) (6). The Office of the Chief Counsel, thru the Assistant Chief Counsel announced on the record that it would not oppose my motion. However, the Judge did not grant it. Instead (b) (6) issued a condition: that I first prepare and produce an asylum application, for I-589 as a condition for the change of venue. My understanding has always been that demanding to file a full application for relief is not a requirement for a change of venue. There is no such legal or procedural requirement for submitted a form. Further, the Immigration Court Practice Manual does not mention such requirement either. In short, the Judge's position is not supported by Board precedent or as a procedural requirement. But the Judge insisted that such requirement was "in the regulations." I did not continue the argument. It was pointless. I eventually submitted the asylum application form and the respondent's proceedings venue were changed.

However, the Judge's request presents problems on one of two fronts. On the one hand, it shows a Judge that is unfamiliar with, and misunderstands, the law and procedure. And if that is not the case, then the alternative is unthinkable, that he had demanded a full form I-589 asylum application out of a sense of entitlement. There only other option available is that the Judge tried to mislead me on purpose, to play games so to speak. Be that as it may, the demand on the record that the "regulations" mandate the submission of the asylum form as a condition for a change of venue reflects poorly on either his capacity to keep abreast with the law or with his temperament as a professional.

In addition, counsel will not speak for other attorneys who practice before this Judge. But both incidents, taken together, give the appearance of the Judge

Professional Misconduct Complaint, Judge (b) (6) Immigration Court

disliking counsel on a personal level for no reason. It shows a lack of respect for counsel and perhaps even bias against him for no reason. This apparent pattern against counsel gives the appearance that the Judge is incapable of being impartial with counsel and that the (b) (6) Immigration Court permits such behavior. I do not think that the Judge could be impartial in any of my cases.

#### CONCLUSION

Based on the Judge's unprofessional and misleading conduct and comments on the bench against counsel, it is respectfully requested that a formal investigation be initiated and, if deemed appropriate, remedial measures imposed, including, assurances that such behavior on the part of a sitting Judge will not be tolerated by the DOJ. Second, that, pending the results of a formal investigation, the Judge recuse (b) (6) from cases in which I am counsel (which are only two— A (b) (6) (b) (6) and A (b) (6)). And last, that the respondent, (b) (6) (b) (6) under A# (b) (6), be given a fair change in the form of a new hearing, not one tainted by misconduct.

(b) (6)

(b) (6)

E.O.I.R.  
O.C.I.J.

RECEIVED  
2013 FEB 20 PM 1:01

VIA CRRR

February 19, 2013

Brian M. O'Leary  
Chief Immigration Judge  
5107 Leesburg Pike, Ste. 2500  
Falls Church, VA 22041

RE: Complaint Regarding Immigration Judge's Conduct  
Immigration Judge: (b) (6)

Chief Immigration Judge Brian M. O'Leary,

This letter is in reference to a letter complaining about professional misbehavior on the part of Judge (b) (6) from the (b) (6) Immigration Court, behavior that I believe shows a lack of respect for the court and its participants and tends to damage the reputation of the EOIR. In my letter I respectfully asked that the two incidents reported in the letter be reviewed. A copy of my letter is attached and it was e-mailed to [EOIR.IJConduct@usdoj.gov](mailto:EOIR.IJConduct@usdoj.gov) on February 11, 2013. My letter was confirmed as having been received by Judge Christopher Santoro on February 12, 2013. On my letter I explained how Judge (b) (6) conducts casts a stain on the court and that the behavior of Judge (b) (6) is unbecoming of a U.S. government official expected to handle cases and proceedings that are sensitive and life-changing.

In reference to my letter of concern, Judge Santoro emailed me asking that I call him. We spoke on Thursday, February 14, 2013. The tone and nature of the call left me perplexed and disappointed. During the phone conversation, the incidents that I referred to in my letter were not mentioned. Judge Santoro sounded unfocused—he just wanted to talk exclusively about my “background.” He also



insisted and demanded that I tell him how many years I have been practicing immigration law. That was all. The questions by Judge Santoro, however, were irrelevant to Judge (b) (6) unbecoming behavior. More important, the questions were irrelevant on how that behavior on the part of Judge (b) (6) shows in my opinion a lack of respect for the court, its procedures, and its participants. Further, Judge Santoro's questions were irrelevant on how Judge (b) (6) conduct may affect or even diminish the reputation of the (b) (6) Immigration Court, its leadership, and that of Immigration Judges as a whole. Judge Santoro just wanted to know how many years I had been practicing immigration law.

Thus, I am respectfully directing this letter to you as the Chief Immigration Judge, hoping, and respectfully asking once again, that the audio on both incidents and my letter be reviewed.

(b) (6)



**U.S. Department of Justice**  
**Executive Office for Immigration Review**

*Office of the Chief Immigration Judge*

5107 Leesburg Pike, Suite 2500  
Falls Church, Virginia 22041

March 11, 2013

(b) (6)

Dear (b) (6)

Your February 19, 2013 letter received in this office on February 20, 2013 has been referred to me for response. In your letter, you request further review of a complaint filed by you on February 11, 2013, regarding Judge (b) (6) of the (b) (6) immigration court. Your complaint was initially reviewed and addressed by Assistant Chief Immigration Judge (ACIJ) Christopher Santoro, who has supervisory responsibility for the (b) (6) court.

I have reviewed your prior and recent correspondence in which you raise concern about professional misbehavior on the part of Judge (b) (6) in proceedings conducted on February 8, 2013 and June 27, 2012. I have also reviewed the Digital Audio Recording (DAR) of the relevant proceedings, and conclude that ACIJ Santoro's resolution provided to you on February 20, 2013 was appropriate.

As noted by ACIJ Santoro, you are of course able to file motions to recuse with the immigration judge should you wish to do so, or appeal any decisions with which you disagree to the Board of Immigration Appeals.

Regards,

MaryBeth Keller  
Assistant Chief Immigration Judge  
Immigration Judge Conduct and Professionalism

# Immigration Judge Complaint Intake Form

**HQ Use Only:**  
complaint #: \_\_\_\_\_  
source: first / subsequent

Date Received at OCIJ: \_\_\_\_\_

complaint source type	
<input type="checkbox"/> anonymous <input checked="" type="checkbox"/> respondent's attorney <input type="checkbox"/> third party (e.g., relative, uninterested attorney, courtroom observer, etc.) <input type="checkbox"/> other: _____	<input type="checkbox"/> BIA <input type="checkbox"/> respondent <input type="checkbox"/> OIL <input type="checkbox"/> EOIR <input type="checkbox"/> OPR <input type="checkbox"/> DHS <input type="checkbox"/> OIG <input type="checkbox"/> Main Justice <input type="checkbox"/> media
complaint receipt method	
<input type="checkbox"/> letter <input type="checkbox"/> fax <input type="checkbox"/> IJC memo (BIA) <input type="checkbox"/> unknown	<input checked="" type="checkbox"/> email <input type="checkbox"/> phone (incl. voicemail) <input type="checkbox"/> in-person <input type="checkbox"/> other: _____
date of complaint source	complaint source contact information
(i.e., date on letter, date of appellate body's decision)  2/11/2013	name: _____ address: _____  email: _____ phone: _____ fax: _____
additional complaint source details	<div style="background-color: black; color: white; font-size: 48px; text-align: center; padding: 20px;">             (b) (6)           </div>
(i.e., DHS component, media outlet, third party details, A-number)	

IJ name	base city	ACIJ
(b) (6)	(b) (6)	Santoro
relevant A-number(s)	date of incident	
(b) (6)	1/8/2013 6/27/2012	
Allegations		
Complainant alleges that IJ's in-court conduct was belittling of complainant ((b) (6)) as well as contrary to regulation (b) (6). Nature of allegations more fully described below. Complainant also requests that IJ be forced to recuse (b) (6) from all future cases involving complainant.		
nature of complaint		
<input checked="" type="checkbox"/> in-court conduct <input type="checkbox"/> incapacity	<input type="checkbox"/> out-of-court conduct <input type="checkbox"/> other: _____	<input type="checkbox"/> due process <input type="checkbox"/> bias <input type="checkbox"/> legal <input type="checkbox"/> criminal

date	Action	initials
2/11/13	Complaint received via e-mail to IJC mailbox, forwarded to ACIJ	cas
2/11/13	<p>ACIJ listened to both hearings.</p> <p>With respect to (b) (6), complainant correctly states that the IJ refused to grant his unopposed COV motion until respondent filed an I-589 (which counsel said could be completed within a few months). While the IJ erroneously said that the regulations compelled such a result, there is nothing in the record indicating that the IJ's erroneous statement of the law was anything but that. There is no indication of bias against complainant.</p> <p><b>RESOLUTION: Dismissed/unfounded.</b></p> <p>With respect to (b) (6), the record reflects the judge's increasing frustration with either an unprepared or minimally-competent attorney (complainant) and/or an unprepared respondent. The presentation of evidence in this asylum merits hearing was confusing at best and the IJ correctly and necessarily interceded in an attempt to clarify the testimony. Respondent's counsel/complainant also spoke over the judge, tried to speak with the respondent in Spanish despite the presence of the official court interpreter, and generally seemed to be poorly versed in the relevant law and methods of proof. Examples can be found on the DAR recordings beginning at approximately time stamps 18:50, 30:30, 40:00-45:00, 53:00, 1:25:20, 1:42:00, 1:51:00, and 1:57:00.</p> <p>The heart of the complaint is that the IJ allegedly made "personal comments about the quality of the counsel's presentation" and demeaned him. The IJ's frustration at counsel's presentation is most evident between 56:22 and 59:20. After several rounds of questions and answers that were either unexpected or confusing, the IJ asked complainant whether he knew his client. Complainant quickly took offense and engaged in an inappropriate dialog with the court. While the IJ's initial "do you know your client?" question was not the most effective means to handle the situation, the IJ's demeanor and temperament remained calm throughout, even in the face of complainant's raised voice. The IJ and complainant went back and forth for a few moments and then the IJ took a recess to give complainant "a breather." When court resumed, the acrimony was no longer evident; counsel's performance, however, did not meaningfully improve.</p>	cas
2/11/13	ACIJ requested IJ's comments with regard to (b) (6) only; no mention was made of (b) (6). IJ was given until COB on 2/14/13 to respond if desired.	cas
2/13/13	ACIJ received comments from IJ acknowledging that (b) (6) was "a bit sterner than usual" but that (b) (6) aim was to get complainant to do a better job of direct examination. IJ denied that any conduct was unprofessional and stated that (b) (6) tone was warranted under the situation.	cas
2/14/13	ACIJ spoke via telephone with complainant. Complainant was extremely unprofessional, rude to ACIJ. Told ACIJ that he didn't expect to get a fair review/resolution of his complaint. MFR drafted summarizing telephone call.	cas

