



Detail

Complaint Number: 710 **Immigration Judge:** (b)(6) **Complaint Received Date:** 01/04/13

Current ACIJ **Base City** **Status** **Final Action** **Final Action Date**
Santoro, Christopher A. (b) (6) CLOSED Written counseling 01/09/13

Past ACIJ:

A-Numbers(s)	Complaint Nature(s)	Complaint Source(s)
(b)(6)	Bias In-court conduct	DHS

Complaint Narrative: Near the end of the TA's final argument, IJ and TA got into a "discussion" about the merits of the government's position. During the exchange, the TA made reference to immigration court not being "family court" and IJ and TA discussed that distinction on more than one occasion.

Complaint History	
01/07/13	ACIJ interviews CA regarding her potential knowledge of the incident
01/07/13	ACIJ listens to DAR
01/09/13	ACIJ interview witness present in the court
01/09/13	ACIJ receives response from IJ
01/09/13	Written counseling
01/10/13	Database entry created

Keller, Mary Beth (EOIR)

From: Santoro, Christopher A (EOIR)
Sent: Wednesday, January 09, 2013 10:56 AM
To: Keller, Mary Beth (EOIR); Scheinkman, Rena (EOIR)
Subject: FW: Request for information: 12/20/12

FYI

Christopher A. Santoro
Assistant Chief Immigration Judge

From: Santoro, Christopher A (EOIR)
Sent: Wednesday, January 09, 2013 10:56 AM
To: (b) (6) (EOIR)
Subject: Request for information: 12/20/12

Judge (b) (6),

Information was forwarded to me for review regarding something that is alleged to have occurred in your courtroom on December 20, 2012.

The gist of the information is as follows:

On December 19, 2012, you presided over the merits hearing in (b) (6) a 42B. Near the end of the trial attorney's closing argument you and he got into a "discussion" about the merits of the government's position. During the exchange, the trial attorney made reference to immigration court not being "family court" and you and he discussed that distinction on more than one occasion. (For your reference, this occurs on the DAR recording between approximately 2:55 and 3:05.)

On December 20, 2012, either before or after (b) (6), but while on the bench, you:

- Said you were quite disturbed about the reference the prior day's trial attorney (who was not in court on 12/20) made to "family court," and in so doing you mocked the voice of that assistant chief counsel;
- Said that you believed that "the attorney who replaced (b) (6) [was] not much better than (b) (6) in (b) (6) attitude";
- Made commentary about the security procedures in the (b) (6) Building and made reference to "the smiling blonde bitch at the metal detector"; and
- Made commentary about the difficulty of using WebTA, that you likely would not be paid, and that you had a mortgage and car payment due.

I have listened to the recordings made on December 20, 2012, and the comments alleged above were not made on the record. Thus, if they occurred at all, they appear to have been off the record.

Before I determine what (if anything) to do about these allegations I would welcome your recollections of the events of Dec 19 and 20. I would appreciate your comments by close of business this Friday, January 11. If that is unworkable for any reason please let me know and we can discuss an alternate response date. Thank you,

Christopher A. Santoro
Assistant Chief Immigration Judge

• **Keller, Mary Beth (EOIR)**

From: Santoro, Christopher A (EOIR)
Sent: Wednesday, January 09, 2013 4:32 PM
To: Keller, Mary Beth (EOIR)
Subject: FW: Follow-up to complaint

And there you go.

Christopher A. Santoro
Assistant Chief Immigration Judge

From: (b) (6) (EOIR)
Sent: Wednesday, January 09, 2013 4:22 PM
To: Santoro, Christopher A (EOIR)
Subject: RE: Follow-up to complaint

Thank You:

Lesson learned. Many of the suggestions and comments should be used in everyday life. My New Year's Resolutions will include being stoic in court.

(b) (6)

From: Santoro, Christopher A (EOIR)
Sent: Wednesday, January 09, 2013 3:00 PM
To: (b) (6) (EOIR)
Subject: Follow-up to complaint

Judge (b) (6),

Thank you for the information you provided regarding your 12/19/12 and 12/20/12 hearings. I have reviewed the initial complaint, spoken to others who might have been in a position to observe the alleged comments, and have reviewed my own e-mail exchanges with you with regard to the WebTA issues.

I have decided to close the complaint, but I offer you the following thoughts both as a fellow judge and as your ACIJ:

- I think you hit the nail on the head when you said, in your answer to my e-mail, that the best course of action is to remain stoic on the bench. You will never go wrong with that approach and I encourage you to adopt it. Many of us have the natural human tendency to want to develop rapport with others, which is not a bad thing. However, it creates potential problems if one side perceives the other side to have a better rapport with the court. The risk is not worth the reward. Pleasantness is good; being overly talkative usually is not.
- Please remember the discussions we've had about my expectations of the bench and the bar in (b) (6): I expect the court to show respect to the parties just as I expect the parties to show respect for the court. Starting on time is part of that. Being prepared for court is part of that. But just as much a part of that is not commenting on non-case related matters, expressing opinions about the parties or their positions, and always being conscious of what you say. As it relates to these allegations,
 - You should not have engaged in the debate with the trial attorney on 12/19/12 about the merits of (b) (6) position or the "family court" reference. You don't have to agree with either side's position or try to

convince them that you are correct. You are the judge: by definition, you will be correct. You don't need to try to talk them into seeing it your way. Hear their positions. Ask relevant questions designed to enable you to understand the position they're taking. Then rule. The strength of your analysis is what matters, not whether they ultimately come around to your way of seeing the case.

- You should not have made the comments about WebTA. The chronology appears to be that you made the comments immediately after (b) (6) pulled you off the bench to validate your timesheet after she got an e-mail from me. Comments like that only diminish people's respect for the court and EOIR and its processes. In a similar vein, when I was in court with you the day before, you made repeated comments in a packed courtroom about your frustration with the EOIR help desk and the PIV login procedure (this was the day you were delayed about 30 minutes in starting your master because of the login problems).
- You should not be commenting on the security procedures at the (b) (6) building. More than one person in your courtroom on 12/20 recalls your commenting negatively about the security procedures. Again, there is no reason for a judge to be making those comments from the bench. If you want to vent, vent to me or your fellow judges. Do not vent to court staff. Do not vent in court. All that does is diminishes the public's perception of the court, its personnel, and our professionalism. We've talked about this before and there should be no confusion on that point.
- Similarly, there is usually no good reason to comment about a case to unrelated parties. One of the allegations was that you made personal comments about (b) (6) and (b) (6) when they were not present. Your e-mail response to me suggests that the thoughts attributed to you accurately reflect your opinions, so perhaps you conveyed something about (b) (6) and (b) (6) that was unintended or unintentional. Nonetheless, even comments that may seem innocuous or intended as pre-hearing banter with the parties may not be perceived as such.
- We've talked before about the recording's being your friend – it is a great help in protecting a judge from unfounded complaints. To that end, I would encourage you to adopt the following practice:
 - Do not say anything in court that is not related to the case before you, other than "good morning/afternoon" and similar pleasantries.
 - Do not say anything about any case that is not on the record (or, as per my prior e-mail and the OPPM, fully summarized when you go back on the record).
 - Do not comment on internal EOIR procedures, personnel, policies, technology, etc.
 - Do not "argue" with the parties in an attempt to bring them around to your way of thinking.

As always, I'm here for you to vent to when/if needed. But please read, re-read, and save this e-mail and please do strongly consider adopting a "no extraneous comments" approach in court.

Christopher A. Santoro
Assistant Chief Immigration Judge