



Detail

Complaint Number: 787

Immigration Judge: (b)(6)

Complaint Received Date: 07/23/13

Current ACIJ
Santoro, Christopher A.

Base City
(b) (6)

Status
CLOSED

Final Action
Complaint dismissed because it
was disproven

Final Action Date
07/31/13

Past ACJIS:

A-Numbers(s)	Complaint Nature(s)	Complaint Source(s)
(b)(6)	Due process	Third party (b) (6) (b) (6)

Complaint Narrative: ICE held respondent in detention for 6 mos without filing NTA; IJ did not provide due process.

Complaint History

07/23/13	ACIJ listens to the hearing
07/30/13	IJ conducts subsequent hearing. Sets new hearing for contested charges.
07/31/13	Complaint dismissed because it was disproven
08/13/13	Database entry created

Moutinho, Deborah (EOIR)

From: (b) (6)
Sent: Monday, July 22, 2013 12:56 PM
To: IJConduct, EOIR (EOIR)
Subject: Letter for the Chief Immigration Judge from (b) (6)
Attachments: Signed letter for the Chief Immigration Judge.pdf

Hello,

This letter is urgent. We request that it is reviewed and acted upon asap. Thank you for your consideration and assistance in this most pressing matter. If you received the previous letter it did not include the additional document and the letter was unsigned. This the updated copy.

Kind Regards,

(b) (6)

(b) (6)

The Office of the Chief Immigration Judge

RE: This is a written complaint concerning Judge (b) (6) of the Immigration Court located in (b) (6)

On his release from (b) (6) Correctional Center, December 21, 2012, my husband (b) (6) was taken into custody by (b) (6) under the request of ICE. He was taken to (b) (6) Detention Center in (b) (6). From there he was transferred to the Federal Detention Center in (b) (6) where he stayed for several months until he was taken back to (b) (6) in June.

Near the end of his stay at (b) (6) was finally served with an NTA. Although they held my husband in their custody, it took the government 6 months to serve him with any papers. For almost 6 months he was held without a **Warrant for Arrest of Alien, Notice to Appear, Notice to Respond**, and without a **Notice of Custody Determination**. This is unlawful. It is my humble opinion that my husband was kidnapped.

Procedural Due Process

The Fifth Amendment's Due Process Clause protects against Federal Government Deprivation of Life, Liberty, or Property without fair and adequate procedures See **MATTHEW V. ELDRIDGE 424 U.S. 319 (1976)**

The Supreme Court recently reaffirmed that the Protection of Due Process Clause "applies to all persons within the United States including aliens, whether their presence here is lawful, unlawful, temporary, or permanent, See **Zadvydas V. Davls, 533 U.S. 678 (2001)**. While the court recognized that prior proceedings found full constitutional might not apply to an alien who had not "entered" the United States (including individuals stopped at the border and/or paroled into the United States) the court did not rule out that such precedent might no longer be good law, See **Zadvydas**.

Thus, for example, **Procedural Due Process** challenges may be to mandatory detention statues or practices in certain situations, it is generally a **violation of Procedural Due Process for the government conclusively to Presume "Unfitness", for some benefit on the basis of some event or characteristic without holding an individualized hearing on the issue of "Unfitness"**. Thus, Procedural Due Process challenges may be mandatory detention rules that do not permit an individualized hearing on the issue of whether an individual is a threat to the community or a flight risk in certain situations.

Unfair Procedures

- It was wrong for DHS/ICE to take (b) (6) into custody on 12/21/12 without a **Warrant for Arrest of an Alien, Notice To Appear, Notice To Respond, or a Notice Of Custody Determination.**
- It was unfair that (b) (6) was held in prison from 12/21/12 to 06/03/13 without a **Warrant for Arrest of an Alien, Notice To Appear, Notice To Respond, or a Notice Of Custody Determination.**
- It was unfair practices for DHS/ICE to deprive (b) (6) of Life, Liberty, or Property without fair and adequate procedures by serving him with all documents stated above on 6/3/12, almost 6 months after he was detained in (b) (6) and FDC (b) (6) and then back to (b) (6)
- It was unfair for DHS/ICE not to provide (b) (6) the opportunity to secure the right counsel of choice to defend him in the proper manner instead of being dictated to by Judge (b) (6)

The Immigration Judge Did Not Conduct The Hearing Lawfully

On 06/18/13 a Master Hearing was held via video conferencing with attorney (b) (6) (b) (6) Judge (b) (6) and (b) (6) After approaching the bench Judge (b) (6) phoned (b) (6) attorney. They both agreed to talk "off the record". Attorney (b) (6) stated to the judge, "I have been wracking my brains all day to see if there is any relief for my client (b) (6) Can you think of any?" Judge (b) (6) answered, "No, I don't think so." (b) (6) continued on to say, "I think (b) (6) has 2 charges against him". It troubled my husband that the judge used the word "think". Judge (b) (6) then informed our attorney that (b) (6)

would allow 5 minutes for him to speak with my husband. The judge then instructed the government to step out with (b) (6) so our attorney could speak privately with (b) (6). Our attorney advised my husband to plead guilty to everything and go back to England. My husband stated he informed the attorney that he could do whatever he wanted, but he was not going back to England. The attorney then called back for the judge and government to return. Upon return Judge (b) (6) asked if we had come to a decision, quickly interjecting, "this is off the record". (b) (6) our attorney, then stated, "We think it is best for (b) (6) to go back to England." My husband states the judge then smiled and said, "We are going on the record now." Then Judge (b) (6) began to direct all 8 allegations against (b) (6) to our attorney to enter a plea of yes for all charges, which our attorney proceeded to answer yes to. At this point my husband interrupted the proceedings to defend himself; something our lawyer forgot how to do. He spoke out because the both line was that answering yes was simply a lie. Judge (b) (6) then asked (b) (6) if he wanted to dismiss his attorney. My husband was led to answer no for the time being. Judge (b) (6) then set a new date for an Individual Hearing set for 7/30/13 at 8:30 am.

Our attorney has now removed himself from the case. In his words he sees no relief except deportation. At this point the family has exhausted all funds to hire a new attorney. So, we must go forward without an attorney. We stand as one. We are now representing and speaking out on (b) (6) behalf. We have the following questions which need to be addressed.

- Why did Judge (b) (6) attempt to deport (b) (6) at a Master Hearing without every holding an Individual Hearing?
- During the hearing, why did Judge (b) (6) go off the record for such issues that provided great importance to (b) (6) case?
- Why was time afforded off the record under the request of Judge (b) (6) for counsel for (b) (6) to advise him to lie and plead guilty in a court of law to all charges?
- Why was it that the hearing did not allow an opportunity to hear both sides? Judge (b) (6) dictated all that transpired. It seemed as though the court was uninterested in hearing any argument as to why (b) (6) should be released.
- Is it the normal practice for an immigration judge to wear five different hats in (b) (6) courtroom? During the hearing Judge (b) (6) acted on behalf of (b) (6) the judge, attorney for the defendant, represented the government, the clerk, and bottom line (b) (6) wore the hat of a dictator.

- After Judge (b) (6) stated, "I don't think he has any relief", are we correct in our determination that it was a Violation of Procedural Due Process for Judge (b) (6) to conclusively presume Unfitness for some benefit of relief on the basis of some event or characteristic without holding an individualized hearing on the Issue of Unfitness?

Conclusion

We, (b) (6) and the (b) (6) family feel that the conduct of Judge (b) (6) (b) (6) at the Master Hearing on 06-18-13 (incidentally the court date was set for 6/25/13, but on the evening of 6/17/13 (b) (6) was notified that (b) (6) was appear for court the next day. At hearing this news he made a phone call to the family to call the law office in the morning of the 18th to alert them of the change in date.) We feel that Judge (b) (6) conducted the hearing as a dictator being bias toward the government, and (b) (6) failed to conduct the hearing in the guidelines of a **Constitutional Proceeding**, which we feel was unlawful.

Before entertaining or let alone making such statement as (b) (6) did not think there was any relief, Judge (b) (6) should have first addressed the issue with the government as to why (b) (6) was not served with an NTA or Arrest Warrant until after he was detained for almost 6 months. Surely, (b) (6) being an immigration judge and formerly (b) (6) was well aware of the fact that this was a velar violation which infringed upon the rights of (b) (6) Fifth Amendment's Due Process. Let it also be noted that the Judge, (b) (6) violated the Due Process of (b) (6) by determining that (b) (6) was Unfit for Relief without validating his findings on any substantiated Information or proof.

DHS/ICE and the courts do not have the excuse that there was not enough time to review this case. They had more than sufficient time to gather all documents pertinent to this case. On May 16, 2012 (b) (6) sent DHS and the Office of the Chief Counsel a letter, which I am also including for your review. This letter is proof of the time the government had to prepare for this case.

Let it be known that (b) (6) has been married to (b) (6) for almost 30 years. We have 5 children and 5 grandchildren. He is not a threat to society or the community. Neither is he a flight risk. We feel if someone would take the time to review his case. If someone would uphold the intent of the law (as we do not believe it is the government's intent to break up families) in good conscience, we feel that there is relief for (b) (6) (b) (6) that will release him to return to his family here in the US to hold 2 of his 5 grandchildren

that he has never met before. Therefore, we humbly request that the Office of the Chief Immigration Judge provide Judge (b) (6) clear direction to delve further into these matters which will result in the termination of the Unlawful NTA and provide (b) (6) with relief returning him to his family and church.

Respectfully submitted by:

(b) (6)

Yours Truly,

(b) (6)

Department of Homeland Security
Office of Chief Counsel

May 16, 2012

(b)(6) & (b)(7)(C)

Re: Current status

I am writing this letter to bring to light some issues that may directly impact my immigration status here. As you know, I am currently detained at the (b)(6) County Correctional Center in (b)(6). The charge was conspiracy. I was indicted on December 3, 2002, lost my trial in 2005 and was sentenced on October 03, 2009.

I self-surrendered on August 16, 2010. To this date, the U.S. Government has had a problem in proving the loss amount in my case. Moreover, on February 2009, the Honorable Judge (b)(6) came to a conclusion that there was no restitution in my case (see 20 page signed document 840).

A few weeks later, my attorney, (b)(6) and my co-defendant's attorneys met with Assistant U.S. Attorney (b)(6) and came to a consensus for sentencing purposes only. This agreement was supported by a one page document which was not signed and furthermore, was not supported with an opinion by the Honorable Judge (b)(6) (see document #1). This consensus procedure was done without my knowledge. I did not know about this hearing until June of 2011. When I challenged my attorney on several issues, (see letter from my attorney, (b)(6) (b)(6) The reason all of this came up was that I was in the process of preparing my documents for my 2255 habeas corpus appeal when I asked my attorney about how the loss amount for sentencing was determined when there was no loss. He could not answer me because there was no supporting documents and the judge did not go to the trial transcripts to determine the loss. Even though I was sentenced to 36 months, my attorney and the government never came up with a calculation to support the sentence. Consequently, I am waiting for the results of my 2255 appeal to determine the appropriate sentence, (if any).

I would also like to request a change of venue to (b)(6) the jurisdiction where I preside in. My Immigration attorney is in that jurisdiction, he

works for the (b) (6) in (b) (6), and he is very familiar with the Immigration officials there.

My family status is that I have been married to the same woman for almost 30 years. My wife, (b) (6) was born and raised in the United States. She also is a legally ordained Minister under the (b) (6) where (b) (6) (b) (6) is the presiding bishop. I also have five children, 3 boys and 2 girls, (b) (6) who were born and raised in the United States. They all currently work side-by-side in the church ministry, they have been to college, and are currently working hard, paying their taxes. I have always stressed to my children to stay away from illegal activities, especially when it came to drugs. I can honestly say that they have done as I asked. It has been over 3 years now that I have been away from my family, and I hope that you will give me the opportunity to rejoin my family again, to rebuild it as the strong union bond that it was before. My family is hoping the same as well.

I also have five grand-children. My father and mother, (b) (6) (b) (6) who are green card holders, reside in (b) (6) Unfortunately my mother has suffered for quite a while with mialoma cancer, which is in its final stages. My father has had a triple by-pass, prostate cancer, and a back operation recently. I have always been supportive of my parents during their sickness, and will continue to do so upon my release.

The church that I attend (b) (6) in (b) (6) I am responsible for the sound and media department. Before my case, I was a Minister of Music over the entire music department for 24 years. In this same church, my sons are musicians that travel with the Bishop. My daughter is a key factor in the (b) (6) (b) (6) where she sings and teaches. My wife serves on the Minister's Board as one of the main soloists in the choir. On my release, I will be going back to my regular duties in this ministry.

Also, on my release, I have my job and position waiting for me. Before I turned myself in, I ran the used car department for (b) (6) in (b) (6) (b) (6) where the owner is (b) (6) If you require letters to confirm all my factors, that I will be going back into after my release, I shall provide them with no hesitation.

Without going into a lot of detail concerning my case, I was simply in the wrong place at the wrong time. The government wanted me to testify against someone who was my boss at that time. With my beliefs and background, I would never implicate another person to the authorities to keep myself from prosecution, especially since I knew in my heart that I was innocent. I believe in family values, upholding the laws of this nation, and if I am given the opportunity to go back to society, I will not ever be a burden to the system.

I would like to know who my deportation agent is, and ask that you would forward this letter, with the attachments, to him so that this could help determine my status in advance.

Thank you for your time and consideration in this matter.

Sincerely,

(b) (6)

Immigration Judge Complaint Intake Form

HQ Use Only:
complaint #: _____
source: first / subsequent

Date Received at OCIJ: 7/23/2013

complaint source type	
<input type="checkbox"/> anonymous <input type="checkbox"/> respondent's attorney <input checked="" 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 (i.e., date on letter, date of appellate body's decision)	complaint source contact information
7/23/2013	name: _____ address: _____ email: _____ phone: _____ fax: _____
additional complaint source details (i.e., DHS component, media outlet, third party details, A-number)	
(b) (6)	

IJ name	base city	ACIJ
(b) (6)		Santoro
relevant A-number(s)	date of incident	
(b) (6)	6/18/2013	
allegations		
ICE held respondent in detention for 6 mos without filing NTA; IJ did not provide due process by: (1) failing to inquire about prolonged detention, (2) using the word "think" when saying (b) (6) didn't think the respondent had any relief available, (3) judge served as trial attorney, defense attorney, clerk, judge, and "dictator," (4) failing to "hear any argument," and (5) providing "off-the-record" time to allow R's attorney to advise the R to lie and concede the charges.		
nature of complaint		
<input type="checkbox"/> in-court conduct <input type="checkbox"/> incapacity	<input type="checkbox"/> out-of-court conduct <input type="checkbox"/> other: _____	<input checked="" type="checkbox"/> due process <input type="checkbox"/> bias <input type="checkbox"/> legal <input type="checkbox"/> criminal

Moutinho, Deborah (EOIR)

From: IJConduct, EOIR (EOIR)
Sent: Wednesday, September 04, 2013 11:38 AM
To: (b) (6)
Subject: RE:(b) (6)
Attachments: Second Response Letter 9-4-13 to (b) (6).pdf

Please see the attached response

Thank you

Office of IJ Conduct and Professionalism

From: (b) (6)
Sent: Tuesday, September 03, 2013 5:34 PM
To: IJConduct, EOIR (EOIR)
Subject: RE: (b) (6)

Hello,

Please forward the attached letter to the Chief Immigration Judge for urgent review and action.

Thank you for your assistance in this matter.

Kind Regards,

(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

September 4, 2013

(b) (6)

Dear (b) (6)

We received your letter dated September 3, 2013, which was a follow-up to your July 23, 2013 letter. In our July 31, 2013 response to your initial letter, we advised you that your concerns about your husband's being held in detention prior to the service of a Notice to Appear should be directed to the Department of Homeland Security. Neither we nor the immigration judge have general oversight authority over ICE or other Department of Homeland Security components. Those matters, therefore, should be raised to appropriate DHS office(s) for their review.

As in your first letter, your recent letter includes questions about immigration law and procedure. I am unable to answer those questions and recommend that you consider retaining an attorney. A list of low- or no-cost attorneys can be found on the Department of Justice web site at: <http://www.justice.gov/eoir/probono/states.htm>.

The law prohibits us from directing a judge to reach any particular outcome in a specific case. We also cannot interfere with a judge's independent decision-making. Therefore, your husband should raise his concerns to the immigration judge at his next scheduled hearing (or before the hearing by filing a motion). Your husband may also have the right to appeal adverse decisions to the Board of Immigration Appeals. I note that your husband and the judge talked about his appeal rights at his August 14 hearing. Additional information about appellate rights is available through the immigration court or at the Board's web site: <http://www.justice.gov/eoir/biainfo.htm>.

Sincerely,

Christopher A. Santoro
Assistant Chief Immigration Judge