



Detail

Complaint Number: 750

Immigration Judge: (b)(6)

Complaint Received Date: 04/11/13

Current ACIJ
Sukkar, Elisa M.
Past ACTIS:

Base City
(b) (6)

Status
CLOSED

Final Action
Oral counseling

Final Action Date
04/22/13

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

Complaint Narrative: Attorney complains judge denied COV, refused to adjudicate Motion to Withdraw/Telephonic Hearing, refused to accept documents from R and issued an OSC for attorney discipline. Further, the judge expelled her from the courtroom for no reason. The complainant was "thrown-out" of the courtroom.

Complaint History

04/17/13	ACIJ listens to DAR
04/17/13	ACIJ requests a response from the IJ
04/17/13	ACIJ speaks to the complainant
04/18/13	ACIJ has a discussion with the judge
04/22/13	Oral counseling
05/01/13	Database entry created

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 type="checkbox"/> email <input checked="" 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
April 11, 2013	name: (b) (6) Esq. address: _____ _____ _____ email: _____ phone: (b) (6) fax: _____
additional complaint source details (i.e., DHS component, media outlet, third party details, A-number)	
A(b) (6)	

IJ name	base city	ACIJ
IJ (b) (6)		ACIJ Sukkar
relevant A-number(s)	date of incident	
A(b) (6)	April 10, 2013 (Individual Hearing)	
allegations		
Attorney complains that judge denied COV, refused to adjudicate Motion to Withdraw/Telephonic Hearing, refused to accept documents from respondent and issued an OSC for attorney discipline. Further, that the judge expelled her from the courtroom for no reason without allowing her to explain the posture of the whereabouts of the respondent's file. The judge had asked the complainant to explain the location of the file. The complainant was interrupted and then "thrown-out" of the courtroom.		
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 checked="" type="checkbox"/> due process <input checked="" type="checkbox"/> bias <input checked="" type="checkbox"/> legal <input type="checkbox"/> criminal

date	action	initials
4-11-2013	Attorney calls to complain about IJ.	EMS
4-17-2013	ACIJ speaks to complainant. She states a set of circumstances involving a COV motion that was denied. She appears at a hearing when there is another attorney and a substitution of counsel. The judge finally grants her Motion to Withdraw. Attorney proceeds to answer questions from the judge about the file. The DHS objects. The judge becomes agitated because (b) (6) is pressed for time. The complainant is interrupted, the judge assumes (b) (6) is making a case to defend (b) (6) from the OSC, and tells (b) (6) to "remove herself from the courtroom."	EMS
	The complainant states that she was humiliated for no reason. She states she has a good reputation as an attorney in (b) (6). She states she has never been "thrown out" from any court.	
4-17-2013	ACIJ listens to DAR.	EMS
4-17-2013	ACIJ sends an e-mail to the judge asking to listen to DAR and provide a response.	EMS
4-18-2013	Judge replies that (b) (6) has listened to DAR. (b) (6) states (b) (6) was concerned as to the fact the case was pending a long time. Also, (b) (6) wanted to clarify where the respondent's file was. The judge acknowledges that (b) (6) should have listened to DHS counsel and have the attorney address these concerns outside of court. (b) (6) was also in the middle of another case.	EMS
4-18-2013	ACIJ has a discussion with judge and addresses all of these concerns. These are treated as complaints. It is important to allow parties to fully explain their positions or state their case without interruptions. Allow attorneys and respondents to fully address the court. Do not tell people to leave the courtroom unless a security issue is imminent.	EMS
	On April 8, 2013, ACIJ had full review and discussion with the judge as part of the probationary period review.	
4-22-2013	The complaint is substantiated since the judge was not as patient as (b) (6) could have been. The judge received oral counseling and the matter is now closed.	EMS

Keller, Mary Beth (EOIR)

From: Sukkar, Elisa (EOIR)
Sent: Thursday, April 18, 2013 10:34 AM
To: Keller, Mary Beth (EOIR)
Cc: Kelly, Ed (EOIR)
Subject: FW: IJ Conduct Complaint

FYI

From: Sukkar, Elisa (EOIR)
Sent: Thursday, April 18, 2013 10:33 AM
To: (b) (6) (EOIR)
Subject: RE: IJ Conduct Complaint

Good Morning Judge:

The attorney explains that she was not trying to address the OSC at all but was trying to make it clear, after being asked, that she had no file to give. That she had only been representing the respondent for 45 days and her file only consisted of a COV motion and a skeleton cancellation application both of which she had already e-mailed to (b) (6). There was no file to hand over. She said that to the extent you had issued an OSC and felt disciplinary proceedings were over her head, that she wanted it to be known that she had no documents or files to turn over. Any and all documents, at best, were with the first attorney of record and not with her. That is what she was trying to explain to you.

She had no intent of addressing the OSC in open court and in front of her colleagues. Please keep in mind that any discussion of disciplinary proceedings is confidential and she had no intent of addressing your concerns publicly.

She felt she never had a chance to even explain all of this to you when she was interrupted, not allowed to explain and then was expelled from the courtroom for no reason. Hearing someone out fully is crucial so that matters do not escalate.

You assumed that (b) (6) was not representing the truth. (b) (6) turned over the extent of the file that was in her possession. And that was what she was trying to explain to you. Both attorneys were representing the truth. But it seems there was this assumption by the court, as you have indicated below, that one was not telling the truth.

Even the DHS attorney was objecting to what the court was doing and the path that the discussion had taken. It was good advice and, as you have indicated, a good suggestion.

Let's try to connect this afternoon at the end of the day so we can discuss further. I am at (b) (6) today at (b) (6)

Thanks you,

EMS

From: (b) (6) EOIR)
Sent: Thursday, April 18, 2013 8:44 AM
To: Sukkar, Elisa (EOIR)
Subject: RE: IJ Conduct Complaint
Importance: High

Good morning Judge, I listened to the DAR last week.

My main concern was that no further delays be caused resulting from the respondent's file not being turned over to new counsel. (b) (6) stated on the record that she had provided (b) (6) with the file. After (b) (6) left the Courtroom (b) (6) clearly stated that was not the case. (b) (6) then returned and I asked her to please address only where the file was (this was clearly a huge mistake on my part) and she insisted on addressing the OSC and further kept trying to tell me why she was having trouble representing the Respondent implying that the Respondent was misrepresenting things to her. His statements on the record from the last hearing were that she told him she would not appear in court if he didn't pay her. This is exactly what she told my assistant when she called to tell him to let me know she had no intention of appearing in court in spite of my order if she was not paid.

(b) (6) insisted on addressing the OSC in open court. I made it clear to her that I did not have the time to hear her on the OSC, that she could and should address it in writing and that I needed to move on because I had interrupted another hearing in order to reset this case as it was clear I would not have sufficient time to hear the matter that day. I literally pleaded with her repeatedly to simply address the issue of the file transfer as concisely as possible then and there and to address the OSC in writing. When it was clear that she was going to continue speaking and doing as she pleased I did what was advised to me in training and that was to take a recess (announce that I was going to step out and leave the courtroom) to diffuse the situation. I did tell her that I expected her to remove herself from the courtroom by the time I returned and she did so. When I left the bench I went to (b) (6) and let her know what was going on so that any further escalation could be avoided and I turned it over to her. As stated, by the time I returned she had left. Once I returned the DHS found it necessary to state on the record that after I had left the Court (b) (6) attempted to engage him repeatedly expecting him to take a position which he declined before she left. I learned of this because he insisted on addressing this on the record. His statement can be heard on the DAR as well.

(b) (6) was present during this incident as was the DHS attorney, (b)(6) & (b)(7)(C) and of course (b) (6) respondent's new attorney and the respondent himself.

In retrospect I understand that I should not have addressed her as to the whereabouts of the file. I did this because (b) (6) had made a clear statement that (b) (6) representation that she had given her the respondent's file was not true. I figured I'd want the opportunity to address that if my representation to a court was questioned and for this reason alone I called on her to state her position. I realize this was a huge mistake. This was raised by the DHS and I clearly should have done as he suggested which was to not address the matter in court.

I do not believe I treated her disrespectfully. I trust you will let me know if this is not reflected in the DAR when we discuss the matter. I will make myself available at your convenience. Please let me know when your schedule allows.

Thank you.

MG

Sincerely,

(b) (6)
Immigration Judge
U.S. Department of Justice

(b) (6)

From: Sukkar, Elisa (EOIR)
Sent: Wednesday, April 17, 2013 5:12 PM
To: (b) (6) (EOIR)
Subject: IJ Conduct Complaint
Importance: High

Good Afternoon Judge (b) (6)

I wanted you to know that attorney (b) (6) has called lodging a complaint as to events that transpired in your courtroom on April 10, 2013 in the matter of A (b) (6)

This is the case involving the COV and the OSC that you issued in which EOIR Counsel Jennifer Barnes was contacted.

The attorney will mail a copy of her response to the OSC for my review so that I become familiar with this matter.

She complains how she was treated during the hearing on April 10, 2013. She indicated she felt humiliated when after being asked to address the issue of the respondent's file in "one minute" (after she had been granted a Motion to Withdraw), she was interrupted, was not allowed to explain and then was thrown out of the courtroom when you told her she needed to be "gone" or she had to "remove herself" from the courtroom by the time you came back to address the matter with the new attorney.

She also indicated that the OSC was first issued and served on the respondent in open court on April 4, 2013 before it was even served on her.

Please listen to all the DAR recordings in this matter and please provide a response as soon as possible.

After you listen to DAR, please let's set up another meeting so we can address this matter.

Thank you,

Judge Sukkar