

EXHIBIT 11

~~FILED UNDER SEAL~~

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

ABDIQAFAR WAGAFE, et al., on :
 behalf of themselves and others : Case No.:
 Similarly situated, : 17-CV-00094 RAJ
 Plaintiffs, :
 VS. :
 DONALD TRUMP, President of the :
 United States, et al., :
 Defendants. :

Washington, DC
Thursday, December 12, 2019

Videotaped Deposition of CHRISTOPHER M.
HEFFRON held at U.S. Department of Justice, 450 5th
Street, NW, Washington, DC 20530, commencing at 9:55
a.m., before Sherry L. Brooks, Certified LiveNote
Reporter and Notary Public, in and for the District
of Columbia.

1 APPEARANCES:

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1 APPEARANCES CONTINUED:

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10 U.S. DEPARTMENT OF JUSTICE

11 450 5th Street

12 Washington, DC 20007

13 (202) 598-8173

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15

16 ALSO PRESENT:

17 Nancy Holmstock, Videographer

18

19 USCIS Attorneys:

20 Caitlin Miller, Esq.

21 Danielle Blair, Esq.

22

1 APPEARANCES CONTINUED:

2

3 ALSO PRESENT:

4 Other Government Attorneys:

5 Lindsay Murphy, Esq.

6 Jesse Busen, Esq.

7 Victoria Braga, Esq.

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1 C O N T E N T S

2 THE WITNESS:

3 CHRISTOPHER M. HEFFRON

4 By Ms. Pasquarella 8

5

6 E X H I B I T S

7 HEFFRON EXHIBIT NO. PAGE

8 Exhibit 24 Memorandum Dated 4/10/15 to 58
9 Matthew O'Brien

10 Exhibit 25 Email/Training Document 69

11 Exhibit 26 Memorandum Dated 3/22/17 to Andrea Weston 95

12 Exhibit 27 Structured Framework for Determining an 156
13 Articulable Link to National Security

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15 Exhibit 28 Attachment A-Guidance for Identifying NSC 171

16 Exhibit 29 FDNS-DS User Guide Updates and Training 179

17 Exhibit 30 Memorandum Dated 6/8/17 to Chris Heffron 221

18 Exhibit 31 Memorandum Dated 5/20/13 to Toni Swanson 229

19 Exhibit 32 National Background Identity and Security 239
20 Checks Operating Procedures

21 Exhibit 33 National Security Indicator Training 247
22 Booklet

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E X H I B I T S

4 HEFFRON EXHIBIT NO.

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5 Exhibit 34 Operational Guidance - Withholding of 266
6 Adjudication (Abeyance) Regulation

7 Contained at 8 CFR 103.2(b)(18)

8 Exhibit 35 Memorandum Dated 7/17/15 to Angela Gipson 284

9 Exhibit 36 Memorandum Dated 12/16/14 to John Wright 290

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11 Exhibit 38 Memorandum Dated 8/2/17 to Teresa Downey 302

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14 (EXHIBIT 25 RETAINED BY COUNSEL.)

15 (EXHIBITS ATTACHED TO THE TRANSCRIPT.)

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1 PROCEEDINGS

2 * * * * *

3 - THE VIDEOGRAPHER: We're on the record.
4 This is video Number 1, the video recorded deposition
5 of Christopher M. Heffron, in the matter of Abdiqafar
6 Wagafe, et al., plaintiff versus Donald Trump,
7 President of the United States, et al., defendant,
8 pending before the United States District Court,
9 Western District of Washington at Seattle, Case No.
10 2:17-CV-94.

11 This deposition is being held at the
12 location of 450 5th Street, Northwest, Washington, DC
13 on December 12th, 2019. The time is 9:55 a.m.

14 My name is Nancy Holmstock, video operator
15 representing the firm of Henderson Legal Services.
16 The court reporter today is Sherry Brooks in
17 association with Henderson Legal Services.

18 For the record, will counsel now please
19 introduce themselves and whom they represent?

20 MS. PASQUARELLA: Good morning. Jennie
21 Pasquarella for the plaintiffs.

22 MS. SEPE: Cristina Sepe on behalf of

1 plaintiffs.

2 MR. PEREZ: David Perez, Perkins Coie, on
3 behalf of the plaintiffs.

4 MR. HYATT: Heath Hyatt, Perkins Coie, on
5 behalf of the plaintiffs.

6 MR. KIPNIS: Brian Kipnis, Assistant
7 United States Attorney for defendants.

8 MR. BRINKMAN: Drew Brinkman for
9 defendants.

10 THE VIDEOGRAPHER: Would the court
11 reporter please administer the oath?

12 * * * * *

13 Whereupon,

14 CHRISTOPHER M. HEFFRON

15 called for examination by counsel
16 for Plaintiffs and having been duly
17 sworn by the Notary Public, was examined
18 and testified as follows:

19 - - -

20 EXAMINATION BY COUNSEL FOR PLAINTIFFS

21 BY MS. PASQUARELLA:

22 Q. Good morning, Mr. Heffron.

1 running together. Since sometime in mid 2008.

2 Q. And was there a particular unit of
3 headquarters FDNS that you were --

4 A. Yes. It was called the Law Enforcement
5 Support Operation.

6 Q. Okay. And where were you employed before
7 that?

8 A. Still with USCIS as a management and
9 program analyst, again, with headquarters, Fraud
10 Detection and National Security, and still in the Law
11 Enforcement Support Operation.

12 Q. And how long were you in that position?

13 A. From June of 2007 until whenever it was.
14 I kept doing the same job just as an immigration
15 officer.

16 Q. What are your current job responsibilities
17 as the field office director?

18 A. So my office is primarily responsible for
19 adjudicating immigration benefits that require
20 interviews, mostly adjustment of status applications,
21 and applications for naturalization.

22 My -- I'm responsible for a team of about

1 enforcement component to any of our like mandatory
2 year-over-year trainings.

3 And I don't -- I don't remember -- I don't
4 think so, but I don't remember for sure whether or
5 not we had anyone from law enforcement as part of a
6 guest lecture or a seminar or something in the
7 context of the FDNS officer basic course.

8 Q. Well, and more generally, you don't
9 remember ever receiving any training from the FBI?

10 A. No.

11 Q. Did you first come to work on CARRP when
12 you joined the SCO?

13 A. No. I was involved in -- no.

14 Q. When did you first come to work on CARRP?

15 A. I am very, very fuzzy on the exact date.
16 I just want to put that out there, but at some point
17 while I was an immigration officer in the law
18 enforcement support unit. So I honestly can't be
19 more specific than like, 2011, 2012.

20 Q. Okay. And what does the law enforcement
21 support unit do?

22 A. Their primary function is adjudicating

1 different potential routes.

2 Depending on -- depending on what the form
3 is -- I'm just going to go ahead and ignore asylum
4 and refugee completely because that's not something I
5 know a lot about and look at field operations and
6 service center operations in a domestic context.

7 Q. Well, to make it simpler, why don't we
8 just talk about a naturalization application?

9 A. Okay. That will help. So -- yeah. So a
10 naturalization application in N-400 would be filed
11 through a lockbox or now you can actually do them
12 online. The first major processing step for it is
13 the National Benefits Center.

14 So the National Benefits Center is part of
15 Field Operations Directorate and does -- essentially,
16 they kick off the process and do a lot of that
17 staging for applications that are going to end up
18 being interviewed in the field office.

19 Q. What do you mean by "staging"?

20 A. They try to obtain the A-file or other
21 records that the agency has. They initiate
22 background checks. They schedule -- depending on the

1 benefit if -- an N-400, for example, requirements a
2 biometric collection.

3 So they would schedule an appointment for
4 the applicant to come to an application support
5 center. They -- let's see.

6 To varying degrees that, again, are really
7 highly variable, depending on the benefit and even
8 within just an N-400, depending on the particular
9 part of the statute someone is eligible under; what
10 evidence they've submitted; what their immigration
11 history is. Either a contractor or an immigration
12 services officer will start reviewing the
13 application.

14 They'll look for things like completeness;
15 is everything filled out the way it's supposed to be
16 filled out; if there are supporting documents that we
17 need for any reason; are those present or do we need
18 to request them, that kind of -- that's what I mean
19 by staging.

20 Q. Where is the National Benefits Center
21 located?

22 A. It's is Lee's Summit, Missouri.

1 correct?

2 **A. Correct.**

3 Q. And then once -- at what point does the
4 application leave the NBC?

5 **A. From a time standpoint or a processing
6 standpoint?**

7 Q. From a processing standpoint.

8 **A. I was going to say the -- I asked because
9 the time is variable. From -- frankly, the
10 processing is, too. But from a processing
11 standpoint, an N-400 should. Not 100 percent of
12 them, but the majority of them should be scheduled
13 for an interview in the field by National Benefits
14 Center.**

15 **Once we have all of the background check
16 results and have completed any other processes that
17 need to be done, so if we're -- if there's some other
18 reason that we're going to review the application, if
19 something came up in background checks, that's --
20 that process is generally started at the National
21 Benefits Center.**

22 Q. So, for example, you mentioned like one of

1 Q. You yourself haven't provided training to
2 any non-USCIS officials about CARRP?

3 A. Not about CARRP, no.

4 Q. And can you recall anytime when USCIS
5 brought in officials from the FBI to provide training
6 to staff that handle CARRP cases?

7 A. I'm sorry. To clarify, the FBI was
8 training USCIS staff?

9 Q. Yes.

10 A. The only thing I can think of is our --
11 when an USCIS officer is assigned to a Joint
12 Terrorism Task Force there may be FBI training
13 associated with that. That was -- that was never my
14 -- I never served on one of those assignee jobs, so I
15 don't know.

16 Q. Is that -- sorry. You said that USCIS
17 officers are on occasion assigned to JTTF, correct?

18 A. Yes.

19 Q. Okay. Is that -- is that a regular thing?

20 MR. KIPNIS: Objection. Foundation.

21 BY MS. PASQUARELLA:

22 Q. Let me retract that. Under what

1 circumstances would an USCIS officer be assigned to
2 JTTF?

3 MR. KIPNIS: Same objection.

4 A. On my -- again, having never done the job
5 personally, my general awareness is local field
6 offices can -- can, depending on their relationship
7 with the local JTTF, work out an agreement to send a
8 local immigration officer to the JTTF as a liaison.

9 BY MS. PASQUARELLA:

10 Q. Would that be an FDNS IO who does that?

11 MR. KIPNIS: Same objection.

12 A. To my knowledge, yes, it would be.

13 BY MS. PASQUARELLA:

14 Q. Okay. And when they are working as part
15 of the JTTF, are they continuing to work immigration
16 benefit applications?

17 MR. KIPNIS: Same objection.

18 A. Again, as far as I'm aware of the assignee
19 relationship, they're still USCIS employees. They're
20 still performing USCIS work. They're still vetting.
21 They're still researching. They're just also
22 carrying out liaison functions to JTTF.

1 BY MS. PASQUARELLA:

2 Q. Are -- as part of the training that
3 officers handling CARRP cases are given, are there
4 any trainings that are given to address bias?

5 A. There is -- as far as I recall, there is
6 nothing that deals with bias training as part of the
7 -- the basic CARRP curriculum.

8 Q. And are you aware of any training
9 generally that USCIS provides to officers on bias?

10 A. I had a very -- a management conference
11 for my regional office for the southeast region back
12 in August, and they brought in a speaker that
13 discussed unconscious bias for about an hour and a
14 half. I don't know if I would call it training or
15 not.

16 And it was -- I think it was more focused
17 in a workplace managerial context, but that's the
18 only thing -- that's the only thing that comes to
19 mind.

20 Q. And so you're not aware of any training
21 that USCIS has provided to either the FDNS IOs or the
22 ISOs who handle CARRP cases about not improperly

1 equating national security concerns with lawful
2 activity?

3 Do you want me to rephrase?

4 **A. Please.**

5 **Q.** You're not aware of any efforts made by
6 USCIS -- let me start here -- any efforts made by
7 USCIS to train the FDNS IOs and ISOs who handle CARRP
8 cases on discrimination?

9 **A. Specific to the CARRP or national security**
10 **context, no.**

11 **Q.** And are you aware of any trainings for the
12 FDNS IOs and ISOs on Islam?

13 **A. No, I'm not.**

14 **Q.** And Islamophobia?

15 **A. No.**

16 **Q.** And concerns about improperly equating
17 national security concerns with what is otherwise
18 lawful activity?

19 **A. I don't just want to say a blanket no to**
20 **that because to some degree the CARRP training -- to**
21 **some degree the CARRP training talks about what kinds**
22 **of facts we're looking for that substantiate a**

1) **national security concern.**

2) Q. Well, my question is specific to when that
3) activity is -- is lawful activity such as traveling
4) to particular countries, that there's no particular
5) training that would help people ensure that they're
6) not bringing their own bias to that activity and
7) associating it with national security concerns
8) improperly?

9) MR. KIPNIS: Objection. Asked and
10) answered.

11) A. There's -- no. There is nothing that
12) looks at if officers are bringing their own bias in
13) that could cause them to misconstrue activities.

14) BY MS. PASQUARELLA:

15) Q. And similarly, there's no training that
16) you're aware of that would train people to be
17) sensitive to not equating religious activity with
18) national security concerns?

19) A. I'm not aware of a formal training for
20) that, no.

21) MS. PASQUARELLA: This is Exhibit 34.

22) (Exhibit Number 34 was marked for

1 MR. KIPNIS: Same objection.

2 A. I'm not sure what you mean by, "at what
3 point." After how much work? at what step in the
4 process?

5 BY MS. PASQUARELLA:

6 Q. Yeah. How much vetting has to happen to
7 conclude that the tip was erroneous?

8 MR. KIPNIS: Same objection.

9 A. And again, I'm both speculating and saying
10 that's really dependent on the facts of the case.

11 BY MS. PASQUARELLA:

12 Q. Okay. Because there's no guidance that
13 the agency provides about how much vetting has to
14 happen to decide that an allegation that's made about
15 someone is unsubstantiated, correct?

16 MR. KIPNIS: Lack of foundation.

17 A. To the best of my knowledge, there is no
18 specific guidance that can articulate when enough
19 vetting is enough.

20 BY MS. PASQUARELLA:

21 Q. Okay.

22 A. That tends to be a hard thing to explain.

CONFIDENTIAL

Heffron, Christopher M.

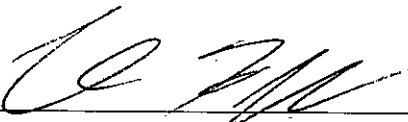
December 12, 2019

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ACKNOWLEDGMENT OF DEPONENT

I, Christopher Heffron, do hereby
acknowledge that I have read and examined the
foregoing testimony, and the same is a true, correct
and complete transcription of the testimony given by
me, and any corrections appear on the attached Errata
Sheet signed by me.

1/24/20 
(DATE) (SIGNATURE)

NOTARIZATION (If Required)

State of _____
County of _____

Subscribed and sworn to (or affirmed) before me on
this _____ day of _____, 20____, by
_____, proved to me on the
basis of satisfactory evidence to be the person who
appeared before me.

Signature: _____
(Seal)

1 UNITED STATES OF AMERICA)

2 ss:

3 DISTRICT OF COLUMBIA)

4 I, SHERRY L. BROOKS, a Notary Public
5 within and for the District of Columbia, do hereby
6 certify that the witness whose deposition is
7 hereinbefore set forth was duly sworn and that the
8 within transcript is a true record of the testimony
9 given by such witness.

10 I further certify that I am not related to
11 any of the parties to this action by blood or
12 marriage and that I am in no way interested in the
13 outcome of this matter.

14 IN WITNESS WHEREOF, I have hereunto set my
15 hand this _____ day of _____, 20____.

16

17

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Notary Public in and for

20

the District of Columbia

21

My Commission Expires:

22

November 14, 2020

ERRATA SHEET FOR THE TRANSCRIPT OF:

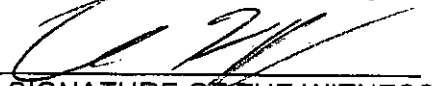
Caption: Abdiqafar Wagafe, et al. v. Donald Trump, President of the United States, et al.

Deponent: Christopher M. Heffron

Dep. Date: December 12, 2019

I wish to make the following changes for the following reasons:

Pg.	Ln.	Now Reads	Should Read	Reasons Therefore
6	10	Sang	Sung	Misspelled
21	12	"The agency is a"	"the agency's"	Mistranscribed
28	13-14	& Genteel	Gentile	Misspelled
62	4	conducting, vetting, and obtaining	conducting, vetting and obtaining	Misplaced commas
81	10	in N-400	, an N-400,	Mistranscribed
82	1	requirements	requires	Mistranscribed
87	6	who does it?	By whom? who does it?	Misattributed
87	6	who does it?	Q: who does it?	Misattributed
102	7	applications would	applications that would	Mistranscribed
106	10	workout	lookout	Mistranscribed
107	6	TECS	text	Mistranscribed
116	18	other	or	Mistranscribed
118	9	headquarters, IOs,	headquarters IOs	Misplaced commas


SIGNATURE OF THE WITNESS

this 29th day of January, 2020.

ERRATA SHEET FOR THE TRANSCRIPT OF:

Caption: Abdqafar Wagafe, et al. v. Donald Trump, President of the United States, et al.

Deponent: Christopher M. Heffron

Dep. Date: December 12, 2019

I wish to make the following changes for the following reasons:

Pg.	Ln.	Now Reads	Should Read	Reasons Therefore
123	20	thing	things	Mistranscribed
149	3	It oddly	It is oddly	Mistranscribed
157	17	that it	that we	Mistranscribed
166	15	agency and	agency rule and	Mistranscribed
170	15	in	and	Mistranscribed
189	21	NDS	in DS	"
191	20	me as	me is	"
193	2	new	not	"
196	12	assessment internal	assessment and internal	"
196	21	does	Then	"
204	17	vatted	vetting	"
215	3	No that	Not That	"
217	18 18	in	an	"


SIGNATURE OF THE WITNESS

this 24th day of January, 2020.

ERRATA SHEET FOR THE TRANSCRIPT OF:

Caption: Abdiqafar Wagafe, et al. v. Donald Trump, President of the United States, et al.

Deponent: Christopher M. Heffron

Dep. Date: December 12, 2019

I wish to make the following changes for the following reasons:

Pg.	Ln.	Now Reads	Should Read	Reasons Therefore
222	12	like	that	Mis transcribed
240	9	cite	site	"
242	5-6	operations refugees	operations, refugees	"
242	6	affairs	operations	"
257	9	the	a	"
259	6	office	officer	"
279	8	NDS	in DS	"
281	12	the word	there were	"
305	2	I-45	I-485	"


 SIGNATURE OF THE WITNESS

this 29th day of January, 2020.