

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

AYMAN LATIF, *et al*,

3:10-cv-00750-BR

Plaintiffs,

FINAL JUDGMENT

v.

JEFFERSON B. SESSIONS III,¹
et al.,

Defendants.

BROWN, Judge.

This matter comes before the Court on entry of Final Judgment as to all Claims contained in Plaintiffs' Third Amended Complaint (#83).

BACKGROUND

The Third Amended Complaint, filed January 11, 2013, included claims for violation of procedural due process (Claim

¹ The Court substitutes Jefferson B. Sessions III as Attorney General of the United States, who was sworn in on February 29, 2017.

One), substantive due process (Claim Two), and the Administrative Procedure Act (APA) (Claim Three) on behalf of 13 Plaintiffs. The Court now enters Final Judgment as to all of these claims.

In an Opinion and Order (#110) issued August 28, 2013, the Court held that all Plaintiffs have a constitutionally protected liberty interest in the right to travel internationally by air and a constitutionally protected liberty interest in their reputations, each of which is adversely affected by placement on the No Fly List. Consistent with its August 28, 2013, Opinion and Order, the Court issued another Opinion and Order (#136) on June 24, 2014, in which it granted Plaintiffs' Motion (#91) for Partial Summary Judgment with respect to Claim One and the procedural due-process aspect of Claim Three, and denied Defendants' Motion (#85) for Partial Summary Judgment. The Court held that the then-existing (now superseded) Department of Homeland Security Traveler Redress Inquiry Program (DHS TRIP) process was constitutionally inadequate and violated the APA because it did not provide Plaintiffs with meaningful procedures for challenging their placement on the No-Fly List.

Following a revision of the DHS TRIP process by the government after the Court's June 24, 2014, Opinion and Order (#136) and its October 3, 2014, Case Management Order (#152), the Court entered a non-final Judgment (#228) on April 24, 2015, as to Claim One and Claim Three in favor of the Plaintiffs who had

been advised that they were not on the No Fly List as of October 10, 2014: Ayman Latif, Elias Mustafa Mohamed, Nagib Ali Ghaleb, Abdullatif Muthanna, Ibraheim Y. Mashal, Salah Ali Ahmed, and Mashaal Rana. In the Order (#227) that accompanied the entry of the non-final Judgment, the Court dismissed without prejudice Claim Two (substantive due process) as to these Plaintiffs, and clarified that there were no remaining unadjudicated claims for these Plaintiffs. Later, by Order (#337) issued October 6, 2016, the Court also dismissed as moot the claims of Steven Washburn, following his death.

After the parties moved for partial summary judgment again with respect to the procedural claims, by Opinion and Order (#321) issued March 28, 2016, the Court granted in part and denied in part Defendants' Cross-Motion as to Plaintiffs Mohamed Sheikh Abdirahman Kariye, Faisal Kashem, Raymond Knaeble, Amir Meshal, and Stephen Persaud collectively, denied Plaintiffs' collective Motion, and deferred ruling on the parties' Cross-Motions as to the individual Plaintiffs in order to permit supplementation of the record. The Court adhered to its June 24, 2014, Opinion and Order (#136) as to the standard that Defendants must satisfy with respect to providing Plaintiffs with notice, and concluded that the revised DHS TRIP process satisfied in principle most of the procedural due-process requirements that the Court set out in that Order.

On October 6, 2016, following Defendants' submission of *ex parte, in camera* materials to supplement the record with respect to whether information was properly withheld during the administrative process (#321, #323), the Court granted summary judgment as to the remaining procedural due-process claims of the remaining Plaintiffs. See Order (#337). This Order granted Defendants' Cross-Motions (#241, #242, #247, #248, #249, #250) for Partial Summary Judgment regarding individual Plaintiffs and denied Plaintiffs' individual Renewed Motions (#210, #212, #214, #216, #218, #220) for Partial Summary Judgment.

By Opinion and Order (#356) issued April 21, 2017, the Court denied Plaintiffs' February 10, 2017, Motion (#352) for Leave to Conduct Limited Jurisdictional Discovery. The Court also held that jurisdiction over the remaining Plaintiffs' substantive due-process claims lies exclusively in the Ninth Circuit Court of Appeals pursuant to 49 U.S.C. § 46110. Accordingly, the Court, treating Defendants' Motion (#348) to Dismiss for Lack of Jurisdiction as a motion for summary judgment, granted the Motion and dismissed the remaining substantive claims.

FINAL JUDGMENT

On this record, therefore, the Court now hereby **ENTERS** Final Judgment pursuant to Rule 58 of the Federal Rules of Civil Procedure as follows:

The Court **ENTERS** Final Judgment in favor of Plaintiffs Ayman Latif, Elias Mustafa Mohamed, Nagib Ali Ghaleb, Abdullatif Muthanna, Ibraheim Y. Mashal, Salah Ali Ahmed, and Mashaal Rana with respect to Claim One and Claim Three in accordance with the previous Order (#227) and non-final Judgment (#228).

The Court **DISMISSES without prejudice** Claim Two of Ayman Latif, Elias Mustafa Mohamed, Nagib Ali Ghaleb, Abdullatif Muthanna, Ibraheim Y. Mashal, Salah Ali Ahmed, and Mashaal Rana in accordance with its previous Order (#227) and non-final Judgment (#228).

The Court **DISMISSES with prejudice** all claims of Steven Washburn as moot. See Order (#337).

The Court **ENTERS** Judgment for Defendants with respect to Claim One and the procedural due process aspect of Claim Three of the remaining Plaintiffs: Mohamed Sheikh Abdirahman Kariye, Raymond Earl Knaeble IV, Faisal Nabin Kashem, Amir Meshal, Stephen Durga Persaud. See Opinion and Order (#321); Order (#337).

The Court **DISMISSES** Claim Two and the substantive due-process aspect of Claim Three of the remaining Plaintiffs because the Court lacks jurisdiction with respect to these claims. See Opinion and Order (#356).

The Court having now resolved all claims of all parties,
this **JUDGMENT** shall constitute the final judgment of this Court.

IT IS SO ORDERED.

DATED this 9th day of June, 2017.

/s/ Anna J. Brown

ANNA J. BROWN
United States District Judge