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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

AFGHAN & IRAQI ALLIES,)	Civil Action
)	No. 18-cv-1388
Plaintiffs,)	
)	
vs.)	
)	Washington, DC
POMPEO, et al.,)	April 1, 2026
)	Time: 10:32 a.m.
Defendants.)	

TRANSCRIPT OF STATUS CONFERENCE
HELD BEFORE
THE HONORABLE JUDGE TANYA S. CHUTKAN
UNITED STATES DISTRICT JUDGE

Court Reporter:	Rebecca Monroe, RPR
	Official Court Reporter
	United States Courthouse, Room 6706
	333 Constitution Avenue, NW
	Washington, DC 20001

(Appearances listed on the following page.)

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A P P E A R A N C E S

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Also present:

Andrew Veprek
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1 P R O C E E D I N G S

2 THE DEPUTY CLERK: Good morning, Your Honor. We're
3 on the record in civil case 18-1388, Afghan and Iraqi Allies
4 versus Pompeo, et al.

5 Starting with Plaintiffs counsel, please approach the
6 podium and state your appearance for the record.

7 MS. GRANO: Good morning, Your Honor. Kimberly Grano
8 from the International Refugee Assistance Project for the
9 Plaintiffs. I'm joined by Ghita Schwarz, also from the
10 International Refugee Assistance Project, and Pedro Sepulveda
11 also from IRAP. And Justin Simeone and Carla Yoon from
12 Freshfields.

13 THE COURT: Good morning.

14 MS. GRANO: Good morning.

15 MS. MUELLER: Good morning, Your Honor. Ruth Ann
16 Mueller from Department of Justice. I'm joined today by
17 Larissa Johnson, Joshua Clem, David Byerley, and Jaime Scott
18 all from the Department of Justice. We are also --

19 THE COURT: Quite a new cast of characters from the
20 last time I think, except maybe one. And we have someone
21 from the --

22 MS. MUELLER: Yes, Your Honor. We have Mr. Andrew
23 Veprek, Assistant Secretary, Department of State is here today.
24 Along with Carl Anderson who is a Department of State attorney.

25 THE COURT: Thank you for being here. I appreciate

1 it. And I didn't mean to summon you from what I know is a very
2 busy time, but as you imagine, DOJ attorneys are -- handle a
3 variety of cases and I just thought that there was information
4 that I needed, which some of which has been provided in the
5 declaration, I appreciate it, that would be -- would be much
6 more helpful to have someone who had more information. So I
7 appreciate your being here.

8 MS. MUELLER: Understood, Your Honor. Thank you.

9 THE COURT: All right. So we're here for a status
10 conference in this long running matter. It has -- this case
11 has a long and complex history, which I will not recount in
12 full as I've done so in various opinions, but as relevant here,
13 Plaintiffs are a class of noncitizens who have applied for
14 special immigrant visas that are available to Afghan and Iraqi
15 nationals who face a serious threat because of their faithful
16 service to the United States during the wars in Iraq and
17 Afghanistan.

18 As I've already found in my memorandum and opinion,
19 which was ECF Number 75, Defendants have unreasonably delayed
20 the adjudication of Plaintiffs' visa applications, many
21 Plaintiffs at considerable risk to their lives and their
22 family's lives, which remains at risk served the United States
23 during those wars faithfully and have been left since the
24 withdrawal in incredibly vulnerable and precarious
25 circumstances for years now.

1 And this is not how the United States should be
2 rewarding individuals who put their lives at risk to serve this
3 country. That's all I'll say on that. And that's not my
4 opinion, that's Congress's in enacting the legislation that we
5 are trying to move forward here -- comply with.

6 To address the delays in the adjudication of these
7 visas I issued an injunction, the Revised Adjudication Plan,
8 which requires Defendants to promptly process and adjudicate
9 Plaintiffs' visa applications, specifically the plan sets
10 timing benchmarks for the Government control steps of the visa
11 process, including Step 4, which is when the chief of mission
12 reviews the process and Step 9 which is the visa interview
13 process.

14 In November 2025, Defendants -- and this revised
15 adjudication plan was, I might add, affirmed by the Court of
16 Appeals. Defendants announced in November of last year that
17 they would stop processing special immigrant visa applications
18 for Afghan nationals.

19 In an opinion and order, which is ECF Number 309, I
20 found that Defendants' unilateral suspension of visa processing
21 violating -- violated the plain terms of my injunction. I
22 further found that even before the Defendants unilaterally
23 suspended visa processing, they had fallen far short of the
24 planned benchmarks and had failed to identify actions that
25 would bring their performance into compliance with the plan.

1 At Plaintiffs' request, I ordered the parties to
2 appear before me for a status conference on February 24th to
3 identify steps that Defendants could take to meaningfully
4 improve their compliance with the plan. At this last status
5 conference in February, the Defendants informed me that the
6 Government had resumed chief of mission processing and form
7 I-360 processing, which was good news.

8 Defendants also identified two steps to improve
9 compliance with the plan. First to improve the speed of the
10 chief of mission process. Defendants indicated that to do so
11 they would add approximately 65 staff members to the Afghan
12 Special Immigrant Visa Unit within the Department of State.
13 This was a Pyrrhic victory because the number had reduced --
14 had been reduced so significantly that adding individuals to
15 that staff was still going to bring them to the numbers that
16 had been deficient before, but still progress.

17 Second, to improve the speed at which visa interviews
18 are scheduled, Defendants indicated that they would increase
19 visa interview slots at the US Embassy in Islamabad by
20 25 percent by this month.

21 Plaintiffs understandably expressed their frustration
22 that these measures were being implemented only now after years
23 and years of litigation and after Defendants worsened the
24 backlog by unilaterally suspending visa processing for a period
25 of several months.

1 I scheduled another status conference, this one, and
2 ordered Defendants to have -- accompany them, a senior official
3 from the State Department to answer my questions about, one,
4 why the Government unilaterally suspended visa processing
5 without seeking relief from my injunction. Two, when the
6 Government resumed -- when the Government intend to resume visa
7 processing or when it did resume visa processing. And, three,
8 the progress -- to update me on the progress that the
9 Government is making on coming into compliance with the revised
10 adjudication plan.

11 I also ordered the Government to meet and confer with
12 Plaintiffs and to answer Plaintiffs' questions about whether
13 the Government would speed up visa interviews only to then deny
14 all applications pursuant to the travel ban on Afghan
15 nationals. And that does appear to be what we are running up
16 against in terms of the relief that I can grant in this case.

17 It is, again, sort of futile to process these
18 applications if these individuals are not allowed to travel to
19 get a visa because of the ban.

20 So I have -- these are my -- I have some questions
21 for the Government and/or the Government's -- the State
22 Department's representative. And the first is -- and you may
23 remain at counsel table if you wish, I just ask that you pull
24 the microphone close to you and turn it -- make sure it's on so
25 that the court reporter can hear or you can come up to

1 counsel -- to the lectern, it's totally up to you, we don't
2 have a jury here so it's fine.

3 So the declaration from Mr. Veprek -- am I
4 pronouncing your name right?

5 MR. VEPREK: Yes, ma'am.

6 THE COURT: Okay. I'm sensitive about that. All
7 right. The Veprek declaration indicates that if an Afghan
8 national shows up for a visa interview, they will likely have
9 their application refused pursuant to Presidential Proclamation
10 10998, also known as the travel ban.

11 So my question is will applicants who have their visa
12 applications refused pursuant to that ban, will they need to
13 reapply and reinterview once the ban is lifted? And, if so,
14 how is that not an end-run around my injunction?

15 MS. MUELLER: Your Honor, I would ask --

16 (Reporter interrupts for clarification.)

17 THE COURT: Yeah, or come to the podium or --

18 MS. MUELLER: I would ask Mr. Veprek to come up to
19 the podium if that's -- I would ask Mr. Veprek to come up to
20 the podium, if that's your Court's request.

21 THE COURT: Yes, thank you. It is.

22 And if you could just state your name for the record,
23 sir.

24 MR. VEPREK: Yes, of course. Good morning, Your
25 Honor. I'm Andrew Veprek.

1 THE COURT: Good morning. Thank you for being here.

2 MR. VEPREK: Yes.

3 THE COURT: So I think you heard my question, is
4 there any further light you can shed on that?

5 MR. VEPREK: Right. If a case is refused under a
6 presidential proclamation, then yes, the applicant would need
7 to reapply.

8 THE COURT: All right. And how about reinterview?

9 MR. VEPREK: Unclear. We would probably -- after the
10 presidential proclamation is withdrawn or altered, we would
11 have to look at the internal procedures for handling cases that
12 had been refused during that period.

13 THE COURT: And if that is so, how is that not an
14 end-run around my injunction? If they've applied and been
15 interviewed and found eligible -- I mean, the travel ban is --
16 I'm not going to get into -- that's beyond my authority, but
17 my -- my injunction had to do with interviewing and processing
18 these applications. And if they're having -- if they're going
19 to have to go and start over, then that's effectively
20 noncompliance with the terms of the plan, isn't it? I mean,
21 why would they have to do it again?

22 MR. VEPREK: I'm afraid I --

23 THE COURT: Effectively delaying their processing
24 even more?

25 And, again, we're talking about a date when this ban

1 is lifted and I don't know when that's going to be, if ever.

2 MR. VEPREK: I regret, Your Honor, I don't have a
3 good answer for you here; in that asking about compliance with
4 the order, I'm not an attorney myself.

5 THE COURT: I understand.

6 MR. VEPREK: I can tell you how we -- how these
7 interact with the --

8 THE COURT: I guess I'm asking why. Why do they need
9 to be reprocessed and reinterviewed? If they've been processed
10 and interviewed and found to be eligible, why do they have to
11 start all over again?

12 MR. VEPREK: Speaking from cases in the past where we
13 have presidential proclamations that limited entry; the refusal
14 under the grounds of the presidential proclamation is a
15 definitive refusal on the case. The processing on the case
16 stops then.

17 THE COURT: But if the proclamation is lifted, if the
18 ban is lifted and nothing else has changed, why do these
19 applicants have to start over? This is -- again, this is --
20 this is my enforcement of a congressional intent to provide
21 safety and special visas for people who helped this country at
22 a time of war. And their situation remains dire, absent some
23 change on the ground that hasn't happened.

24 So why -- doesn't that then -- that -- that process
25 of making them start over in their -- in processing and

1 interviewing those people, doesn't that frustrate
2 congregational intent? I mean, I know you're not a lawyer, but
3 I don't see the policy reasons for that, other than that's how
4 we always do it; but that's not how you do it in -- these are
5 SIV cases, these are special cases.

6 And I'm wondering -- and the reason they're special
7 cases is because these people, these Plaintiffs are in peril
8 and they're in peril because of their service to this country.
9 So I'm wondering why making them start all over again would
10 not -- wouldn't not -- A, I think it would violate the terms of
11 my injunction, but how it would -- what is the policy reason
12 for that? Because I know you're not a lawyer, but you are a
13 career foreign service official.

14 MR. VEPREK: Yes, that's correct. With regard to why
15 they would have to reapply again -- well, let me step back --

16 THE COURT: Other than the fact that that's how we've
17 always done it.

18 MR. VEPREK: Well, you're correct that these are
19 special immigrant cases. On the other hand, they're subject to
20 all the same rules of visa processing, unless the Congress in
21 passing legislation specifically exempted them from some.

22 THE COURT: Well, Congress in passing this
23 legislation and then amending it, actually found that the State
24 Department was taking too long to process these applications
25 and actually -- and actually -- and Plaintiffs -- you all will

1 correct me if I'm wrong -- but actually enacted -- you know,
2 said you all need to move faster. My plan -- my Revised
3 Adjudication Plan was done in light of that congressional
4 intent.

5 So I'm just -- is there some -- is there some issue
6 that you can point to which would require these people to be
7 reprocessed and reinterviewed other than that's how we do
8 visas?

9 MS. MUELLER: Your Honor, if I may just remind
10 Mr. Veprek, in your response please do not divulge any
11 privileged information.

12 MR. VEPREK: Thank you.

13 Your Honor, no, right now I can't point to anything.
14 However, that's not to say that after I hear more from
15 colleagues at the State Department that there might be some
16 reason I'm not aware of when it comes to when we're handling
17 these types of refusals.

18 THE COURT: All right. Is the State Department
19 warning applicants or alerting them or informing them, I should
20 say, that's a less value-laden word, that it is generally not
21 granting visas to Afghan nationals at this point. I mean,
22 maybe they know already but it's not been a -- it's no secret,
23 but are they being informed of that?

24 MR. VEPREK: Visa applicants, including Afghan SIV
25 applicants, are alerted to the presidential proclamation and

1 its provisions via our websites and other means.

2 THE COURT: Have any Afghan nationals been granted a
3 national interest waiver?

4 MR. VEPREK: I don't know.

5 THE COURT: I'm sorry?

6 MR. VEPREK: I don't know.

7 THE COURT: Now, the addition of the 65 staff members
8 and I understand from your declaration I think those people are
9 supposed to be onboarded today if that's right.

10 The addition of the 65 staff will merely restore
11 staffing to the January 2025 levels, which -- so it would take
12 until fall of this year for these additional staff who are
13 apparently onboarding today to be fully trained, is that right?

14 MR. VEPREK: Your Honor, if I might clarify one
15 thing. I don't know that they're all onboarding today.

16 THE COURT: Right.

17 MR. VEPREK: I believe the onboarding process begins
18 today and, yes, you're correct that it will take until autumn
19 to get them onboarded and appropriately trained.

20 THE COURT: And why -- how is that even close to
21 sufficient to bringing the State Department into compliance
22 with the revised adjudication plan? That's just -- it's not
23 going to move the needle at all. Because the Department was
24 already lagging in compliance in January of last year and then
25 the Department worsened the backlog by halting all processing

1 without coming to this Court for relief under the plan.

2 So how is that -- I mean, obviously it's better than
3 nothing, but how is that possibly going to move this process
4 along?

5 MR. VEPREK: Well, we believe by increasing staffing
6 in the ASIV office, which processes chief of mission
7 applications, we'll be able to increase throughput in the
8 number of cases handled. So gets us back toward compliance
9 with the order.

10 THE COURT: Toward.

11 Now, you say 150 staff is the highest total number at
12 which new staff can be maintained given the need to train new
13 staff and ensure quality control, but why can't you plan to
14 increase staff further in fall 2026 once the 65 new hires have
15 been sufficiently onboarded, I mean, why is that a limit?

16 MR. VEPREK: Well, there is a limit to the number of
17 cases that the person who has chief of mission authority can
18 correctly or comfortably adjudicate in a day. I think once we
19 have 150 people onboard, that would end about -- end up with
20 about 200 cases per day that the person who has delegated chief
21 of mission authority has to handle. That's well above the
22 standard we use for consular officers in the field.

23 If I recall correctly, from our internal sort of
24 policies, we don't want consular officers in the field
25 adjudicating more than 120 cases a day. What we've discovered

1 in the past is if you exceed that, case adjudication quality
2 goes down.

3 THE COURT: Do you agree with Plaintiffs' proposed
4 interim processing metrics, which their -- their -- their
5 estimates would require you to process at least 4,000 cases in
6 the class member backlog per month, which obviously under --
7 what you just said -- limits for consular officers would be
8 impossible. But it looks like you'd have to process
9 4,000 cases in the class member backlog per month until you
10 achieve compliance with the 120-day benchmark, and is that an
11 accurate assessment -- estimate?

12 MS. MUELLER: Your Honor, the Department is still
13 deliberating on Plaintiffs' proposal for those interim
14 benchmarks. We received those on Friday, so it's been three
15 full business days since we received those and -- well, the
16 Department is --

17 THE COURT: Why don't -- thank you, Mr. Veprek. Why
18 don't you come on up because I have some questions regarding
19 the legal aspects. Thank you.

20 MR. VEPREK: Yes, Your Honor. May I return to my
21 seat?

22 THE COURT: Yes, you may.

23 MS. MUELLER: Thank you, Mr. Veprek.

24 THE COURT: Plaintiffs proposed -- and I'm looking at
25 the information that was provided in the joint status report,

1 Plaintiffs' proposed remedial measures to move forward the
2 class members' applications, including the adoption of interim
3 processing metrics, Plaintiffs -- but Defendants have not
4 provided feedback.

5 Now, you're telling me getting feedback, but why is
6 it taking you so long? I asked the parties to meet and confer
7 after the last status conference, and it looked like Plaintiffs
8 had -- and I told Plaintiffs that they should give you -- you
9 know, tell you what their questions were, make their proposals,
10 and it doesn't look like -- it looks like what has happened in
11 the past is happening again, which is I schedule a status
12 conference and that seems to spur some movement and we come in
13 and you're telling me, oh, that -- you know, we got that
14 yesterday, it's coming tomorrow.

15 But my -- these status conferences aren't designed to
16 be a nudge to one side or the other to get the things done that
17 I asked be done in the interim. And I set -- I asked you all
18 to meet and confer, I ordered you to sit down and try and
19 answer Plaintiffs' questions, or at least provide information
20 for another joint status report, and what I'm getting in this
21 joint status report is that there are a whole lot of unanswered
22 questions.

23 MS. MUELLER: Understood, Your Honor. First, we will
24 continue to remind the Department of State, as well as USCIS
25 who is the other Defendant in this case, to promptly respond so

1 we have prompt responses for Your Honor before the status
2 conferences.

3 With respect to today's status conference, the
4 parties met and conferred in accordance with your Court's order
5 last Friday. We had a robust meet and confer, we did have
6 responses to several of Plaintiffs' questions. Admittedly, we
7 did not have responses to all of the Plaintiffs' questions and
8 Plaintiffs also provided additional questions which we have
9 taken back and are discussing with the operational client.

10 Additionally, Plaintiffs did provide these interim
11 measures -- and apologies, I believe the status -- the meet and
12 confer was on Thursday, so I just want to correct the record.

13 THE COURT: Thursday? This past Thursday?

14 MS. MUELLER: This past Thursday.

15 So at the same time, Your Honor, we have had those
16 interim benchmarks, we have been discussing those with the
17 client. The client is still deliberating --

18 THE COURT: By "the client," who are you referring
19 to?

20 MS. MUELLER: The State Department.

21 THE COURT: Okay.

22 MS. MUELLER: The Department of State is still
23 deliberating on those interim benchmarks, they are aware of
24 those interim benchmarks, and they are also aware that Your
25 Honor is considering remedial measures with respect to

1 compliance with the revised adjudication plan and is taking
2 those seriously. That is the update I have.

3 THE COURT: It's not remedial measures. I'm
4 considering measures given that I find the State Department has
5 been -- was in violation of my injunction without -- you know,
6 when I issued this injunction, there's a presidential
7 proclamation. The proper procedure is in light of the
8 injunction -- I'm not the President, I don't -- I mean, in
9 light of the proclamation to come to the Court and say, well,
10 Judge, we realize there's an injunction in place and we're
11 required to do all these things, but there's been a
12 presidential proclamation that's going to stop us from doing
13 these things, here's what we'd like to do or here's why we
14 can't comply.

15 There was none of that done. It was just they
16 stopped and until, you know -- and then Plaintiffs, you know,
17 asked for a hearing and I think I got some supplemental
18 authority, but supplemental authority is not the way to go
19 about remedying a violation of a standing injunction and a
20 revised adjudication plan.

21 So all -- you know, I'm getting frustrated because
22 this litigation has been continuing, the State Department has
23 continued to remain in violation of their congressional mandate
24 to process these visas. There are actual lives at stake here
25 and it seems to be two steps backward, one step forward. And

1 that may be -- maybe your strategy is it's better to, you know,
2 ask for forgiveness rather than permission, but my -- my
3 options here don't just include remedies when a violation
4 has -- when an injunction has been violated.

5 MS. MUELLER: Understood, Your Honor.

6 THE COURT: Let me hear from Plaintiffs. And I have
7 to tell you, and I mentioned a Pyrrhic victory -- thank you.

8 MS. MUELLER: Thank you, Your Honor.

9 THE COURT: With a presidential proclamation in
10 effect, all of this processing speed and moving things along
11 and interviews is going to run headlong into the travel ban.
12 So what -- and there -- my hands are tied with regard to what
13 relief I can give the Plaintiffs in that respect. What is your
14 proposal?

15 MS. GRANO: Yes, Your Honor. We understand that
16 obviously Afghans can't currently come into the country under
17 the travel ban, but they can get through the application
18 process, which is what Your Honor's order was focused on was
19 ensuring that people can get through the process after having
20 been delayed now for --

21 THE COURT: When you -- I'm sorry to interrupt you,
22 but I wanted to ask you this before it left my head.

23 When you say get through the process, what do you
24 mean? Do you mean it be processed and interviewed or do you
25 mean be processed, interviewed, be found eligible? Do you mean

1 be issued a visa? Because I don't think the State Department
2 is going to issue visas in the state of a travel ban.

3 Mr. Veprek, you can just nod if you think I'm right.

4 MR. VEPREK: That's correct.

5 THE COURT: Just for the record, Mr. Veprek said,
6 yes, that's correct.

7 So what would -- what would count as progress here?
8 And what could -- would count -- what is within the Court's
9 power at this point? Because contrary to popular belief, we
10 don't just issue orders willy-nilly.

11 MS. GRANO: Yes, Your Honor. We are -- Plaintiffs
12 are not pushing for the State Department to issue visas right
13 now because that wouldn't help anybody, so that's not, you
14 know, something that's on the table that we're pushing for in
15 terms of compliance with the plan; but we do think that all of
16 the application steps before visa issuance are still not
17 effected by the presidential proclamation, that's what
18 Defendants represented in their previous briefing I believe in
19 January regarding Plaintiffs' enforcement motion.

20 They are still -- it's still well within the State
21 Department's authority to continue processing applications at
22 all of the steps up until visa issuance. So in practical
23 terms, I think that would include obviously COM processing,
24 that's a process that takes people sometimes years to get
25 through. So ensuring that those people are able to move

1 through that process. And then with the visa application
2 process, that's also a significant and lengthy process, and to
3 have people just go through that only to be sent back to the
4 beginning of the visa application process, as it appears that
5 the State Department is planning to do, is a complete end run
6 around the plan and just will end up adding more and more
7 people to the backlog.

8 THE COURT: Do I have the power though -- I mean, I
9 am mindful of this Court's limited ability -- there is no
10 federal judge who wants to be running the visa system, I can
11 assure you. And I'm mindful of my limited powers when it comes
12 to foreign affairs who gets into this country and who doesn't.
13 What I -- what I am here to do is make sure that the Government
14 complies with its congressionally-mandated processing
15 requirements as set forth by the laws that Congress pass, and
16 they haven't been.

17 But you heard Mr. Veprek say that it is State
18 Department policy when there is a travel ban or a presidential
19 proclamation, for everyone to have to be reprocessed and
20 reinterviewed. I don't know what the source of that is and I
21 don't know if that's in the CFR or that's just what we do
22 because we've always done it. It does appear to do an end run
23 around my injunction, but if it's because of some kind of
24 federal regulation, I would -- I'd be willing to hear that.
25 I'm not sympathetic to that's just how we do it.

1 But what is -- what relief can I offer at this point?
2 What remedies are available? I'm truly, like, puzzled at
3 this -- at this juncture here as to -- it seems like no
4 matter -- these -- these individuals are going to remain in
5 danger, they're going to remain unable to leave their situation
6 as long as the travel ban remains in effect. And so anything I
7 order, I guess, is just designed to make it so that when the
8 ban is lifted they can get their visas and enter this country
9 faster.

10 MS. GRANO: Yes, Your Honor. Exactly. I would say
11 that, you know, they haven't cited any regulation or any kind
12 of like actual law that requires them to take that particular
13 action and require people to go and repeat steps. I would say
14 that, you know, we're not asking Your Honor to order them to
15 make any particular decision on a visa application.

16 THE COURT: And I couldn't.

17 MS. GRANO: Yeah, of course. And what they already
18 do for all SIV applications, as you know, is to just place them
19 in administrative processing and then there's additional steps
20 after that. So it's obviously within the power of the State
21 Department to have these applications that, you know, are
22 technically refused, but are just basically on hold until
23 either the applicant submits additional information or the
24 State Department takes additional action.

25 So there's obviously an ability of the State

1 Department to, you know, keep track of these applications to
2 hold them after the interview. They can make that -- whether
3 they say it's a refusal under 212(f) or 221(g), I don't think
4 for Plaintiffs' purposes that really matters so long as they're
5 able to continue to the next step in the process, but I think
6 that what we would be asking Your Honor to do is to simply make
7 clear that these cases need to be able to proceed for the next
8 step in the process and are not kicked back if they're after
9 the interview.

10 THE COURT: I can -- I still maintain my position
11 that it appears to be doing an end run around my injunction, I
12 hear your position. But let me try and step into the shoes
13 of -- and I'm not a career foreign service officer and don't
14 pretend to be one, but I can see where the Department of State
15 may have concerns that, for example, an applicant is -- their
16 application is processed, the applicant is interviewed, and
17 normally if there weren't the travel ban, they'd move along to
18 the next steps to qualify; but because of the travel ban
19 they're not.

20 Two years goes by, let's say, events happen, right,
21 people's situation changes, just -- let's just say, for a
22 hypothetical, that this individual becomes radicalized or --
23 or, you know, whatever, there's been a factual change in their
24 circumstances, shouldn't this Department of State be able to
25 re -- be able to -- if they want to, reinterview this

1 applicant, reprocess their application in light of the fact
2 that two years has passed? Is that -- I mean, isn't that
3 something -- something that the State Department can reasonably
4 say they should be able to do? Although I don't know -- they
5 haven't said it, I'm just saying -- I'm just using a
6 hypothetical here.

7 MS. GRANO: Your Honor, I think the State Department
8 has always had the authority under Your Honor's plans for in
9 individual cases, when the individual is going through
10 administrative processing, if they later determine that
11 something comes up and they decide that there is a need to
12 reinterview the applicant. I don't think the State Department
13 has ever thought that they are constrained from issuing a
14 reinterview notice or otherwise taking that action in
15 individual cases.

16 I think what we have a problem with is that they're
17 just saying standing here right now, in the face of a ban that
18 is purportedly temporary and just a suspension until the
19 underlying conditions of the 212(f) proclamation are resolved,
20 saying that in light of that we've already -- you know, at this
21 point we've already decided that every single person who has
22 gone through the interview process will have to start not even
23 just reinterview, but also reapply, submit all of that
24 documentation from the beginning of -- I don't have the plan in
25 front of me, but several steps back in the plan.

1 THE COURT: Do I have the authority to tell them that
2 they can't do that? That they have to abandoned whatever their
3 practice was with regard to reprocessing and reinterviewing for
4 this -- for these Plaintiffs in particular? Do I have the
5 authority to tell them, no, they -- you know, you can't do that
6 here? I mean, or for them to do that, would they have to seek
7 relief under the revised adjudication plan.

8 MS. GRANO: I think the revised plan contemplates
9 that applicants will be moved from the interview step to the
10 next step, which is administrative processing.

11 THE COURT: The problem is the revised adjudication
12 plan was issued -- was approved and issued by the Court before
13 the presidential proclamation, the travel ban, right?

14 So is the -- is the -- and I hate to say this. Is
15 the proper -- putting aside the question of whether the
16 Department of State violated my injunction, because I think
17 they did, what's the procedure now? Do they have to now move
18 for relief under the plan? Do I -- do they have to move for a
19 revised plan in light of the -- revised adjudication plan in
20 light of the proclamation? What are the appropriate next steps
21 here?

22 And, again, I'm coming right back to what it is I can
23 do. What relief are you seeking from me?

24 MS. GRANO: I do think that in order for them to kind
25 of create this whole new category of people that they're saying

1 has to go back to a previous step in the process, that's
2 clearly not reflected in the plan. And so if they don't want
3 to, you know, consider those people just waiting at the next
4 step, Step 10, until they're ready to proceed, then I do think
5 the appropriate course of action for them to seek some sort of
6 modification that would allow them to have that procedure. But
7 I think, you know, really all the Plaintiffs are asking for
8 here is that these people's applications just continue to be
9 tracked and reported on at Step 10 so that when they're able to
10 move forward, once the -- the 212(f) proclamation is lifted or
11 is otherwise no longer in place, that they're able to do that.

12 And obviously in individual cases, they might decide
13 that a reinterview might be necessary, but I -- yeah, I think
14 that's really all we're asking is that these applications be
15 held so that they can continue to the next step of the process.

16 THE COURT: Do you -- I read the joint status report,
17 it looks like -- I don't know if it was the joint status report
18 or the prospect of this hearing that there was some incremental
19 progress, but there was a lot of information that you asked for
20 that you did not get that it appears that at least some of
21 which the Government may have just received, is that correct?

22 MS. MUELLER: We received it in the meet and confer
23 last Thursday and then we received an e-mail last Friday, Your
24 Honor, from Plaintiffs that had additional questions that
25 had -- in summary --

1 THE COURT: Are you hearing this? If you could --

2 MS. MUELLER: My apologies, Your Honor.

3 THE COURT: That's all right.

4 MS. MUELLER: We had the meet and confer last
5 Thursday where we discussed these questions, we also received
6 an e-mail last Friday, Your Honor, from Plaintiffs that
7 summarized any additional questions as well as questions that
8 Defendants were not able to answer last Thursday.

9 MS. GRANO: Your Honor, if I may?

10 THE COURT: Yes.

11 MS. GRANO: I think the questions that we sent on
12 Friday was just memorializing what we had discussed at the meet
13 and confer. And I would just note that we had sent our initial
14 set of factual questions on March 5th and had asked to meet and
15 confer with Defendants on March 13th and Defendants said that
16 they were only available -- would be available last week and so
17 that's how the scheduling --

18 THE COURT: I don't think that's good -- I don't
19 think that's a good faith effort to meet and confer in the way
20 I intended it to be. And I know the Department of Justice is
21 stretched very thin, I know the Department of State is also
22 stretched very thin; but again, you know, we always have to
23 keep in mind the Plaintiffs in this case are people who are
24 literally in hiding and not because of -- because they chose to
25 help this country.

1 And every day that goes by is another day that they
2 are -- we are renegeing on our assurances to them, and I take
3 that very seriously.

4 So I'm willing to set another status hearing and
5 order the parties to meet and confer, but I want it to be a
6 meaningful meet and confer, I don't want it to be a meet and
7 confer where the Plaintiffs have questions, the Defendants say
8 we'll get back to you and then they get back -- they get the
9 information two days before the hearing. That's not helpful to
10 me and it puts the Plaintiffs at a disadvantage.

11 So do you think it would be helpful -- and this
12 question goes to both sides -- to have another status date
13 with -- and have the parties meet and confer in the interim
14 once again or do you feel like you've reached an impasse?

15 MS. GRANO: We're happy to meet and confer if that's
16 what Your Honor would like, I would just say that at this
17 point, you know, we've already -- we've been waiting months if
18 not years for them to come up with some kind of real proposal,
19 real information about how they're going to get into compliance
20 with the plan.

21 And so I think, you know, at -- to be honest, we're
22 kind of past the point of them coming up with -- you know, just
23 very general vague ideas about how they're going to improve
24 processing, rather than concrete specific things about what
25 they're going to do to get into compliance with the plan,

1 projections about when that is going to come into place, and so
2 I think that's why we would really push for there being these
3 interim processing benchmarks to say this isn't just like a
4 general suggestion that you think about getting into compliance
5 with the plan. You have to be making real clear meaningful
6 progress and these are kind of the benchmarks to do that.

7 THE COURT: I don't disagree. I will note that the
8 joint status report in this case was filed two days ago. And I
9 think it would be more helpful and possibly productive to
10 require a joint status report further in advance of the
11 hearing. Although, if you all disagree, I'll hear you.

12 I mean I just don't think -- because what I'm getting
13 is a joint status report two days ago that says we've asked for
14 this, we've asked for that; we've asked for this information,
15 we haven't gotten it. We come into court this morning and the
16 Government says, Oh, we just -- we have an e-mail we got Friday
17 or something. That -- we're wasting our time.

18 So at least this way may -- you may get the
19 information that you require. The other thing I'm
20 contemplating in addition to a joint status report is a
21 proposed order because I think we're -- I keep pressing you all
22 on what is the relief you seek from this Court. What -- you
23 know, given the presidential proclamation and the reality of
24 where the Department of State staffing is right now, which is
25 again the reduced staffing, it was already -- it was already

1 insufficient and they reduced it some more and then they're
2 increasing and they're like, look, we're getting back to the
3 previously insufficient level but that's going to take a year.

4 So -- and that's why I asked about why can't you
5 continue to add staff beyond the 65 you anticipate adding, even
6 if it's just for the -- for the interim period of processing
7 these applications. I mean, people are not -- you know, people
8 can be diverted for particular reasons that -- especially since
9 in this case, the pool -- the class is limited. It's not a
10 continually growing class; that conflict is over. We're
11 talking about a limited pool of applicants, a limited class.

12 So processing their applications, interviewing them
13 is not going to be a job that goes on indefinitely because
14 there's a finite number of class members. So I guess my
15 question to you is why can't that happen? And maybe you want
16 to turn that to Mr. Veprek, but I'd like to know that.

17 MS. MUELLER: Your Honor, I don't have an answer to
18 that. I will turn that to Mr. Veprek. Before I do that, I did
19 want to respond to one of the points you stated to my
20 colleague --

21 THE COURT: Hold on a second. Am I -- Veprek.

22 MR. VEPREK: Yes.

23 THE COURT: Sorry, I've been again mispronouncing
24 your name. I'm sorry.

25 MR. VEPREK: It's all right.

1 THE COURT: Sorry.

2 MS. MUELLER: Your Honor, we are happy to meet and
3 confer -- continue to meet and confer with Plaintiffs as well
4 as provide another joint status report or a status
5 conference --

6 THE COURT: Well, what's the point of the meet and
7 confer if they're not getting any answers?

8 MS. MUELLER: We did provide answers last Thursday,
9 Your Honor, there are additional questions from that time. And
10 I will emphasize that the Government is aware of Your Honor's
11 enforcement authority with respect to the revised adjudication
12 plan, with respect to the interim benchmarks and changing the
13 RAP, I think we would ask for an opportunity to brief that
14 given the Government's final judgment appeal that --

15 THE COURT: You should have briefed it a long time
16 ago. You should have -- you should have moved for relief under
17 the plan and briefed it before you started violating it. But,
18 you know, that -- the horse has bolted.

19 Mr. Veprek, can you approach again? Sorry, you're
20 getting your steps today.

21 MR. VEPREK: Quite alright.

22 THE COURT: Why can't the Department of State, in
23 addition to the 65 people that you're starting to onboard, why
24 can't you either hire more or divert personnel to this task
25 until such time as the class members have been processed and

1 interviewed and then -- because, again, it's not an
2 indefinite -- it's not like a whole new category of work that's
3 going to continue on, this is a limited time, I hope, issue.
4 Why can't that happen?

5 MR. VEPREK: We have one officer who exercises the
6 chief of mission authority to approve all the chief of mission
7 requests. So if we add more than --

8 THE COURT: That's going to create quite the
9 bottleneck when we're talking about, what, how many thousand
10 people? That's --

11 MR. VEPREK: It is. It is.

12 If we add more people to processing chief of mission
13 requests, so that means we're pushing more than 200 cases per
14 day to that officer who has got to review and approve those --

15 THE COURT: Why can't you get another officer? Why
16 does there have to be only one person? Obviously that -- yeah,
17 what you're -- what you're saying, that hypothetical situation
18 is obviously not sustainable, and you all have quality control
19 issues and you don't want people to slip through the cracks, I
20 understand that. But why -- why can't there be two or three?

21 MR. VEPREK: I don't have an answer for you right
22 away on that.

23 Historically when we have chief of mission authority
24 exercised at a post, it's usually the ambassador or if we don't
25 have an ambassador, it's the chargé d'affaires. So usually,

1 not just in the Afghan SIV context, excuse me, but in the
2 conventional SIV context involving U.S. Government employees
3 overseas, there is one person at the top who signs off on all
4 these things.

5 THE COURT: And that makes sense in normal
6 circumstances, but again we're dealing with an issue of these
7 SIV applicants and in a situation where Congress has said we
8 need to move faster getting these people in. Now, obviously
9 they said that before the presidential proclamation.

10 But putting aside the presidential proclamation, if
11 that were lifted tomorrow, right, there's going to be a long
12 delay in processing these people and interviewing these people.
13 And it seems to me that if there is just one -- you don't have
14 an embassy in Afghanistan, right, these individuals are having
15 to go to places like Pakistan to have their processing and
16 interviews.

17 So I mean I don't understand why the State Department
18 couldn't say in light of that, we're going to have -- we're
19 going have two consular officials who can make this
20 determination, or why is it that only one person can do it?
21 And I'm seriously curious, I don't know, I'm not a foreign
22 service officer.

23 MR. VEPREK: I don't have a good answer for you on
24 that one. Just referring back to what I was mentioning, that
25 historically when we do chief of mission authority approvals at

1 a post somewhere you have an ambassador or chargé d'affaires
2 who signs off on it.

3 THE COURT: Is this for all visas?

4 MR. VEPREK: No, ma'am, this is for special immigrant
5 visas.

6 THE COURT: Okay.

7 MR. VEPREK: Because before we had the Afghan SIV
8 program, there were just -- it's called normal SIVs for other
9 embassy employees who worked at our diplomatic posts overseas.
10 So typically after a certain number of years of good and
11 faithful service, a locally engaged staff member can then seek
12 chief of mission approval and then be processed for an SIV.

13 THE COURT: I actually understand that. I know
14 someone who got one a long time ago. But, again, we're talking
15 about a somewhat different situation where people's lives are
16 at stake, people are hiding, this was a -- this was a war, and
17 this is a country where the relations are not good and,
18 therefore, the well-founded -- the fear that these individuals
19 have of their life is well-founded. I don't think anyone is
20 going to disagree with me on that.

21 So I guess that's one of the questions that I'd like
22 the Government to provide information to the Plaintiffs on, why
23 can't this happen in light of the adjudication plan.

24 Thank you.

25 MR. VEPREK: Yes, Your Honor.

1 THE COURT: All right. Maybe I'm just, you know,
2 beating my head against the wall here, but I am going to order
3 the parties to meet and confer again. I'm going to order the
4 Government to provide the Plaintiffs with the information they
5 seek prior to the next status conference. If, for some reason,
6 the Government believes that the information Plaintiffs seek is
7 privileged or otherwise something they're not prepared to
8 disclose, then they need to say that in their joint status
9 report and not here at the next status conference because that
10 doesn't give me any recourse to address it.

11 And based on the results of the meet and confer, if
12 Plaintiffs feel that it is necessary, you can file a proposed
13 order with proposed remedies. If the Government believes that
14 they cannot and should not comply with my revised adjudication
15 plan, they may move late to -- for relief, but I want -- that
16 does not excuse them or absolve them of their obligation to
17 tell me how they're going to get into compliance. And how
18 they're going to remedy or at least alleviate the backlogs that
19 I've described that Plaintiffs have set forth, which is -- this
20 processing is going to go on forever at this rate.

21 And even if the proclamation was -- the two scenarios
22 are if the proclamation was lifted tomorrow, it would still --
23 you'd still be way out of compliance and we'd still be moving
24 too slowly. And if the proclamation is lifted in two years,
25 we're going to be at -- we're going to be starting all over

1 again. I mean, that's what it seems like to me and surely that
2 cannot be Congress's intent, but I don't know.

3 MS. MUELLER: Thank you, Your Honor. Just to
4 clarify, when you say responses to Plaintiffs' questions, are
5 you referring to the exhibit to the JSR that had Plaintiffs'
6 additional questions?

7 THE COURT: I want -- I would like responses to those
8 questions and any additional questions that come up in the
9 joint -- in the meet and confer.

10 So let us talk about dates. What do you propose?

11 MS. GRANO: We would be available April 28th, if
12 that works.

13 THE COURT: For a status conference?

14 MS. GRANO: Yes.

15 THE COURT: I have a family medical matter and I'm
16 trying not to schedule anything that week, but I could do it
17 the week after. I'm going to be out of town starting May 9th,
18 but I could do it the week of May the 4th possibly. I prefer
19 later on in the week. Like the -- I could do the 6th of May.

20 MS. GRANO: Let me just check my calendar.

21 THE COURT: If everybody could check their calendar.

22 MS. MUELLER: Your Honor, May 6th does work for the
23 Government. I will note that the opening briefing appeal is
24 due May 4th for your awareness.

25 THE COURT: Are you handling that or is your

1 appellate division handling that?

2 MS. MUELLER: Our team is handling that, Your Honor.

3 THE COURT: Busy.

4 MS. MUELLER: We are available May 6th, Your Honor.

5 MS. GRANO: Sorry, Your Honor, we have another
6 hearing on May 6th, but we could do the 5th or the 7th.

7 THE COURT: How about the 7th. Is the 7th available?

8 MS. MUELLER: May 7th works for the Government, Your
9 Honor.

10 THE COURT: Is the afternoon available, is that -- is
11 that difficult for you all?

12 MS. GRANO: We're available in the afternoon.

13 THE COURT: 2:00.

14 MS. MUELLER: That works, Your Honor.

15 THE COURT: All right. So next status conference
16 May 7th at 2 p.m.

17 MS. MUELLER: Your Honor, if I may, are you
18 requesting any additional employees from the State Department
19 at that status conference or just the DOJ litigation team?

20 THE COURT: No.

21 MS. MUELLER: Thank you.

22 THE COURT: And thank you for being here.

23 Well, you know, it may depend on the information that
24 I get, but I don't think so. Because I am going to assume that
25 the Government will provide the information requested to the

1 Plaintiffs in advance of the hearing.

2 You will all pick your meet and confer dates, that's
3 up to you, but I'd like a joint -- when can I get a joint
4 status report given that it's a pretty tight deadline. Can I
5 at least have it by the 30th?

6 MS. GRANO: I think that's plenty of time for
7 Plaintiffs, Your Honor.

8 MS. MUELLER: That works for the Government, Your
9 Honor.

10 THE COURT: Okay. Joint status report due
11 April 30th. Anything else?

12 MS. GRANO: I'll just say that Plaintiffs are happy
13 to provide a proposed order if we think that we still want
14 to --

15 THE COURT: If you feel you need to -- you can go
16 ahead with that. Obviously the Government should see it before
17 you file it.

18 MS. GRANO: Of course.

19 MS. MUELLER: Thank you, Your Honor.

20 THE COURT: All right. And do you need a deadline to
21 file any motions?

22 MS. MUELLER: We would need to confer on our end,
23 Your Honor. I think we would also look at April 30th or
24 whenever -- are filed.

25 THE COURT: Okay. All right. Motions -- any motions

1 filed with the briefing schedule will be in the normal course
2 according with our local rules.

3 MS. MUELLER: Understood, Your Honor.

4 THE COURT: All right. Thank you, all.

5 (Proceedings concluded at 11:23 a.m.)

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CERTIFICATE OF OFFICIAL COURT REPORTER

I, REBECCA MONROE, do hereby certify that the above and foregoing constitutes a true and accurate transcript of my stenographic notes and is a full, true and complete transcript of the proceedings to the best of my ability.

Dated this 3rd day of April, 2026



Rebecca Monroe, RPR
Official Court Reporter
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