

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK**

DAVINO WATSON,

Plaintiff,

v.

JUAN ESTRADA, MICHAEL ORTIZ,
TIMOTHY GUNTHER, JOHN DOES 1-8, and
the UNITED STATES

Defendants.

Case No.

Jury Trial Demanded

COMPLAINT

Plaintiff Davino Watson (“Plaintiff” or “Mr. Watson”), by and through his undersigned counsel, hereby alleges as follows for his complaint against Defendants Juan Estrada, Michael Ortiz, Timothy Gunther, John Does 1-8, and the United States (collectively “Defendants”).

STATEMENT OF THE CASE

1. Plaintiff Davino Watson, a U.S. citizen since 2002, was wrongfully imprisoned by Defendants for 1,273 days (approximately 3.5 years) as they sought to deport Plaintiff from the United States and then left him destitute for 755 days (over 2 years) because they failed to provide him proof of his U.S. citizenship or provide him any other work authorization documentation.

2. Mr. Watson was born in Jamaica and entered the United States as a lawful permanent resident in 1998. He lawfully derived U.S. citizenship on September 17, 2002 when his father became a naturalized citizen. Because his citizenship was by operation of law under the Child Citizenship Act of 2000 (8 U.S.C. § 1431(a)), Mr. Watson did not need to file any application or paperwork to obtain U.S. citizenship.

3. In spring 2008, two federal officers with Immigration and Customs Enforcement (ICE) brought Plaintiff into immigration custody without first establishing probable cause that he was a noncitizen. It is clearly established that ICE does not have legal authority to arrest or detain a U.S. citizen for a civil immigration violation. Accordingly, the ICE officers were required to but failed to conduct a reasonable investigation into Mr. Watson's U.S. citizenship prior to seeking his detention. Upon entering immigration custody on May 8, 2008, Mr. Watson affirmatively claimed his U.S. citizenship to various identified and unidentified ICE officers and quickly obtained a copy of his father's certificate of naturalization. The certificate demonstrated that which should have already been apparent—ICE did not have probable cause of Plaintiff's alienage. ICE officials never established probable cause of his alienage to justify Plaintiff's detention over the ensuing 3.5 years.

4. Despite four ICE policy directives prescribing mandatory investigative and reporting steps when confronted with claims to U.S. citizenship (USC directives), ICE officials responsible for Mr. Watson's detention failed to comply with the first three USC directives and only belatedly attempted to comply with the final USC directive, resulting in their discovery that they had been applying the wrong Board of Immigration Appeals' (BIA) precedent to his case and that in fact he had provided probative evidence of his U.S. citizenship.

5. ICE officials released Mr. Watson on November 2, 2011 without any proof of legal status or work authorization. Unknown officials with United States Citizenship and Immigration Services (USCIS), who participated in the determination to release Mr. Watson on November 2, 2011, concluded that Plaintiff was a U.S. citizen. These USCIS officials, nevertheless, did nothing to correct the agency's error and provide Mr. Watson with evidence of his U.S. citizenship, which would have permitted him to prove that he could lawfully work.

As a result, Mr. Watson was left unemployed, destitute, and unable to exercise his rights and privileges as a citizen for another two years until Mr. Watson's motion to reopen his N-600 application was granted, and he was issued a certificate of citizenship on November 26, 2013.

6. Mr. Watson brings this action for damages against various known and unknown Department of Homeland Security (DHS) or ICE officials in their individual capacities for unlawfully detaining him for 1,273 days (approximately 3.5 years) on alleged immigration violations, without probable cause, due process, or other procedural protections afforded to him by the Fourth and Fifth Amendments to the U.S. Constitution. *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971).

7. Mr. Watson also brings common law tort claims of false imprisonment, malicious prosecution, and negligence against the United States under the Federal Torts Claims Act (FTCA), 28 U.S.C. § 2671, *et seq.*, for the acts and omissions of DHS, ICE and USCIS officials that caused Mr. Watson to be detained for 1,273 days and left without proof of his U.S. citizenship or any other legal status for an additional 755 days, leaving him unemployed, destitute, and otherwise not able to exercise his rights and privileges as a U.S. citizen.

JURISDICTION AND VENUE

8. This Court has subject matter jurisdiction over Mr. Watson's *Bivens* constitutional claims and FTCA claims pursuant to 28 U.S.C. §§ 1331 (federal question) and 1346(b)(1) (FTCA).

9. On October 30, 2013, Mr. Watson filed an administrative complaint with the DHS,¹ raising the facts giving rise to Plaintiff's claims under the FTCA. By letter dated October 3, 2014, the government refused to accept responsibility for the misconduct of its

¹ Both ICE and USCIS are subdivisions of the Department of Homeland Security.

officers and denied Mr. Watson's claims for administrative relief. Mr. Watson, therefore, has exhausted his administrative remedies for purposes of his claims against the United States under the FTCA as required by 28 U.S.C. §§ 2401(b) and 2675(a).

10. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391(e)(1)(C), because Mr. Watson resides in this judicial district, and this is a civil action in which the United States is a defendant.

THE PARTIES

11. Plaintiff Davino Watson resides in Brooklyn, New York (Kings County). Mr. Watson is, and was at all times relevant to this action, a U.S. citizen.

12. Defendant Juan Estrada is being sued in his individual capacity. On information and belief, Defendant Estrada is, and was at all times relevant to this action, a Deportation Officer with ICE. On information and belief, Defendant Estrada serves, and was at all times relevant to this action serving, as a law enforcement officer at ICE responsible for formulating, approving, implementing, and/or enforcing ICE customs and policies, including the preparation and issuance of immigration detainers, administrative arrest warrants, the investigation and arrest of persons in violation of the immigration laws, and the subsequent detention and treatment of such persons. On information and belief, Defendant Estrada is, and was at all times relevant to this action, responsible for ensuring that ICE's customs, policies, practices, and activities accord with the U.S. Constitution and applicable federal law and regulations. As described in further detail below, Defendant Estrada failed to conduct a reasonable investigation into Plaintiff's U.S. citizenship and accordingly failed to establish probable cause that he was a noncitizen, which caused Mr. Watson to be unlawfully detained by ICE.

13. Defendant Michael Ortiz is being sued in his individual capacity. On information and belief, Defendant Ortiz is, and was at all times relevant to this action, a Supervisory

Deportation Officer with ICE. On information and belief, Defendant Ortiz serves, and was at all times relevant to this action serving, as a law enforcement officer at ICE responsible for formulating, approving, implementing, and/or enforcing ICE customs and policies, including the preparation and issuance of immigration detainers, administrative arrest warrants, the investigation and arrest of persons in violation of the immigration laws, and the subsequent detention and treatment of such persons. On information and belief, Defendant Ortiz is, and was at all times relevant to this action, responsible for ensuring that ICE's customs, policies, practices, and activities accord with the U.S. Constitution and applicable federal law and regulations. As described in further detail below, Defendant Ortiz failed to conduct a reasonable investigation into Plaintiff's U.S. citizenship and accordingly failed to establish probable cause that he was a noncitizen before issuing a Notice to Appear and administrative arrest warrant, which caused Mr. Watson to be unlawfully detained and placed in removal proceedings by ICE.

14. Defendant Timothy Gunther is being sued in his individual capacity. On information and belief, Defendant Gunther is, and was at all times relevant to this action, a Deportation Officer with ICE. On information and belief, Defendant Gunther serves, and was at all times relevant to this action serving, as a law enforcement officer at ICE responsible for formulating, approving, implementing, and/or enforcing ICE customs and policies, including the preparation and issuance of immigration detainers, administrative arrest warrants, the investigation and arrest of persons in violation of the immigration laws, and the subsequent detention and treatment of such persons. On information and belief, Defendant Gunther is, and was at all times relevant to this action, responsible for ensuring that ICE's customs, policies, practices, and activities accord with the U.S. Constitution and applicable federal law and

regulations. As described in further detail below, on information and belief, Defendant Gunther was one of initial officers responsible for Plaintiff's case and one of the ICE officials to whom Mr. Watson claimed U.S. citizenship and provided probative evidence. In response to Plaintiff's claim and evidence, Defendant Gunther failed to conduct the required investigation and reporting under the first and second agency USC directives dated May 23, 2008 and July 18, 2008, respectively, and possibly the successive agency directives on Nov. 6, 2008 and Nov. 19, 2009. Defendant Gunther also failed to investigate whether there was probable cause to continue to detain Plaintiff and subject him to removal proceedings in light of the further evidence of his U.S. citizenship.

15. Defendant John Doe No. 1 is being sued in his individual capacity. On information and belief, Defendant John Doe No. 1 has the surname "DeLong" and is, and was at all times relevant to this action, a Deportation Officer with ICE. On information and belief, Defendant John Doe No. 1 serves, and was at all times relevant to this action serving, as a law enforcement officer at ICE responsible for formulating, approving, implementing, and/or enforcing ICE customs and policies, including the preparation and issuance of immigration detainers, administrative arrest warrants, the investigation and arrest of persons in violation of the immigration laws, and the subsequent detention and treatment of such persons. On information and belief, Defendant John Doe No. 1 is, and was at all times relevant to this action, responsible for ensuring that ICE's customs, policies, practices, and activities accord with the U.S. Constitution and applicable federal law and regulations. As described in further detail below, on information and belief, Defendant John Doe No. 1 had responsibility and/or substantial contact with Plaintiff regarding his claim to U.S. citizenship and to whom Mr. Watson submitted probative evidence. In response to Plaintiff's claim and evidence,

Defendant John Doe No. 1 failed to conduct the required investigation and reporting under the first and/or second agency USC directives dated May 23, 2008 and July 18, 2008, respectively, and possibly the successive agency directives on Nov. 6, 2008 and Nov. 19, 2009. Defendant John Doe No. 1 also failed to investigate whether there was probable cause to continue to detain Plaintiff and subject him to removal proceedings in light of the further evidence of his U.S. citizenship.

16. Defendant John Doe No. 2 is being sued in his individual capacity. On information and belief, Defendant John Doe No. 2 has the surname “Schneider” and is, and was at all times relevant to this action, a Deportation Officer with ICE. On information and belief, Defendant John Doe No. 2 serves, and was at all times relevant to this action serving, as a law enforcement officer at ICE responsible for formulating, approving, implementing, and/or enforcing ICE customs and policies, including the preparation and issuance of immigration detainers, administrative arrest warrants, the investigation and arrest of persons in violation of the immigration laws, and the subsequent detention and treatment of such persons. On information and belief, Defendant John Doe No. 2 is, and was at all times relevant to this action, responsible for ensuring that ICE’s customs, policies, practices, and activities accord with the U.S. Constitution and applicable federal law and regulations. As described in further detail below, on information and belief, Defendant John Doe No. 2 had responsibility and/or substantial contact with Plaintiff regarding his claim to U.S. citizenship and to whom Mr. Watson submitted probative evidence. In response to Plaintiff’s claim and evidence, Defendant John Doe No. 2 failed to conduct the required investigation and reporting under the first and/or second agency USC directives dated May 23, 2008 and July 18, 2008, respectively, and possibly the successive agency directives on Nov. 6, 2008 and Nov. 19, 2009. Defendant

John Doe No. 2 also failed to investigate whether there was probable cause to continue to detain Plaintiff and subject him to removal proceedings in light of the further evidence of his U.S. citizenship.

17. Defendant John Doe No. 3 is being sued in his individual capacity. On information and belief, Defendant John Doe No. 3 either preceded or succeeded Defendant Gunther, John Doe No. 1, and/or John Doe No. 2 as the ICE Deportation Officer responsible for Mr. Watson's case during the 3.5 years that Plaintiff was detained by ICE. John Doe No. 3 has the same legal obligations as described for Defendant Gunther, John Doe No. 1, and John Doe No. 2 and was required to take appropriate actions upon learning of Plaintiff's claim to U.S. citizenship.

18. Defendant John Doe No. 4 is being sued in his individual capacity. On information and belief, Defendant John Doe No. 4 is, and was at all times relevant to this action, the ICE Field Office Director (FOD) for the Buffalo Area of Responsibility (AOR). On information and belief, Defendant John Doe No. 4 serves, and was at all times relevant to this action serving, as a law enforcement officer at ICE responsible for formulating, approving, implementing, and/or enforcing ICE customs and policies, including the preparation and issuance of immigration detainers, administrative arrest warrants, the investigation and arrest of persons in violation of the immigration laws, and the subsequent detention and treatment of such persons. On information and belief, Defendant John Doe No. 4 is, and was at all times relevant to this action, responsible for ensuring that ICE's customs, policies, practices, and activities accord with the U.S. Constitution and applicable federal law and regulations. As described in further detail below, Defendant John Doe No. 4 as FOD had responsibility to ensure all the required investigative and reporting steps for each of the four USC directives

were completed in Plaintiff's case and to ensure that there was probable cause to detain Plaintiff and continue removal proceedings in light of the evidence of his U.S. citizenship. Defendant John Doe No. 4 failed to perform the requisite supervisory, investigative, and reporting requirements under the four USC directives and also did not ensure that ICE had probable cause to detain Plaintiff and subject him to continued removal proceedings.

19. Defendant John Doe No. 5 is being sued in his individual capacity. On information and belief, Defendant John Doe No. 5 succeeded John Doe No. 4 as ICE Field Office Director (FOD) for the Buffalo Area of Responsibility (AOR) during the 3.5 years that Plaintiff was detained by ICE. John Doe No. 5 has the same legal obligations as described for John Doe No. 4 and was required to take appropriate actions upon learning of Plaintiff's claim to U.S. citizenship.

20. Defendant John Doe No. 6 is being sued in his individual capacity. On information and belief, Defendant John Doe No. 6 is, and was at all times relevant to this action, a Deportation Officer with ICE. On information and belief, John Doe No. 6 has the same legal obligations as described for Defendants Gunther, John Doe Nos. 1-3 and was required to take appropriate actions upon learning of Plaintiff's claim to U.S. citizenship. On information and belief, Defendant John Doe No. 6 conducted a Post Order Custody Review (POCR) of Plaintiff on or around February 5, 2009 upon which John Doe No. 6 would have learned of Plaintiff's claim to U.S. citizenship.

21. Defendant John Doe No. 7 is being sued in his individual capacity. On information and belief, Defendant John Doe No. 7 is, and was at all times relevant to this action, a Deportation Officer with ICE. On information and belief, John Doe No. 7 has the same legal obligations as described for Defendants Gunther, John Doe Nos. 1-3, 6 and was required to

take appropriate actions upon learning of Plaintiff's claim to U.S. citizenship. On information and belief, Defendant John Doe No. 7 conducted a Post Order Custody Review (POCR) of Plaintiff on or around April and May 2009, during which John Doe No. 7 would have learned of Plaintiff's claim to U.S. citizenship.

22. Defendant John Doe No. 8 is being sued in his individual capacity. On information and belief, Defendant John Doe No. 8 is, and was at all times relevant to this action, a Deportation Officer with ICE. On information and belief, John Doe No. 8 has the same legal obligations as described for Defendants Gunther, John Doe Nos. 1-3, 6-7 and was required to take appropriate actions upon learning of Plaintiff's claim to U.S. citizenship. On information and belief, Defendant John Doe No. 8 conducted a Post Order Custody Review (POCR) of Plaintiff in May 2010, during which John Doe No. 8 would have learned of Plaintiff's claim to U.S. citizenship.

23. Defendant United States is liable under the FTCA for the conduct of Defendants Estrada, Ortiz, Gunther, John Does 1-8, as well as the acts or omissions of unknown DHS, ICE, and USCIS officials, who were employees of the United States and acting within the scope and course of their employment at all times relevant to this action.

FACTUAL ALLEGATIONS

Mr. Watson's United States Citizenship

24. Mr. Watson was born in Jamaica on November 17, 1984 to unmarried parents, whose names both appear on his birth certificate.

25. On August 4, 1998, Plaintiff entered the United States as a lawful permanent resident (LPR) based on a petition by his father and step-mother.

26. Plaintiff lived with his father and step-mother in New York after he entered the United States.

27. On September 17, 2002, Plaintiff's father naturalized to U.S. citizenship—the last material condition in order for Plaintiff to derive citizenship automatically under the Child Citizenship Act of 2000 (CCA) (codified at 8 U.S.C. § 1431(a), Immigration and Nationality Act (INA) § 320(a)). *Matter of Rodriguez-Tejedor*, 23 I. & N. Dec. 153, 163 (BIA 2001)(stating “[I]n determining whether an individual derived citizenship by naturalization, the law in effect when the last material condition (naturalization, age, residence) is met is generally controlling.”); *Ashton v. Gonzales*, 431 F.3d 95, 97-98 (2d Cir. 2005)(applying the legal principle established in *Rodriguez-Tejedor*); see *Minasyan v. Gonzales*, 401 F.3d 1069, 1075 (9th Cir. 2005)(“[D]erivative citizenship is determined under the law in effect at time the critical events giving rise to eligibility occurred.”).

28. At the time of Plaintiff's father's naturalization, the binding BIA case law held that Plaintiff was legitimated, because Jamaica had abolished any legal distinctions based on legitimation in 1976. *Matter of Clahar*, 18 I. & N. Dec. 1 (1981).² Accordingly, Mr. Watson became a U.S. citizen by operation of law (i.e., no required application or paperwork) through his father's naturalization to U.S. citizenship on September 17, 2002.

29. Plaintiff's Certificate of Citizenship reflects that he became a U.S. citizen on September 17, 2002. **Ex. A.**

30. The Supreme Court has held that the express language of the Fourteenth Amendment does not foresee a “fleeting citizenship, good at the moment it is acquired but subject to destruction by the Government at any time.” *Afroyim v. Rusk*, 387 U.S. 253, 262

² As discussed below, when ICE officials belatedly looked into Mr. Watson's claim to U.S. citizenship, they erroneously applied *Matter of Hines*, 24 I. & N. Dec. 544 (BIA June 4, 2008)—a decision issued 27 days after ICE brought Mr. Watson into immigration custody and 2,087 days (over 5.5 years) after Mr. Watson derived U.S. citizenship by operation of law on September 17, 2002. In effect, ICE claimed that it could retroactively strip Plaintiff of his U.S. citizenship, a process for which there is no provision absent fraud.

(1967). “Once acquired, this Fourteenth Amendment citizenship was not to be shifted, canceled, or diluted at the will of the Federal Government, the States, or any other governmental unit.” *Afroyim*, 387 U.S. at 262.

Defendants Unlawful Detention of Mr. Watson

31. On September 18, 2007, Mr. Watson pleaded guilty to a drug offense and was placed in New York State’s “Shock Incarceration Program”—a therapeutic program for young, non-violent offenders.

32. On October 9, 2007, while in state custody, unknown ICE officer interviewed Plaintiff at the Downstate Correctional Facility in Castle Point, New York.

33. Plaintiff informed the ICE officer that Plaintiff was a U.S. citizen and provided the officer with his parents’ telephone number.

34. The unknown ICE officer recorded the parents’ telephone number and decided not to issue an immigration detainer—the first step toward bringing Plaintiff into immigration custody. **Ex. B.** On information and belief, the unknown ICE officer never called Plaintiff’s parents to verify Mr. Watson’s claim to U.S. citizenship

35. On or about April 7, 2008, Defendant Estrada conducted a cursory investigation into whether Mr. Watson was a noncitizen and subject to deportation from the United States. Mr. Watson’s records, at a minimum, would have shown that he was under 18 years old when he entered the United States in 1998 as a lawful permanent resident to live with his father, Hopeton Watson. *See Ex. C.* In short, minimal further investigation was necessary to determine whether Plaintiff’s father naturalized before Plaintiff turned 18 years old, which would mean he automatically became a U.S. citizen as of his father’s naturalization.

36. Defendant Estrada claimed to have reviewed Plaintiff's father's Alien file and DHS database records. **Ex. D.** He concluded in his investigative report: "His parents are nationals and citizens of Jamaica who have not naturalized. No issue of derivation applies." *Id.* Had Defendant Estrada reasonably reviewed Plaintiff's father's Alien file or DHS's database records, Defendant Estrada would have discovered a copy of the certificate of naturalization belonging to Mr. Watson's father and that DHS's database records; both of which stated that Plaintiff's father naturalized to U.S. citizenship on September 17, 2002. **Ex. E.** With minimal, reasonable investigation Defendant Estrada should have concluded Plaintiff was a U.S. citizen.

37. Instead, without reasonably reviewing the father's Alien file or DHS database records, interviewing Mr. Watson or his parents, or contacting the ICE officer that interviewed Mr. Watson in October 2007, Defendant Estrada issued an immigration detainer requesting that New York state officials detain Plaintiff so that ICE could assume custody. **Ex. F.**

38. On April 10, 2008, Defendant Ortiz issued a Notice to Appear (Form I-862) (NTA), which falsely alleged that Mr. Watson was not a U.S. citizen, and an administrative arrest warrant (Form I-200). **Ex. G.** On information and belief, Defendant Ortiz relied principally on Defendant Estrada's cursory investigation to erroneously conclude that there was probable cause to believe that Plaintiff was a noncitizen and subject to removal.

39. On May 8, 2008, after Mr. Watson successfully completed New York's "Shock Incarceration Program," ICE officials immediately brought Plaintiff into immigration custody. At that time, Defendant Gunther, John Doe No. 1, John Doe No. 2, and/or John Doe No. 3 were responsible for Plaintiff's case and his detention. Immediately upon entering immigration custody, Plaintiff claimed U.S. citizenship to Defendant Gunther, John Doe No. 1, John Doe No. 2, and/or John Doe No. 3. Mr. Watson quickly obtained a copy of his father's certificate

of naturalization. **Ex. H.** Accordingly, at that time, Defendant Gunther, John Doe No.1, John Doe No. 2, and/or John Doe No. 3 had evidence that Mr. Watson entered the United States as a lawful permanent resident in the custody of his biological father, who subsequently naturalized to U.S. citizenship before Plaintiff turned 18 years old. In short, Defendant Gunther, John Doe No. 1, John Doe No. 2, and/or John Doe No. 3 had probative evidence of Mr. Watson’s U.S. citizenship and lack of probable cause of alienage to keep Mr. Watson detained.

40. Defendant Gunther, John Doe No. 1, John Doe No.2, and/or John Doe No.3 did nothing to investigate or report Mr. Watson’s claims. They issued Mr. Watson his NTA, alleging he was not a U.S. citizen, but then waited 19 days until May 27, 2008 to file the NTA with the immigration court, commencing removal proceedings. *See Ex. G.* The court did not schedule Plaintiff for a first hearing until June 25, 2008—48 days after his initial transfer into immigration custody. **Ex. I.** Plaintiff remained *pro se* throughout his administrative proceedings. He was later appointed counsel on his petition for review to the Second Circuit.

ICE’s Policies Regarding the Arrest and Detention of U.S. Citizens

41. There is a longstanding precedent that the federal government cannot exert its civil immigration enforcement authority against U.S. citizens. *See Woodby v. INS*, 385 U.S. 276 (1966).

42. On or about May 23, 2008, Gary E. Mead, ICE acting Director for Detention and Removal Operations, issued a memorandum directive to All Field Office Directors and Detention and Removal Operations, entitled “Reporting and Investigation of Claims to United States Citizenship.” **Ex. J** (the “May 23 USC directive”).

43. The May 23 USC directive established the following protocols that ICE officers must follow when a detainee makes a claim of U.S. citizenship (emphasis added):

All officers encountering a detainee claiming U.S. citizenship **shall immediately notify the Field Office Director (FOD)** through their chain of command. The FOD shall make appropriate notification to HQDRO [Headquarters Detention and Removal Operations]. **Each FOD shall ensure that all claims to United States citizenship . . . are appropriately reported and investigated.**

Interviews with detainees making such claims shall be conducted by at least a senior Immigration Enforcement Agent (IEA) with 6 months Criminal Alien Program (CAP) experience. **Interviews will be recorded as a sworn statement** and include all questions on the Form I-213, as well as probative questions that will elicit sufficient information to allow ICE to conduct a thorough investigation. This investigation may include vital records searches, family interviews, and other appropriate investigative measures.

If an affirmative claim to United States citizenship is made by a detainee prior to commencement of removal proceedings, the FOD will in consultation with HQDRO and the Office of the Principal Legal Advisor (OPLA), determine whether sufficient evidence exists to place that individual into removal proceedings. If an affirmative claim to United States citizenship is made by a detainee already in removal proceedings, each FOD, in consultation with HQDRO and OPLA, will determine the most appropriate course of action.

If a detainee claim to United States citizenship appears to have merit, the FOD, in consultation with HQDRO and OPLA, may consider alternatives to detention

44. Defendants Gunther, John Doe No. 1, John Doe No. 2, John Doe No. 3 and/or John Doe No. 4 did not comply with any of the protocols detailed in the May 23 USC directive. Had they done so immediately, as required by the directive, there would have been no confusion as to Plaintiff's U.S. citizenship.

45. On July 18, 2008, Gary E. Mead, ICE acting Director for Detention and Removal Operations issued a superseding memorandum directive to All Field Office Directors, entitled "Superseding Guidance on Reporting and Investigation of Claims to United States Citizenship." **Ex. K** (the "July 18 USC directive").

46. The July 18 USC directive reiterated the required protocols established in the May 23 USC directive, but emphasized to the FODs that investigations into claims of U.S. citizenship must occur immediately, because ICE does not have authority to detain an individual unless there is probable cause of alienage. *See id.*

47. Defendants Gunther, John Doe No. 1, John Doe No. 2, John Doe No. 3, John Doe No. 4, and/or John Doe No. 5 did not comply with any of the protocols detailed in the July 18 USC directive.

48. On November 6, 2008, James T Hayes, Jr., ICE Director for Detention and Removal Operations issued a superseding memorandum directive to All Field Office Directors, entitled “Superseding Guidance on Reporting and Investigation of Claims to United States Citizenship.” **Ex. L** (the “Nov. 6 USC directive”).

49. The Nov. 6 USC directive reiterated the required protocols contained in the July 18 USC directive, but now required greater consultation with HQDRO in the final decision regarding detention and continuing removal proceedings.

50. Defendants Gunther, John Doe No. 1, John Doe No. 2, John Doe No. 3, John Doe No. 4, and/or John Doe No. 5 did not comply with any of the protocols detailed in the Nov. 6 USC directive.

51. On or about November 19, 2009, John Morton, the Assistant Secretary of DHS, issued a memorandum to FODs, Special Agents in Charge, and Chief Counsels, entitled “Superseding Guidance on Reporting and Investigating Claims to United States Citizenship.” **Ex. M**. (the “Nov. 19 USC directive”).

52. Consistent with clearly established law, the Nov. 19 USC directive explained that “[a]s a matter of law, ICE cannot assert its civil immigration enforcement authority to arrest and/or detain a [U.S. citizen (USC)].”

53. The Nov. 19 USC directive established the following new protocols that ICE officers must follow when an individual already in custody makes a claim of U.S. citizenship (emphasis added):

If an individual already in custody claims to be a USC, an officer must immediately examine the merits of the claim and notify and consult with his or her local [Office of the Chief Counsel (OCC)]. If the individual is unrepresented, an officer must immediately provide the individual with the local Executive Office for Immigration Review (EOIR) list of pro bono legal service providers, even if one was previously provided.

Detention and Removal Operations (DRO) personnel and the Office of the Principal Legal Advisor (OPLA)] must also jointly prepare and submit a memorandum explaining the claim and recommending a course of action to the HQDRO Assistant Director for Operations at the “USC Claims DRO” e-mail box and to the HQOPLA Director of Field Operations at the “OPLA Field Legal OPS” e-mailbox. **Absent extraordinary circumstances, this memorandum should be submitted no more than 24 hours from the time the individual made the claim.** HQDRO and HQOPLA will respond to the field with a decision on the recommendation within 24 hours. A notation should be made in [Enforce Alien Removal Module (EARM)] and a copy of the memorandum and resulting decision should be placed in the alien’s A-file. The memorandum and resulting decision should also be saved in [General Counsel Electronic Management System (GEMS)] and notated using the designated GEMS barcode.

If the individual’s claim is credible on its face, or if the investigation results in probative evidence that the detained individual is a USC, the individual should be released from detention.

54. On information and belief, Defendants Gunther, John Doe No. 1, John Doe No. 2, John Doe No. 3, John Doe. No. 4, John Doe No. 5, John Doe No. 6 and/or John Doe No. 7 did not comply with any of the protocols detailed in the Nov. 19 USC directive until May 2010.

55. On information and belief, on or around May 26, 2010—over two years after Plaintiff was brought into immigration custody and the first USC directive was issued, and only after the urging of ICE headquarters—Defendants Gunther, John Doe No. 1, John Doe No. 2, John Doe No. 3, John Doe. No. 4, John Doe No. 5, John Doe No. 6, John Doe No. 7 and/or John Doe No. 8 made a deeply flawed attempt at comply with the Nov. 19 USC directive. **Ex. N; Ex. O** (hereinafter “May 26 memorandum”).

56. In an undated and unsigned May 26 memorandum, the FOD for the Buffalo AOR, (John Doe No. 4 or No. 5), concluded that Mr. Watson was not a U.S. citizen based on *Matter of Hines*, 24 I. & N. Dec. 544 (BIA June 4, 2008)—a decision issued 2,087 days (over 5.5 years) after Mr. Watson derived U.S. citizenship by operation of law on September 17, 2002

under the controlling precedent of *Matter of Clahar*, 18 I. & N. Dec. 1 (1981). Under the FOD's flawed reasoning, ICE officials reasoned that they could retroactively strip Plaintiff of his U.S. citizenship, detain him, and seek to deport him. To highlight the absurdity of the May 26 memorandum's analysis, *Matter of Hines* was not even issued at the time Plaintiff was brought into immigration custody and placed into removal proceedings in May 2008. *See supra* ¶¶ 35-40, 42-44.

57. On information and belief, the FOD never submitted the May 26 memorandum to the headquarters DRO Assistant Director for Operations and the headquarters OPLA Director of Field Operations, as required by the Nov. 19 USC directive.

58. On May 31, 2011, the Second Circuit reversed the immigration court's decisions and remanded Plaintiff's case to the Board of Immigration Appeals. *Watson v. Holder*, 643 F.3d 367 (2d Cir. 2011).

59. As the deadline approached for the Government's brief on remand to the BIA, the FOD for the Buffalo AOR (John Doe No. 4 or No. 5) finally consulted with DHS headquarters officials regarding Plaintiff's claim to U.S. citizenship.

60. On or around Nov. 2, 2011, in an undated but signed memorandum, the FOD submitted a revised memorandum pursuant to the Nov. 19 USC directive. **Ex. P.** (hereinafter "Nov. 2 memorandum"). It concluded:

Pursuant to Clahar, at the time of his father's naturalization, Watson would have met the definition of a child at INA § 101(c)(1) and would have fulfilled the conditions for derivative United States citizenship at INA § 320.

It is, therefore, possible that Watson is a derivative United States citizen.

CONCLUSION AND RECOMMENDATION

Following further discussion with OPLA HQ, USCIS counsel, and DHS/OGC, it is concluded that Watson has provided probative evidence of United States

citizenship based on Clahar. It is recommended that he be immediately released from DHS custody.

61. That same day, ICE officials released Plaintiff from immigration custody. **Ex. Q.**

Mr. Watson Left Destitute and Without Proof of U.S. Citizenship

62. Once ICE officials realized Plaintiff was a U.S. citizen, they immediately released Mr. Watson, but they did not seek termination of removal proceedings or provide him with any proof of legal status or work authorization. *See Ex. Q.*

63. Also, in consultation with the Nov. 2 memorandum, unknown USCIS officials independently concluded that Mr. Watson was a U.S. citizen. **Ex. R.**

64. On information and belief, the unknown USCIS officials knew or should have known that USCIS had erroneously denied Mr. Watson's N-600 application, seeking a Certificate of U.S. Citizenship as proof of his citizenship, based on *Matter of Hines*. **Ex. S.**

65. Nevertheless, the unknown USCIS officials did nothing to provide Mr. Watson with proof of his U.S. citizenship for 755 days, leaving him unemployed, destitute, and otherwise not able to exercise his rights and privileges as a U.S. citizen.

66. Plaintiff's motion to reopen his N-600 application was ultimately granted, and Mr. Watson was issued a Certificate of U.S. Citizenship on November 26, 2013. **Ex. A.**

COUNT I

Plaintiff v. Defendants Estrada, Ortiz, Gunther, and John Does No. 1-8
(Violation of the Fourth Amendment and Substantive Due Process
under the Fifth Amendment Pursuant to *Bivens*)

67. The foregoing allegations are repeated and incorporated as if fully set forth herein.

68. The Fourth Amendment to the U.S. Constitution prohibits "unreasonable searches and seizures" and provides that "no Warrants shall issue, but upon probable cause, supported

by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.”

69. The Fifth Amendment to the U.S. Constitution provides: “No person shall be . . . deprived of life, liberty, or property, without due process of law”

70. Defendants Estrada, Ortiz, Gunther, and John Does No. 1-8 could have discovered through minimal investigation that Mr. Watson was a U.S. citizen.

71. Defendants Estrada, Ortiz, Gunther, and John Does No. 1-8 lacked probable cause to believe that Mr. Watson was a noncitizen or that he was otherwise in violation of the immigration laws and subject to arrest, detention, or removal.

72. Defendants Estrada, Ortiz, Gunther, and John Does No. 1-8 detained Mr. Watson, or caused him to be detained, depriving him of his liberty for 1,273 days (approximately 3.5 years), even after he informed them that he was a U.S. citizen, contrary to the four USC directives, 8 U.S.C. §§ 1226(a) and 1357(a)(2), and other clearly established laws and policies.

73. Mr. Watson’s arrest and detention violated his rights under the Fourth Amendment and his substantive due process rights under the Fifth Amendment.

74. At all relevant times during Mr. Watson’s arrest and detention, Defendants Estrada, Ortiz, Gunther, and John Does No. 1-8 were aware, or reasonably should have been aware, that they lacked the authority to arrest and detain a U.S. citizen under the governing laws and policies and that their conduct violated Mr. Watson’s constitutional rights.

75. As a proximate and reasonably foreseeable result of the actions of Defendants Estrada, Ortiz, Gunther, and John Does No. 1-8, Mr. Watson suffered injuries, including his unlawful arrest and 1,273 days in detention, lost wages, loss of consortium, pain and suffering, as well as mental, emotional and psychological anguish.

COUNT II

Plaintiff v. Defendants Estrada, Ortiz, Gunther, and John Does No. 1-8
(Violation of Procedural Due Process Under the Fifth Amendment Pursuant to *Bivens*)

76. The foregoing allegations are repeated and incorporated as if fully set forth herein.

77. Defendants Estrada, Ortiz, Gunther, and John Does No. 1-8 failed to follow the applicable, governing laws, statutes, and regulations, as well as ICE's own controlling policies and deprived Mr. Watson of his liberty without affording him the procedural due process guarantees of the Fifth Amendment as follows:

- a. Defendants detained Mr. Watson, or caused him to be detained, without probable cause to believe that he was a noncitizen or that he was otherwise in violation of the immigration laws and subject to detention;
- b. Defendants detained Mr. Watson, or caused him to be detained, even though he was a United States Citizen, contrary to the four USC directives, 8 U.S.C. §§ 1226(a) and 1357(a)(2), and other clearly established laws and policies;
- c. Defendants failed to reasonably investigate Mr. Watson's claim of U.S. citizenship contrary to the four USC directives, 8 U.S.C. §§ 1226(a) and 1357(a)(2), and other clearly established laws and policies;

78. At all relevant times during Mr. Watson's arrest and detention, Defendants Estrada, Ortiz, Gunther, and John Does No. 1-8 were aware, or reasonably should have been aware, that they lacked the authority to arrest and detain a U.S. citizen under the governing laws and policies and that their conduct violated Mr. Watson's constitutional rights.

79. As a proximate and reasonably foreseeable result of the actions of Defendants Estrada, Ortiz, Gunther, and John Does No. 1-8, Mr. Watson suffered injuries, including his

unlawful arrest and 1,273 days in detention, lost wages, loss of consortium, pain and suffering, as well as mental, emotional and psychological anguish.

COUNT III

***Plaintiff v. Defendant United States*
(False Arrest / False Imprisonment Pursuant to
Federal Tort Claims Act, 28 U.S.C. §§ 2671, et seq.)**

80. The foregoing allegations are repeated and incorporated as if fully set forth herein.

81. Defendants Estrada, Ortiz, Gunther, and John Does No. 1-8 intentionally caused Mr. Watson to be arrested and detained without legal justification to believe he was a noncitizen, or that he was otherwise in violation of the immigration laws and subject to arrest, detention, or removal.

82. Mr. Watson was aware of his arrest and detention and did not consent to it.

83. At all times during Mr. Watson's arrest and detention, Defendants Estrada, Ortiz, Gunther, and John Does No. 1-8 were aware, or reasonably should have been aware, that they lacked the authority to arrest and detain a U.S. citizen under the governing laws and policies, that their conduct was unlawful, and not otherwise privileged.

84. As a proximate and reasonably foreseeable result of the actions of Defendants Estrada, Ortiz, Gunther, and John Does No. 1-8, Mr. Watson suffered injuries, including his unlawful arrest and 1,273 days in detention, lost wages, loss of consortium, pain and suffering, as well as mental, emotional and psychological anguish.

85. At all times during Mr. Watson's arrest and detention, Defendants Estrada, Ortiz, Gunther, and John Does No. 1-8 were employees of the United States acting within the scope and course of their employment. Defendant United States, therefore, is liable for the actions of Defendants Estrada, Ortiz, Gunther, and John Does No. 1-8 under the FTCA for false arrest/false imprisonment.

COUNT IV

Plaintiff v. Defendant United States
(Malicious Prosecution Pursuant to Federal Tort Claims Act, 28 U.S.C. §§ 2671, *et seq.*)

86. The foregoing allegations are repeated and incorporated as if fully set forth herein.

87. ICE and DHS officials commenced removal proceedings against Mr. Watson without probable cause to believe that he was a noncitizen or that he was otherwise in violation of the immigration laws and subject to arrest, detention, or removal.

88. ICE and DHS officials continued removal proceedings against Mr. Watson even as new evidence further proved that the proceedings were without probable cause that he was a noncitizen, or that he was otherwise in violation of the immigration laws and subject to arrest, detention, or removal. ICE and DHS officials blatantly disregarded four USC directives that required a thorough investigation and reporting of Plaintiff's claim to U.S. citizenship that would have demonstrated that they were without probable cause to continue removal proceedings.

89. The Board of Immigration Appeals terminated removal proceedings in Mr. Watson's favor on January 28, 2013, as there was no probable cause that Mr. Watson was a noncitizen.

90. ICE and DHS officials commenced and continued removal proceedings against Plaintiff with actual malice. ICE and DHS officials commenced removal proceedings without probable cause of Plaintiff's alienage and continued removal proceedings for over 4.5 years in blatant disregard of their duty and obligation to thoroughly investigate his claim to U.S. citizenship under the four USC directives and other applicable laws and policies which would have revealed the lack of probable cause.

91. As a proximate and reasonably foreseeable result of the actions of ICE and DHS officials, Mr. Watson suffered injuries, including his unlawful arrest and 1,273 days in detention, lost wages, loss of consortium, pain and suffering, as well as mental, emotional and psychological anguish.

92. At all times during Mr. Watson's arrest, detention, and removal proceedings, ICE and DHS officials were employees of the United States acting within the scope and course of their employment. Defendant United States, therefore, is liable for the actions of ICE and DHS officials under the FTCA for malicious prosecution.

COUNT V

***Plaintiff v. Defendant United States* (Negligence Pursuant to Federal Tort Claims Act, 28 U.S.C. §§ 2671, *et seq.*)**

93. The foregoing allegations are repeated and incorporated as if fully set forth herein.

94. DHS, ICE, and USCIS officials have a duty to act with reasonable care and not subject individuals to personal injury during the course of their duties.

95. DHS, ICE, and USCIS officials have a duty not to subject individuals to unreasonable searches and seizures or deprive them of liberty without due process.

96. DHS, ICE, and USCIS officials have a duty to adequately train and supervise their subordinates and to establish and enforce policies and practices to prevent the occurrence of unconstitutional and tortious actions by their subordinates.

97. DHS and ICE officials have a duty to comply with the four USC directives and/or other governing laws and policies in order to: (i) promptly and meaningfully evaluate claims of U.S. citizenship by an individual they seek to arrest; and (ii) not arrest the individual when there is evidence indicating the individual is a U.S. citizen.

98. DHS and ICE officials have a duty to comply with the four USC directives and/or other governing laws and policies in order to: (i) promptly and meaningfully examine the merits of a claim of U.S. citizenship by an individual whom they have already have in custody; and (ii) not continue to detain that individual when there is evidence indicating the individual is a U.S. citizen.

99. USCIS officials have a duty to act with reasonable care in adjudicating N-600 applications of U.S. citizens and promptly correct USCIS errors in adjudicating N-600 applications.

100. DHS and ICE officials breached their duties, as set forth in paragraphs 31-62, in the scope and course of their employment with the United States.

101. USCIS officials breached their duties, as set forth in paragraphs 63-66, in the scope and course of their employment with the United States

102. As a proximate and reasonably foreseeable result of DHS and ICE's negligence, Mr. Watson suffered injuries, including his unlawful arrest and 1,273 in detention, lost wages, loss of consortium, pain and suffering, as well as mental, emotional and psychological anguish, as well as 755 days of post-detention deprivation as result of being left destitute and without proof of legal status to work in the United States.

103. As a proximate and reasonably foreseeable result of USCIS's negligence, Mr. Watson suffered injuries, including 755 days of post-detention deprivation as a result of being left destitute without proof of his U.S. citizenship, unable to work, or otherwise exercise his rights and privileges as a U.S. citizens, as well as pain and suffering, mental, emotional and psychological anguish.

104. At all times during Mr. Watson's arrest, detention, removal proceedings, and application for a certificate of U.S. citizenship, DHS, ICE, and USCIS officials were employees of the United States acting within the scope and course of their employment. Defendant United States, therefore, is liable for the actions of DHS, ICE, and USCIS officials under the FTCA for negligence.

JURY DEMAND

Pursuant to Federal Rule of Civil Procedure 38(b), Mr. Watson demands a trial by jury as to all issues so triable.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Mr. Watson respectfully requests that the Court enter judgment:

- A. Declaring that Defendants Estrada, Ortiz, Gunther, and John Does Nos. 1-8 violated Mr. Watson's rights under the U.S. Constitution and federal law;
- B. Awarding compensatory and punitive damages to Mr. Watson against Defendants Estrada, Ortiz, Gunther, and John Does Nos. 1-8 in their individual capacities for the above violations;
- C. Declaring Defendant United States is liable for the tortious conduct of DHS, ICE, USCIS officials acting within the scope and course of their employment for the United States;
- D. Awarding compensatory damages to Mr. Watson against Defendant United States under the Federal Tort Claims Act (28 U.S.C. § 2674);
- E. Awarding prejudgment interest to Mr. Watson on any award of damages to the extent permitted by law;
- F. Awarding reasonable attorneys' fees to Mr. Watson pursuant to 42 U.S.C. § 1988, 28 U.S.C. §§ 2412(b) and 2412(d)(1)(A), and/or any applicable law; and

G. Granting such other relief as they Court may deem just and proper under the circumstances.

Dated: October 31, 2014

HOLLAND & KNIGHT LLP

By: s/ Robert J. Burns

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(*pro hac vice* application forthcoming)

Attorneys for Plaintiff Davino Watson

EXHIBIT A

UNITED STATES DEPARTMENT OF HOMELAND SECURITY

CITIZENSHIP



CITIZENSHIP

No. A2996153

USCIS Registration No. A046633823

Personal description of holder as of date of issuance of this certificate: Sex Male ; Date of birth November 17, 1984 ;
 Height ** feet ** inches; Marital status Single ; Country of birth JAMAICA

I certify that the description above given is true, and that the photograph affixed hereto is a likeness of me

Davine Watson

(Complete and true signature of holder)

He is known that: DAVINE HOPETON WATSON

now residing at BROOKLYN, NY

having applied to the Director of U.S. Citizenship and Immigration Services for a certificate of citizenship pursuant to Section 341 of the Immigration and Nationality Act, having proved to the satisfaction of the Director that (s)he is now a citizen of the United States of America, became a citizen thereof on September 17, 2002 and is now in the United States.



Now therefore, in pursuance of the authority conferred in Section 341 of the Immigration and Nationality Act, this certificate of citizenship is issued this 26th day of November, Two Thousand and Thirteen and the seal of the Department of Homeland Security affixed pursuant to statute.

Alondra N. Magallanes
 U.S. Citizenship and Immigration Services

DEPARTMENT OF HOMELAND SECURITY

EXHIBIT B

RECORD OF DEPORTABLE ALIEN

(See A.M. - 2790.31 - 34 for instructions)

Family Name (Capital Letters) WATSON, DAVINO HOPETON		Given Name		Middle Name		Sex M	Hair BLK	Eyes BRO	Complexion DBR
Country of citizenship JAMAICA		Passport Number and Country		File Number A46 633 823		Height 71	Weight 170	Occupation	
U.S. Address (Residence) (Number) (Street) (City) (State) (Zip Code) DOWNSTATE C/F						Scars or Marks Tat.: CLAIMS NONE			
Date, Place, Time, Manner of Entry 08/04/1998 (ADJUSTED TO LPR) WSC				Passenger Boarded at		(k)(2), (b)(7)(e)		Marital Status <input type="checkbox"/> WIDOW(ER) <input checked="" type="checkbox"/> SINGLE <input type="checkbox"/> SEPARATED <input type="checkbox"/> MARRIED <input type="checkbox"/> DIVORCED	
Number, Street, City, Province (State), and Country of Permanent Residence Same as above						(k)(2), (b)(7)(e)			
Birthdate 11/17/1984		Date of Action		Location Castle Point		(AI/Near) DWN C.F.		Date of Arrival 10/09/2007	
City, Province (State) and Country of Birth KINGSTON, JAMAICA		AR <input type="checkbox"/> Form: (Type & No.) <input type="checkbox"/>		<input type="checkbox"/> Lifted <input type="checkbox"/> Not lifted		(k)(2), (b)(6), (b)(7)(c)			
Visa Issued At - NIV No.		Social Security Account Name SAA		Social Security No. UNK		Send C.O. Rec Check		Status When Found Institution	
Date Visa Issued		Immigration Record DETAINDER: <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		Criminal Record SEE RAP SHEET. NYSID# 3198881N		CONVICTED <input checked="" type="checkbox"/> INVD <input type="checkbox"/> CLMD <input type="checkbox"/>		Prior Deport: <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	
Name, Address, and Nationality of Spouse (Maiden Name, if appropriate)						Number & Nationality of Minor Children UNK			
(k)(2), (b)(6), (b)(7)(c)		AGE		DOB		(k)(2), (b)(6), (b)(7)(c)		AGE	
Manner Due/Property in U.S. not		Fingerprinted		Transportation Charge(s)					
Immediate possession <input type="checkbox"/> None <input type="checkbox"/> See I-43		<input type="checkbox"/> Yes <input type="checkbox"/> No		<input type="checkbox"/> Not Listed <input type="checkbox"/> Listed code					
Name and Address of (Current/Last) Employer		Type of Employment		Salary		From:		To:	
Parent Info: Father CUSC / LPR / Not LPR Mother CUSC / LPR / Not LPR					Parents Married at Birth Y / N Parents Still Married Y / N				
DERIVATIVE US CITIZENSHIP; <input type="checkbox"/> Y <input type="checkbox"/> N					Claims USC: Y / N				
INSTITUTION: DOWNSTATE					INMATE# 07A5371		EPR DATE: 12/29/2009		
Do you have a Passport/ Birth Certificate & Can you get it? <u>No</u>									
Have you ever used any other name & DOB? <u>No</u>									
Telephone number to verify status: <u>(718) 370-XXXX</u>					(k)(2), (b)(6), (b)(7)(c) PARENTS				
Do you have credible fear of returning to you Native Country? <u>—</u>					Health: <u>Good</u>				
Military Service: Y / <input checked="" type="checkbox"/> N Branch _____ Dates of SVS _____ Unit _____									
Petitions Filed / Pending: Y <input checked="" type="checkbox"/> N									
Language: Spanish / <input checked="" type="checkbox"/> English / Other _____									
Name of School / Church attended in Foreign Country? <u>—</u>					(k)(2), (b)(6), (b)(7)(c) I.E.A.				
DISTRIBUTION 1- FILE 1- STATS					Received (subject and) Officer Date Disposition. (Receiving Officer)				

EXHIBIT C

CIMDTL IMMIGRATION AND NATURALIZATION SERVICE 04/04/08
COMMAND: CENTRAL INDEX SYSTEM - PERSONAL DESCRIPTION DISPLAY 10:44:52

A#: 046633823 NAME: WATSON , DAVINO DOB: 11171984

LAST: WATSON
FIRST: DAVINO
MIDDLE: HOPETON
ALIASES:

NATZ DATE:
COURT:
LOCATION:

SEX: M POE: WSC COB: JAMAI DOE: 08041998
FCO: NYC COA: F22 COC: JAMAI FTC: 10302007 FATHER: HOPETON
PFCO: NRC SFCO: DFO: 05131998 BIN: MOTHER: DORETT

SSN: CONSOLIDATED A-NOS --OTHER INFORMATION--
I-94 ADM #: CARD-X
PASSPORT #:
FBI #:
DRIVER LIC:
FINGER CD#:

OVER-KEY A# TO DISPLAY NEW PERSON. PRESS ENTER. CLEAR EXIT PF1 NEXT CONS A#
PF2 PRIOR CONS A# PF4 RETURN PF5 HELP PF6 MAIN MENU PF8 HISTORY PF11 EOIR

EXHIBIT D

(b)(7)(c)

(b)(6)

ID					
Interview Date	10/9/2007	Review			
Interview Agent					
Din Number	07A5371	NYSID Number	3198881N		
EPR Date	12/29/2009	County Jail ID			
Inmate name	WATSON, DAVINO				
INS Status	LPR				
State Status	5				
A Number	A46633823				
INS Last Name	WATSON				
POB	JAMAICA				
USC	<input type="checkbox"/>	Non Amenable	<input type="checkbox"/>		
Bedford Interview	<input type="checkbox"/>	Federal Case	<input type="checkbox"/>		
Televised	<input type="checkbox"/>	BOP Number			
Interview Facility	DOWNSTATE				
A File ordered	<input checked="" type="checkbox"/>				
FCO	NRC				
A File received	11/1/2007				
Cert/SC ordered	<input type="checkbox"/>	HQ Cert ordered	<input type="checkbox"/>		
Cert Received					
Appeal Ordered	<input checked="" type="checkbox"/>				
Appeal Received	1/18/2008				
Criminal Appeal pending	<input type="checkbox"/>	Detainer issued	<input checked="" type="checkbox"/>		
Possible Derivation (USC)	<input type="checkbox"/>	Date issued	4/8/2008		
Waiting on Parent/Relating file	<input type="checkbox"/>	Acknowledged	<input type="checkbox"/>		
Father's A file					
FCO Father	HAR				
Father's File received	3/27/2008				
Mother's A file					
Mother's FCO	NYC				
Mother's file received	11/29/2007				
Relating A #					
Relating file received					
open case	<input type="checkbox"/>	Subj is an LPR convicted of ATT CSCS 3rd: Cocaine. Phase one forwarded to SIEA 0/11/2007. NTA issued 4/8/08, no derivation, father is LPR, mom natz on 9/1/06 too late.			
Military letter needed	<input type="checkbox"/>				
RTW	<input type="checkbox"/>				
Reinstatement	<input type="checkbox"/>	Admin Removal	<input type="checkbox"/>	Removal Order	<input type="checkbox"/>
NTA Issued	<input checked="" type="checkbox"/>	Motion to Reopen	<input type="checkbox"/>		
Completion date	4/8/2008		Case Closing Agent	ESTRADA	

(b)(7)(c)

(b)(6)

U.S. Department of Homeland Security

Notice to Appear, Bond, and Custody Processing Sheet

A. Alien's Name Davino Hopeton WATSON		
Date of birth 11/17/1984	File No. A046 633 823 Event No: (k)(2),(b)(7)(e)	Date of processing 04/07/2008
Address LAKEVIEW CF PO BOX T 07A5371 EPR: 5/8/2008 NYSID: 3198881N BRCOTON NEW YORK UNITED STATES 14716		
Factual Allegations (attach separate sheet if necessary): <input type="checkbox"/> Charged under section 212 as inadmissible <input checked="" type="checkbox"/> Charged under section 237 as deportable		
1) You are not a citizen or national of the United States; 2) You are a native of Jamaica and a citizen of Jamaica; 3) You were admitted to the United States at New York, NY on or about August 4, 1998 as a Lawful Permanent Resident; 4) You were convicted of the crime of Attempted Criminal Sale of a Controlled Substance in the Third degree, to wit; Cocaine, in violation of Section 110/220.39(1) of the New York State Penal Law, pursuant to a judgment entered on or about September 18, 2007 by the Supreme Court of the State of New York, County of New York under indictment number 167-07.		
<input type="checkbox"/> Attorney of Record?		
Supporting Evidence I213, S&C, appeal check, record checks, Imm visa, parent files		
B. ADDITIONAL FACTORS TO BE CONSIDERED FOR BOND/CUSTODY DETERMINATION		
1. Is a petition or application pending for this alien or a family member? (Explain) None found		
2. Total times apprehended Bonded before? _____ How many times? _____ Released O/R before? _____ Bond breached? _____ How many times? _____ Complied with terms of O/R? _____		
3. Present health of subject, spouse and children (Explain if other than good) Claims good		
4. Total time in U.S., dates and location; residing with (Family members or others) See I213 narrative		
5. Personal property in U.S. (Liquid and non-liquid assets)		
6. Family members in U.S. (Spouse, children, immediate relatives) address if different than subject's		
7. Employment history: (Other than current) From / / To / / NONE		
8. Other factors (i.e. false claim, attempted flight, unsupervised children at home, etc.)		
C. The undersigned recommends: <input type="checkbox"/> VD without NTA <input checked="" type="checkbox"/> NTA Charges: (k)(2),(b)(6),(b)(7)(e)		
(k)(2),(b)(6),(b)(7)(c)		
D. Approved as to legal sufficiency:	Date: 4/10/08	(k)(2),(b)(6),(b)(7)(c)
Signature and title of Service counsel: _____		
E. Based on the above information I have set the following bond: \$ 100,000 Date: (k)(2),(b)(6),(b)(7)(c) Office: NYC/NYC		
Signature and title of authorizing official: (k)(2),(b)(6),(b)(7)(c)		

F's father still an LPR - file case
Mother not in US
(k)(2),(b)(6),(b)(7)(c) **(k)(2),(b)(6),(b)(7)(c)** **(k)(2),(b)(6),(b)(7)(c)**

U.S. Department of Homeland Security

Subject ID : 271221408

Record of Deportable/Inadmissible Alien

Family Name (CAPS) WATSON, Davino Hopeton		First	Middle	Sex M	Hair BLK	Eyes BRO	Complexion DBR
Country of Citizenship JAMAICA	Passport Number and Country of Issue	Case No. (k)(2),(b)(7)(e) A046633023		Height 71	Weight 170	Occupation NONE	
U.S. Address See Narrative				Scars and Marks None Indicated			
Date, Place, Time, and Manner of Last Entry 08/04/1998, Unknown Time, NYC, LPR				Passenger Boarded at KINGSTON			
Number, Street, City, Province (State) and Country of Permanent Residence DUCKENFIELD DISTRICT, GOLDEN COVE P.O. ST. THOMAS, JAMAICA				<input checked="" type="checkbox"/> Single <input type="checkbox"/> Divorced <input type="checkbox"/> Married <input type="checkbox"/> Widower <input type="checkbox"/> Separated			
Date of Birth 11/17/1984	Age: 23	Date of Action 4/7/08	Location Code NYC/NYC	(k)(2),(b)(7)(e)			
City, Province (State) and Country of Birth KINGSTON, JAMAICA		Form: (Type and No.) <input checked="" type="checkbox"/> Lifted <input type="checkbox"/> Not Lifted <input type="checkbox"/>		Date/Hour 04/07/2008			
NIV Issuing Post and NIV Number KINGSTON, JAMAICA		Social Security Account Name DAVINO HOPETON WATSON		(k)(2),(b)(6),(b)(7)(c)			
Date Visa Issued CLASS F22 13-MAY-1998		Social Security Number UNKNOWN		Status at Entry Legal			
Immigration Record POSITIVE - See Narrative		Criminal Record See Narrative		Status When Found IN INSTITUTION			
Name, Address, and Nationality of Spouse (Maiden Name, if Appropriate) N/A		Number and Nationality of Minor Children UNKNOWN		Length of Time Illegality in U.S. NOT APPLICABLE			
Father's Name, Nationality, and Address, if Known See Father info in Narrative		Mother's Present and Maiden Names, Nationality, and Address, if Known See Mother info in Narrative					
Monies Due/Property in U.S. Not in Immediate Possession None Claimed		Fingerprinted? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Systems Checks See Narrative	Charge Code Words(s) See Narrative			
Name and Address of (Last) Current U.S. Employer NONE		Type of Employment	Salary	Employed from/to / / /			
Narrative (Outline particulars under which alien was located/apprehended. Include details not shown above regarding time, place and manner of last entry, attempted entry, or any other entry, and elements which establish administrative and/or criminal violation. Indicate means and route of travel to interior.)							
US ADDRESS LAKEVIEW CF PO BOX T 07A5371 EPR: 5/8/2008 NYSID: 3198881N BRCOTON, NEW YORK, 14716,							
FATHER NAME & ADDRESS Nationality: JAMAICA (k)(2),(b)(6),(b)(7)(c) LPR (k)(2),(b)(6),(b)(7)(c)							
MOTHER'S NAME & ADDRESS Nationality: JAMAICA (k)(2),(b)(6),(b)(7)(c)							
RECORDS CHECKED (k)(2),(b)(7)(e) ON I-831							
Alien has been advised of communication privileges _____ (Date/Initials) _____ Distribution: FILE-1 STATS-1							
Received: (Subject and Documents) (Report of Interview) Officer: (k)(2),(b)(6),(b)(7)(c) on: _____ (time) Disposition: Warra _____ bar Examining Officer: (k)(2),(b)(6),(b)(7)(c)							

Form I-213 (Rev. 08/01/07)

ICE.2014FOIA901.000161

U.S. Department of Homeland Security

Continuation Page for Form I213

Alien's Name WATSON, Davino Hopeton	File Number A046633823	Date 04/07/2008
Event No: (k)(2),(b)(7)(e)		
(k)(2),(b)(7)(e)		
CHARGE CODES		
(k)(2),(b)(7)(e)		
At/Near		
Castle Point, NY		
Record of Deportable/Excludable Alien:		
LPR (I.V.)		
DIN: 07A5371		
EPR: 05/08/2008		
NYSID: 3198881N		
<p>PREDICATION: The subject was encountered and interviewed by a Castle Point, New York ICE/IHP Agent on 10/09/2007 at the Downstate Correctional Facility (NYDOCS). He was convicted on 09/18/2007 of Attempted CSCS-3rd degree and was sentenced to a term of 3-1/2 years confinement. He is serving his sentence at the Lakeview Correctional Facility scheduled to be release on 05/08/2008. The subject was also convicted of Attempted Robbery-2nd degree on 01/26/2005 and sentenced to 5-years probation and 30-days confinement. On 02/22/2006, he was re-sentenced for violation of probation and sentenced to an additional 8-months incarceration for the Robbery conviction.</p>		
<p>ALIENAGE AND DEPORTABILITY: The subject is a national and citizen of Jamaica and a Lawful Permanent Resident of the United States. His parents are nationals and citizens of Jamaica who have not naturalized. No issue of derivation applies. Subject entered the United States on 08/04/1998 as a class F22 Immigrant.</p>		
Signature	(k)(2),(b)(6),(b)(7)c	Title
		DEPORTATION OFFICER

2 of 2 Pages

U.S. Department of Homeland Security

Continuation Page for Form 1213

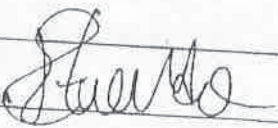
Alien's Name WATSON, Davino Hopeton		File Number A046633823	Date 04/07/2008
NCIC Pos		Event No: NYC0804000899	
CHARGE CODES			
R2A3			
R2B1			
R2A3			
At/Near			
Castle Point, NY			
Record of Deportable/Excludable Alien: LPR (I.V.) DIN: 07A5371 EPR: 05/08/2008 NYSID: 3198881N			
<p>PREDICATION: The subject was encountered and interviewed by a Castle Point, New York ICE/IHP Agent on 10/09/2007 at the Downstate Correctional Facility (NYDOCS). He was convicted on 09/18/2007 of Attempted CSCS-3rd degree and was sentenced to a term of 3-1/2 years confinement. He is serving his sentence at the Lakeview Correctional Facility scheduled to be release on 05/08/2008. The subject was also convicted of Attempted Robbery-2nd degree on 01/26/2005 and sentenced to 5-years probation and 30-days confinement. On 02/22/2006, he was re-sentenced for violation of probation and sentenced to an additional 8-months incarceration for the Robbery conviction.</p>			
<p>ALIENAGE AND DEPORTABILITY: The subject is a national and citizen of Jamaica and a Lawful Permanent Resident of the United States. His parents are nationals and citizens of Jamaica who have not naturalized. No issue of derivation applies. Subject entered the United States on 08/04/1998 as a class F22 Immigrant.</p>			
Signature		Title	
JUAN ESTRADA 		DEPORTATION OFFICER	

EXHIBIT E

Received on 9/23/02 Hopkin et. Watson

No. 27165011

NEW YORK OFFICE

A041458063

INS Registration No.

I certify that the description given is true, and that the photograph affixed hereto is a likeness of me.

(Complete and true signature of holder)

Be it known that, pursuant to an application filed with the Attorney General

at: NEW YORK, NEW YORK

The Attorney General having found that:

HOPKIN ULANDO WATSON

then residing in the United States, intends to reside in the United States when so required by the Naturalization Laws of the United States, and had in all other respects complied with the applicable provisions of such naturalization laws and was entitled to be admitted to citizenship, such person having taken the oath of allegiance in a ceremony conducted by the

US DISTRICT COURT EASTERN DISTRICT

at: BROOKLYN, NEW YORK on: SEP 19 2002

that such person is admitted as a citizen of the United States of America.

Commissioner of Immigration and Naturalization

Personal description of holder as of date of naturalization:

Date of birth: MAY 19, 1954

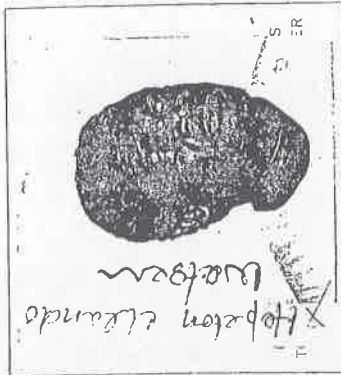
Sex: MALE

Height: 5 feet 6 inches

Marital status: MARRIED

Country of former nationality:

JAMAICA



IT IS PUNISHABLE BY U. S. LAW TO COPY, PRINT OR PHOTOGRAPH THIS CERTIFICATE, WITHOUT LAWFUL AUTHORITY.

CIMIDN

IMMIGRATION AND NATURALIZATION SERVICE

11/06/02

COMMAND:

CENTRAL INDEX SYSTEM : ID # SEARCH DISPLAY

13:14:43

ID # (A/AA/AB/C/DA):

A#: 041458063

DOB: 05191954

(DL/FB/FP/I/PP/SS/TD)

LAST: WATSON

C#: 27165011

FIRST: HOPETON

NATZ DATE: 09172002

MIDDLE: ULANDO

COURT: 0000

ALIASES:

LOCATION: NYC

SEX: POE: NYC COB: JAMAI DOE: 10291988

FCO: NYC COA: USC COC: FTC: 05072002

FATHER: ROY

PFCO: ESC SFCO: DFO: 10291988 BIN:

MOTHER: OLGA

SSN:

CONSOLIDATED A-NOS

--OTHER INFORMATION--

I-94 ADM #:

041458063

CARD-X

PASSPORT #:

027907753

FBI #:

DRIVER LIC:

FINGER CD#:

OVER-KEY ID NUMBER TO DISPLAY NEW PERSON. PRESS ENTER.

CLEAR EXIT PF3 REFRESH PF4 RETURN PF5 HELP PF6 MAIN MENU PF8 HISTORY PF9 EAD

PF10 REQUIRES A SPECIAL SECURITY CLASS.

PF10 NAILS PF11 EOIR

U.S. Department of Justice
Immigration and Naturalization ServiceOMB #1115-0009
Application for Naturalization**START HERE - Please Type or Print****Part 1. Information about you.**

Family Name <i>Watson</i>	Given Name <i>Hopeton</i>	Middle Initial <i>C. Lando</i>
U.S. Mailing Address - Care of		
Street Number and Name <i>1024 E. 40 street</i>	Apt. #	
City <i>Brooklyn</i>	County <i>Kings</i>	
State <i>NY</i>	ZIP Code <i>11210</i>	
Date of Birth (month/day/year) <i>05 19 54</i>	Country of Birth <i>Jamaica</i>	
Social Security # <i>088-76 7798</i>	A # <i>41458063</i>	

Part 2. Basis for Eligibility (check one). # *27165011*

- a. ☒ I have been a permanent resident for at least five (5) years.
- b. ☐ I have been a permanent resident for at least three (3) years and have been married to a United States Citizen for those three years.
- c. ☐ I am a permanent resident child of United States citizen parent(s).
- d. ☐ I am applying on the basis of qualifying military service in the Armed Forces of the U.S. and have attached completed Forms N-426 and G-325B.
- e. ☐ Other. (Please specify section of law)

Part 3. Additional information about you.



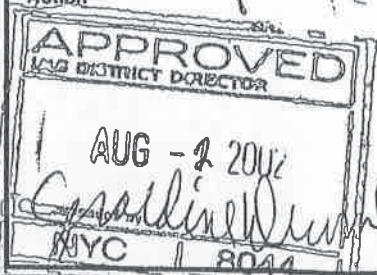
Date you became a permanent resident (month/day/year) <i>10-29-88</i>	Port admitted with an immigrant visa or INS Office where granted adjustment of status. <i>NYC</i>
Citizenship <i>Jamaican</i>	
Name on alien registration card (if different than in Part 1)	
Other names used since you became a permanent resident (including maiden name)	
Sex <input checked="" type="checkbox"/> Male <input type="checkbox"/> Female	Height <i>5' 6 1/2"</i>
Marital Status: <input checked="" type="checkbox"/> Single <input type="checkbox"/> Married <input type="checkbox"/> Divorced <input type="checkbox"/> Widowed	
Can you speak, read and write English? <input type="checkbox"/> No <input checked="" type="checkbox"/> Yes.	

Absences from the U.S.:Have you been absent from the U.S. since becoming a permanent resident? ☐ No ☒ Yes.

If you answered "Yes", complete the following. Begin with your most recent absence. If you need more room to explain the reason for an absence or to list more trips, continue on separate paper.

Date left U.S.	Date returned	Did absence last 6 months or more?	Destination	Reason for trip
<i>3/17/2000</i>	<i>3/25/2001</i>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<i>London</i>	<i>Vacation</i>
<i>8/13/2000</i>	<i>8/20/2000</i>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<i>Cruise</i>	<i>Vacation</i>
		<input type="checkbox"/> Yes <input type="checkbox"/> No		
		<input type="checkbox"/> Yes <input type="checkbox"/> No		
		<input type="checkbox"/> Yes <input type="checkbox"/> No		

FOR INS USE ONLY

Returned	 09/17/2001 ESC#000663400 ESC#000642556 RECEIVED CENTER DIRECTOR 01 JUL 16 PM 8:41 ST ALBANS, VT 05479-0001 INS, VSC 105
Resubmitted	
Reloc Sent	
Reloc Rec'd	
<input type="checkbox"/> Applicant Interviewed	
At interview <input type="checkbox"/> request naturalization ceremony at court	
Remarks <i>VT 2400135</i>  <i>above</i> <i>WBIS/WCIC v/m 4/6/2012</i>	
Action  <i>Enrolled</i>	
To Be Completed by Attorney or Representative, if any <input type="checkbox"/> Fill in box if G-28 is attached to represent the applicant	
VOLAG#	
ATTY State License #	

Part 4. Information about your residences and employment.

- A. List your addresses during the last five (5) years or since you became a permanent resident, whichever is less. Begin with your current address. If you need more space, continue on separate paper:

Street Number and Name, City, State, Country, and Zip Code	Dates (month/day/year)	
	From	To
1024 E 40 street Brooklyn NY 11210	1985	present

- B. List your employers during the last five (5) years. List your present or most recent employer first. If none, write "None". If you need more space, continue on separate paper.

Employer's Name	Employer's Address Street Name and Number - City, State and ZIP Code	Dates Employed (month/day/year)		Occupation/position
		From	To	
N.Y. Transit Authority	370 7th street Brooklyn NY on work comp	1998	present	Manager

Part 5. Information about your marital history.

- A. Total number of times you have been married 1. If you are now married, complete the following regarding your husband or wife.

Family name	Watson	Given name	Clare	Middle initial
Address 1024 E 40 street Brooklyn NY 11210				
Date of birth (month/day/year)	04/11/47	Country of birth	Jamaican	Citizenship U.S.A.
Social Security#	121-40-3988	A# (if applicable)		Immigration status (If not a U.S. citizen)
Naturalization (If applicable) (month/day/year)		September 16/86		
Place (City, State)		Eastern part of New York		

If you have ever previously been married or if your current spouse has been previously married, please provide the following on separate paper: Name of prior spouse, date of marriage, date marriage ended, how marriage ended and immigration status of prior spouse.

Part 6. Information about your children.

- B. Total Number of Children 2. Complete the following information for each of your children. If the child lives with you, state "with me" in the address column; otherwise give city/state/country of child's current residence. If deceased, write "deceased" in the address column. If you need more space, continue on separate paper.

Full name of child	Date of birth	Country of birth	Citizenship	A - Number	Address
Davin Watson	01/12/80	Jamaica	Jamaican		Boston (U.S.A)
Barino Watson	11/17/84	Jamaican	Jamaican		with me

Continued on back

Part 7. Additional eligibility factors.

Please answer each of the following questions. If your answer is "Yes", explain on a separate paper.

1. Are you now, or have you ever been a member of, or in any way connected or associated with the Communist Party, or ever knowingly aided or supported the Communist Party directly, or indirectly through another organization, group or person, or ever advocated, taught, believed in, or knowingly supported or furthered the interests of communism? ☐ Yes ☒ No
2. During the period March 23, 1933 to May 8, 1945, did you serve in, or were you in any way affiliated with, either directly or indirectly, any military unit, paramilitary unit, police unit, self-defense unit, vigilante unit, citizen unit of the Nazi party or SS, government agency or office, extermination camp, concentration camp, prisoner of war camp, prison, labor camp, detention camp or transit camp, under the control or affiliated with:
 - a. The Nazi Government of Germany? ☐ Yes ☒ No
 - b. Any government in any area occupied by, allied with, or established with the assistance or cooperation of, the Nazi Government of Germany? ☐ Yes ☒ No
3. Have you at any time, anywhere, ever ordered, incited, assisted, or otherwise participated in the persecution of any person because of race, religion, national origin, or political opinion? ☐ Yes ☒ No
4. Have you ever left the United States to avoid being drafted into the U.S. Armed Forces? ☐ Yes ☒ No
5. Have you ever failed to comply with Selective Service laws? ☐ Yes ☒ No

If you have registered under the Selective Service laws, complete the following information:

Selective Service Number: _____ Date Registered: _____

If you registered before 1978, also provide the following:

Local Board Number: _____ Classification: _____

6. Did you ever apply for exemption from military service because of alienage, conscientious objections or other reasons? ☐ Yes ☒ No
7. Have you ever deserted from the military, air or naval forces of the United States? ☐ Yes ☒ No
8. Since becoming a permanent resident, have you ever failed to file a federal income tax return? ☐ Yes ☒ No
9. Since becoming a permanent resident, have you filed a federal income tax return as a nonresident or failed to file a federal return because you considered yourself to be a nonresident? ☐ Yes ☒ No
10. Are deportation proceedings pending against you, or have you ever been deported, or ordered deported, or have you ever applied for suspension of deportation? ☐ Yes ☒ No
11. Have you ever claimed in writing, or in any way, to be a United States citizen? ☐ Yes ☒ No
12. Have you ever:
 - a. been a habitual drunkard? ☐ Yes ☒ No
 - b. advocated or practiced polygamy? ☐ Yes ☒ No
 - c. been a prostitute or procured anyone for prostitution? ☐ Yes ☒ No
 - d. knowingly and for gain helped any alien to enter the U.S. illegally? ☐ Yes ☒ No
 - e. been an illicit trafficker in narcotic drugs or marijuana? ☐ Yes ☒ No
 - f. received income from illegal gambling? ☐ Yes ☒ No
 - g. given false testimony for the purpose of obtaining any immigration benefit? ☐ Yes ☒ No
13. Have you ever been declared legally incompetent or have you ever been confined as a patient in a mental institution? ☐ Yes ☒ No
14. Were you born with, or have you acquired in same way, any title or order of nobility in any foreign State? ☐ Yes ☒ No
15. Have you ever:
 - a. knowingly committed any crime for which you have not been arrested? ☐ Yes ☒ No
 - b. been arrested, cited, charged, indicted, convicted, fined or imprisoned for breaking or violating any law or ordinance excluding traffic regulations? ☒ Yes ☐ No

(If you answer yes to 15, in your explanation give the following information for each incident or occurrence the city, state, and country, where the offense took place, the date and nature of the offense, and the outcome or disposition of the case).

Part 8. Allegiance to the U.S.

If your answer to any of the following questions is "NO", attach a full explanation:

1. Do you believe in the Constitution and form of government of the U.S.? ☒ Yes ☐ No
2. Are you willing to take the full Oath of Allegiance to the U.S.? (see instructions) ☒ Yes ☐ No
3. If the law requires it, are you willing to bear arms on behalf of the U.S.? ☒ Yes ☐ No
4. If the law requires it, are you willing to perform noncombatant services in the Armed Forces of the U.S.? ☒ Yes ☐ No
5. If the law requires it, are you willing to perform work of national importance under civilian direction? ☒ Yes ☐ No

Part 9. Memberships and organizations.

- A. List your present and past membership in or affiliation with every organization, association, fund, foundation, party, club, society, or similar group in the United States or in any other place. Include any military service in this part. If none, write "none". Include the name of organization, location, dates of membership and the nature of the organization. If additional space is needed, use separate paper.

Part 10. Complete only if you checked block "C" in Part 2.

How many of your parents are U.S. citizens? ☐ One ☐ Both (Give the following about one U.S. citizen parent:)

Family Name	Given Name	Middle Name
Address		

Basis for citizenship: <input type="checkbox"/> Birth <input type="checkbox"/> Naturalization Cert. No.	Relationship to you (check one):	<input type="checkbox"/> natural parent	<input type="checkbox"/> adoptive parent
		<input type="checkbox"/> parent of child legitimated after birth	

If adopted or legitimated after birth, give date of adoption or, legitimation: (month/day/year)

Does this parent have legal custody of you? ☐ Yes ☐ No

(Attach a copy of relating evidence to establish that you are the child of this U.S. citizen and evidence of this parent's citizenship.)

Part 11. Signature. (Read the information on penalties in the instructions before completing this section).

I certify or, if outside the United States, I swear or affirm, under penalty of perjury under the laws of the United States of America that this application, and the evidence submitted with it, is all true and correct. I authorize the release of any information from my records which the Immigration and Naturalization Service needs to determine eligibility for the benefit I am seeking.

Signature

Date

Please Note: If you do not completely fill out this form, or fail to submit required documents listed in the instructions, you may not be found eligible for naturalization and this application may be denied.

Part 12. Signature of person preparing form if other than above. (Sign below)

I declare that I prepared this application at the request of the above person and it is based on all information of which I have knowledge.

Signature

Print Your Name

Date

Firm Name
and Address

DO NOT COMPLETE THE FOLLOWING UNTIL INSTRUCTED TO DO SO AT THE INTERVIEW

I swear that I know the contents of this application, and supplemental pages 1 through 1, that the corrections, numbered 1 through 1, were made at my request, and that this amended application is true to the best of my knowledge and belief.

(Complete and true signature of applicant)

Subscribed and sworn to before me by the applicant.

(Examiner's Signature)

Date

EXHIBIT F

U.S. Department of Homeland Security

Immigration Detainer – Notice of Action

Subject ID : 271221408

Event No: (k)(2),(b)(7)(e)

File No. A046 633 823

Date: April 7, 2008

TO: (Name and title of institution)

LAKEVIEW CORRECTIONAL
P.O. BOX T
BROCKTON, NY 14716

From: (Office address)

NEW YORK, NY, DOCKET CONTROL OFFICE
DOCKET CONTROL OFFICE NEW YORK
26 FEDERAL PLAZA
NEW YORK, NYName of alien: WATSON, Davino HopetonDate of birth: 11/17/1984Nationality: JAMAICASex: M

You are advised that the action noted below has been taken by the U.S. Department of Homeland Security concerning the above-named inmate of your institution:

- ☒ Investigation has been initiated to determine whether this person is subject to removal from the United States.
- ☐ A Notice to Appear or other charging document initiating removal proceedings, a copy of which is attached, was served on _____
(Date)
- ☐ A warrant of arrest in removal proceedings, a copy of which is attached, was served on _____
(Date)
- ☐ Deportation or removal from the United States has been ordered.

It is requested that you:

Please accept this notice as a detainer. This is for notification purposes only and does not limit your discretion in any decision affecting the offender's classification, work, and quarters assignments, or other treatment which he or she would otherwise receive.

- ☒ Federal regulations (8 CFR 287.7) require that you detain the alien for a period not to exceed 48 hours (excluding Saturdays, Sunday's and Federal holidays) to provide adequate time for DHS to assume custody of the alien. You may notify DHS by calling 845-8322 (b)(6), (b)(7)(c) during business hours or 212-8632 (b)(6), (b)(7)(c) after hours in an emergency.

- ☒ Please complete and sign the bottom block of the duplicate of this form and return it to this office. ☐ A self-addressed stamped envelope is enclosed for your convenience. ☐ Please return a signed copy via facsimile to _____
(Area code and facsimile number)

Return fax to the attention of _____, at _____
(Name of officer handling case) (Area code and phone number)

_____ at least 30 days prior to release or as far in advance as possible.

_____ inmate's death or transfer to another institution.

_____ placed by this Office on _____

DEPORTATION OFFICER

(Title of Immigration Officer)

Receipt acknowledged:

Date of last conviction: _____ Latest conviction charge: _____

Estimated release date: _____

Signature and title of official: _____

Form I-247 (Rev. 08/01/07)

ICE.2014FOIA901.000120

EXHIBIT G

U.S. Department of Homeland Security

Notice to Appear

In removal proceedings under section 240 of the Immigration and Nationality Act:

Subject ID : 271221408

File No: A046 633 823

Event No: NYC0804000899

In the Matter of:

Davino Hopeton WATSON

Respondent: _____ currently residing at:

LAKEVIEW CP PO BOX T 07A5371 EPR: 5/8/2008 NYSID: 3198881N , BROCTON NEW YORK 14716

(Number, street, city and ZIP code)

(Area code and phone number)

- ☐ 1. You are an arriving alien.
- ☐ 2. You are an alien present in the United States who has not been admitted or paroled.
- ☒ 3. You have been admitted to the United States, but are removable for the reasons stated below.

The Department of Homeland Security alleges that you:

1. You are not a citizen or national of the United States;
2. You are a native of Jamaica and a citizen of Jamaica;
3. You were admitted to the United States at New York, NY on or about August 4, 1998 as a Lawful Permanent Resident;
4. You were convicted of the crime of Attempted Criminal Sale of a Controlled Substance in the Third degree, to wit; Cocaine, in violation of Section 110/220.39(1) of the New York State Penal Law, pursuant to a judgment entered on or about September 18, 2007 by the Supreme Court of the State of New York, County of New York under indictment number 167-07.

On the basis of the foregoing, it is charged that you are subject to removal from the United States pursuant to the following provision(s) of law:

See Continuation Page Made a Part Hereof

EXHIBIT NO. 1

6/25/8

(Date)

(Initials)

- ☐ This notice is being issued after an asylum officer has found that the respondent has demonstrated a credible fear of persecution or torture.
- ☐ Section 235(b)(1) order was vacated pursuant to: ☐ 8CFR 208.30(f)(2) ☐ 8CFR 235.3(b)(5)(iv)

YOU ARE ORDERED to appear before an immigration judge of the United States Department of Justice at:
Ulster Correctional Facility Berne Road Nanavoch NEW YORK 12458

(Complete Address of Immigration Court, including Room Number, if any)

on a date to be set at a time to be set to show why you should not be removed from the United States based on the

(Date)

(Time)

charge(s) set forth above.

MICHAEL ORTIZ

Supervisor Deportation Officer

(Signature and Title of Issuing Officer)

Date:

4/10/08

Castle Point, NY

(City and State)

See reverse for important information

Form I-862 (Rev. 08/01/07)

000269

Notice to Respondent

Warning: Any statement you make may be used against you in removal proceedings.

Alien Registration: This copy of the Notice to Appear served upon you is evidence of your alien registration while you are under removal proceedings. You are required to carry it with you at all times.

Representation: If you so choose, you may be represented in this proceeding, at no expense to the Government, by an attorney or other individual authorized and qualified to represent persons before the Executive Office for Immigration Review, pursuant to 8 CFR 3.16. Unless you so request, no hearing will be scheduled earlier than ten days from the date of this notice, to allow you sufficient time to secure counsel. A list of qualified attorneys and organizations who may be available to represent you at no cost will be provided with this notice.

Conduct of the hearing: At the time of your hearing, you should bring with you any affidavits or other documents, which you desire to have considered in connection with your case. If you wish to have the testimony of any witnesses considered, you should arrange to have such witnesses present at the hearing.

At your hearing you will be given the opportunity to admit or deny any or all of the allegations in the Notice to Appear and that you are inadmissible or removable on the charges contained in the Notice to Appear. You will have an opportunity to present evidence on your own behalf, to examine any evidence presented by the Government, to object, on proper legal grounds, to the receipt of evidence and to cross examine any witnesses presented by the Government. At the conclusion of your hearing, you have a right to appeal an adverse decision by the immigration judge.

You will be advised by the immigration judge before whom you appear of any relief from removal for which you may appear eligible including the privilege of departure voluntarily. You will be given a reasonable opportunity to make any such application to the immigration judge.

Failure to appear: You are required to provide the DHS, in writing, with your full mailing address and telephone number. You must notify the Immigration Court immediately by using Form EOIR-33 whenever you change your address or telephone number during the course of this proceeding. You will be provided with a copy of this form. Notices of hearing will be mailed to this address. If you do not submit Form EOIR-33 and do not otherwise provide an address at which you may be reached during proceedings, then the Government shall not be required to provide you with written notice of your hearing. If you fail to attend the hearing at the time and place designated on this notice, or any date and time later directed by the Immigration Court, a removal order may be made by the immigration judge in your absence, and you may be arrested and detained by the DHS.

Mandatory Duty to Surrender for Removal: If you become subject to a final order of removal, you must surrender for removal to one of the offices listed in 8 CFR 241.16(a). Specific addresses on locations for surrender can be obtained from your local DHS office or over the internet at <http://www.ice.gov/about/dro/contact.htm>. You must surrender within 30 days from the date the order becomes administratively final, unless you obtain an order from a Federal court, immigration court, or the Board of Immigration Appeals staying execution of the removal order. Immigration regulations at 8 CFR 241.1 define when the removal order becomes administratively final. If you are granted voluntary departure and fail to depart the United States as required, fail to post a bond in connection with voluntary departure, or fail to comply with any other condition or term in connection with voluntary departure, you must surrender for removal on the next business day thereafter. If you do not surrender for removal as required, you will be ineligible for all forms of discretionary relief for as long as you remain in the United States and for ten years after departure or removal. This means you will be ineligible for asylum, cancellation of removal, voluntary departure, adjustment of status, change of nonimmigrant status, registry, and related waivers for this period. If you do not surrender for removal as required, you may also be criminally prosecuted under section 243 of the Act.

Request for Prompt Hearing

To expedite a determination in my case, I request an immediate hearing. I waive my right to a 10-day period prior to appearing before an immigration judge.

Before:

 3419 IBA
(Signature and Title of Immigration Officer)

(Signature of Respondent)

Date:

Certificate of Service

This Notice To Appear was served on the respondent by me on 5/9/08 in the following manner and in compliance with section 239(a)(1)(F) of the Act.

- ☒ in person ☐ by certified mail, returned receipt requested ☐ by regular mail
☐ Attached is a credible fear worksheet.
☐ Attached is a list of organization and attorneys which provide free legal services.

The alien was provided oral notice in the English language of the time and place of his or her hearing and of the consequences of failure to appear as provided in section 240(b)(7) of the Act.



(Signature of Respondent if Personally Served)

 3419

(Signature and Title of officer)

U.S. Department of Homeland Security

Continuation Page for Form 1862

Alien's Name Davino Hopeton WATSON	File Number A046 633 823 Event No: NYC0804000899	Date
<p>ON THE BASIS OF THE FOREGOING, IT IS CHARGED THAT YOU ARE SUBJECT TO REMOVAL FROM THE UNITED STATES PURSUANT TO THE FOLLOWING PROVISION(S) OF LAW:</p> <p>=====</p> <p>Section 237(a)(2)(A)(iii) of the Immigration and Nationality Act (Act), as amended, in that, at any time after admission, you have been convicted of an aggravated felony as defined in Section 101(a)(43)(B) of the Act, an offense relating to the illicit trafficking in a controlled substance, as described in section 102 of the Controlled Substances Act, including a drug trafficking crime, as defined in section 924(c) of Title 18, United States Code.</p> <p>Section 237(a)(2)(A)(iii) of the Immigration and Nationality Act (Act), as amended, in that, at any time after admission, you have been convicted of an aggravated felony as defined in section 101(a)(43)(U) of the Act, a law relating to an attempt or conspiracy to commit an offense described in section 101(a)(43) of the Act.</p> <p>Section 237(a)(2)(B)(1) of the Immigration and Nationality Act, as amended, in that, at any time after admission, you have been convicted of a violation of (or a conspiracy or attempt to violate) any law or regulation of a State, the United States, or a foreign country relating to a controlled substance (as defined in Section 102 of the Controlled Substances Act, 21 U.S.C. 802), other than a single offense involving possession for one's own use of 30 grams or less of marijuana.</p>		
<p>Signature <i>Michael Ortiz</i> MICHAEL ORTIZ</p>		<p>Title Supervisor Deportation Officer</p>

RECEIVED
U.S. DEPARTMENT OF HOMELAND SECURITY
2008 MAY 27 AM 8:42
OFFICE OF THE
ATTORNEY GENERAL
BIRMINGHAM, AL

3 of 3 Pages

U.S. Department of Homeland Security
Immigration and Customs Enforcement

Warrant for Arrest of Alien

File No. A46 633 823

Date: 4/10/08

To any officer of the Immigration and Customs Enforcement delegated authority pursuant to section 287 of the Immigration and Nationality Act:

From evidence submitted to me, it appears that:

Davino Hopeton WATSON

(Full name of alien)

an alien who entered the United States at or near New York, NY On

(Port)

August 4, 1998

(Date)

is within the country in violation of the immigration laws and is

therefore liable to taken into custody as authorized by section 236 of the Immigration and Nationality Act.

By virtue of the authority vested in me by the immigration laws of the United States and the regulations issued pursuant thereto, I command you to take the above-named alien into custody for proceedings in accordance with the applicable provisions of the immigration laws and regulations.

(k)(2), (b)(6), (b)(7)c

ized ICE official)

(Print name of official)

Supervisory Deportation Officer

(Title)

Certificate of Service

Served by me at Allegany County Jail on 05/08/2008 at 16.00
I certify that following such service, the alien was advised concerning his or her right to counsel and was furnished a copy of this warrant.

(k)(2), (b)(6), (b)(7)c

er serving warrant)

IEA

(Title officer serving warrant)

Form I-200 (Rev. 4-1-97)N

ICE.2014FOIA901.000170

EXHIBIT H

<p>UNITED STATES OF AMERICA</p> <p>DEPARTMENT OF JUSTICE</p> <p>IMMIGRATION AND NATURALIZATION SERVICE</p>		<p>No. 27165011</p>	
<p>PERSONAL DESCRIPTION OF HOLDER</p> <p>Personal description of holder as of date of naturalization:</p> <p>Date of birth: MAY 19, 1954</p> <p>Sex: MALE</p> <p>Height: 5 feet 6 inches</p> <p>Marital status: MARRIED</p> <p>Country of former nationality: JAMAICA</p>		<p>ATTESTATION</p> <p>Registration No. A041458063</p> <p>I certify that the description given is true, and that the photograph affixed hereto is a likeness of me.</p> <p><i>Hopeton Ulando Watson</i> (Complete and true signature of holder)</p>	
<p>Be it known that, pursuant to an application filed with the Attorney General at: NEW YORK, NEW YORK</p> <p>The Attorney General having found that:</p> <p>HOPETON ULANDO WATSON</p> <p>then residing in the United States, intends to reside in the United States when so required by the Naturalization laws of the United States, and had in all other respects complied with the applicable provisions of such naturalization laws and was entitled to be admitted to citizenship, such person having taken the oath of allegiance in a ceremony conducted by me</p> <p>US DISTRICT COURT EASTERN DISTRICT</p>		<p>at: BROOKLYN, NEW YORK</p> <p>on: SEP 17 2007</p> <p>that such person is admitted as a citizen of the United States of America.</p>	
<p>IT IS PUNISHABLE BY U. S. LAW TO COPY, PRINT OR PHOTOGRAPH THIS CERTIFICATE, WITHOUT LAWFUL AUTHORITY.</p>		<p>Commissioner of Immigration and Naturalization</p>	

EXHIBIT I

EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
IMMIGRATION COURT
BATAVIA, NY

WATSON, DAVINO HOPETON
C/O OIC - ALLEGANY CO. JAIL
7 COURT ST.
BELMONT, NY 14813

RE: WATSON, DAVINO HOPETON
INMATE NO:

NOTICE OF HEARING IN REMOVAL PROCEEDINGS

DATE OF NOTICE: May 29, 2008
FILE: A46-633-823

You are hereby notified that a hearing in this case is scheduled/rescheduled
before an Immigration Court on Jun 25, 2008 at 09:00 A.M. at

4250 FEDERAL DRIVE, ROOM F108
BATAVIA, NY 14020.

You may be represented in this proceeding at no expense to the Government by an attorney or other individual who is authorized and qualified to represent persons before an Immigration Court. If you wish to be represented, your attorney or representative should appear with you at the scheduled hearing.

Except as otherwise ordered by an Immigration Judge, any motions (including motions for continuances and motions to withdraw as counsel), applications, or other correspondence concerning this case should be filed with the Immigration Court at:
4250 FEDERAL DRIVE, ROOM F108
BATAVIA, NY 14020

at least 10 days prior to the scheduled hearing. Evidence of payment of appropriate filing fees must be included.

ANYONE EXPECTING TO ENTER THE FACILITY IN ORDER TO APPEAR AT THE IMMIGRATION HEARING IS SUBJECT TO CORRECTIONS DEPARTMENT POLICIES AND PROCEDURES REGARDING ENTRY. CONTACT THE SECURITY OFFICE AT THIS PRISON IN ADVANCE OF THE DAY OF THE HEARING FOR FURTHER SPECIFIC INFORMATION ABOUT ENTRY GUIDELINES.

For information regarding the status of your case, call toll free
1-800-898-7180 OR 703-305-1662.

CERTIFICATE OF SERVICE

THIS DOCUMENT WAS SERVED BY: MAIL (M) PERSONAL SERVICE (P)
TO: ☐ ALIEN ☒ ALIEN c/o Custodial Officer ☐ ALIEN's ATT/REP ☒ DHS
DATE: 5/29/08 BY: COURT STAFF A. Dillon
Attachments: ☐ EOIR-33 ☐ EOIR- 28 ☐ Legal Services List ☐ Other
3Y

EXHIBIT J

U.S. Department of Homeland Security
425 I Street, NW
Washington, DC 20536



U.S. Immigration
and Customs
Enforcement

May 23, 2008

MEMORANDUM FOR: All Field Office Directors
Detention and Removal Operations

FROM: Gary E. Mead
Acting Director
Detention and Removal Operations

SUBJECT: Reporting and Investigation of Claims to United States Citizenship

Detention and Removal Operations (DRO) is responsible for the enforcement of United States immigration laws. In the course of performing these duties, our officers are likely to contact individuals who either assert United States citizenship or are unsure of their citizenship. It is imperative that DRO fully investigates all affirmative claims to United States citizenship before an individual is taken into custody or, if already in ICE custody, before final disposition of such individuals' case.

All officers encountering a detainee claiming US citizenship shall immediately notify the Field Office Director (FOD) through their chain of command. The FOD shall make appropriate notification to HQDRO. Each FOD shall ensure that all claims to United States citizenship made by any detainees within their area of responsibility, including ICE detention facilities, during interviews conducted by ICE staff or by 287(g) cross-trained staff, are appropriately reported and investigated.

Interviews with detainees making such claims shall be conducted by at least a senior Immigration Enforcement Agent (IEA) with 6 months Criminal Alien Program (CAP) experience. Interviews will be recorded as a sworn statement and include all questions on the Form I-213, as well as probative questions that will elicit sufficient information to allow ICE to conduct a thorough investigation. This investigation may include vital records searches, family interviews, and other appropriate investigative measures.

If an affirmative claim to United States citizenship is made by a detainee prior to the commencement of removal proceedings, the FOD will, in consultation with HQDRO and the Office of the Principal Legal Advisor (OPLA), determine whether sufficient evidence exists to place that individual into removal proceedings. If an affirmative claim to United States citizenship is made by a detainee already in removal proceedings, each FOD, in consultation with HQDRO and OPLA, will determine the most appropriate course of action.

Subject: Reporting and Investigation of Claims to United States Citizenship
Page 2

If a detainee claim to United States citizenship appears to have merit, the FOD, in consultation with HQDRO and OPLA, may consider alternatives to detention (ATD), including the use of the intensive supervision and appearance program (ISAP).

All Field Office Directors shall ensure that all employees, including cross-trained 287(g) staff, in their area of responsibility understand and adhere to this policy. Questions regarding this policy should be directed to James T. Hayes, Jr., Acting Assistant Director, Enforcement.

EXHIBIT K

Office of Detention and Removal Operations

U.S. Department of Homeland Security
425 I Street, NW
Washington, DC 20536




U.S. Immigration
and Customs
Enforcement

July 18, 2008

MEMORANDUM FOR:

Field Office Directors

FROM:


James T. Hayes, Jr.
Acting Director

SUBJECT:

Superseding Guidance on Reporting and Investigation of Claims to
United States Citizenship

This Memorandum supersedes the guidance issued on May 23, 2008, titled "Reporting and Investigation of Claims to United States Citizenship."

The office of Detention and Removal Operations (DRO) is responsible for the enforcement of U.S. immigration laws. In the course of exercising their authority under Section 287 of the Immigration and Nationality Act, Title 8 United States Code, Section 1101, DRO officers are likely to encounter individuals who either assert claims to U.S. citizenship or are unsure of their citizenship. It is imperative that DRO officers establish probable cause to believe that an individual is an alien before making an arrest for a charge of removability.¹ Further, DRO officers must fully investigate all claims to U.S. citizenship before an individual is taken into custody or, if already in ICE custody, immediately upon learning of the assertion of citizenship.

All officers who encounter an individual who claims U.S. citizenship shall immediately notify the Field Office Director (FOD) through their chain of command. The FOD shall make the appropriate notification to DRO headquarters. Each FOD shall ensure that all claims to U.S. citizenship made by any individual encountered within their area of responsibility either by ICE DRO staff or 287(g) cross-trained staff are appropriately reported and investigated.

¹ Although 8 U.S.C. § 1357 allows an immigration officer to arrest an alien when the officer has "reason to believe" the alien is illegally present in the U.S., courts have consistently held that in this circumstance this phrase is equivalent to probable cause. See *U. S. v. Cantu*, 1975, 519 F.2d 494 (7th Cir. 1975), *cert. denied*, 423 U.S. 1035 (1975); see also *Babula v. INS*, 665 F.3d 293 (3d Cir. 1981); *Au Yi Lau v. INS*, 445 F.2d 217 (D.C. Cir. 1971), *cert. denied* 404 U.S. 864 (1971).

**Subject: Superseding Guidance on Reporting and Investigation of Claims to United States
Citizenship**

Interviews with detainees making claims to U.S. citizenship shall be conducted by a senior Immigration Enforcement Agent (IEA) at a minimum. Interviews will be recorded as sworn statements and include all questions on the Form I-213. The statement must also include probative questions that will elicit as much information as possible to assist ICE in conducting a thorough investigation of the individual's claim. This investigation may include vital records searches, family interviews, and other appropriate investigative measures.

If an affirmative claim to U.S. citizenship is made by an individual prior to the commencement of removal proceedings, the FOD, after notification to DRO headquarters and in consultation with the Office of the Principal Legal Advisor (OPLA), will determine whether sufficient evidence exists to place that individual into removal proceedings. If an affirmative claim to U.S. citizenship is made by an individual already in removal proceedings and in custody, each FOD, after notification to DRO headquarters and in consultation with OPLA, will immediately review and make a decision as to whether custody should continue pending completion of the investigation of the citizenship claim.

All FODs shall ensure that all DRO employees, including cross-trained 287(g) staff, in their area of responsibility, understand and adhere to this policy. Questions regarding this policy should be directed to Christopher Shanahan, Acting Assistant Director, Enforcement.

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DHS002103

EXHIBIT L

Referred to another gov't agency

Office of Detention and Removal Operations

U.S. Department of Homeland Security
425 I Street, NW
Washington, DC 20536



U.S. Immigration
and Customs
Enforcement

NOV 06 2008

MEMORANDUM FOR:

Field Office Directors

FROM:

James T. Hayes, Jr.
Director

SUBJECT:

Superseding Guidance on Reporting and Investigating Claims
to United States Citizenship

This Memorandum supersedes the guidance issued on July 18, 2008, entitled "Superseding Guidance on Reporting and Investigation of Claims to United States Citizenship."

The Office of Detention and Removal Operations (DRO) is responsible for the enforcement of U.S. immigration laws. In the course of exercising authority under section 287 of the Immigration and Nationality Act, 8 U.S.C. § 1357, DRO officers may encounter individuals who either assert claims to U.S. citizenship or are unsure of their citizenship. Prior to making a warrantless arrest of such an individual, DRO officers must ensure that s/he has reason to believe that the individual to be arrested is in the United States in violation of a law or regulation governing the admission, exclusion, expulsion or removal of aliens.¹ Moreover, DRO officers must fully investigate all claims to U.S. citizenship immediately upon learning of the assertion of citizenship.

All officers who encounter an individual who they have reason to believe is in the United States in violation of law, as set forth in the preceding paragraph, but who claims U.S. citizenship, shall immediately notify the Field Office Director (FOD) through their chain of command. The FOD shall make the appropriate notification to DRO headquarters. Each FOD shall ensure that all affirmative claims to U.S. citizenship made by any individual

¹ Some U.S. courts have equated the "reason to believe" standard found in 8 U.S.C. § 1357(a)(2) with a "probable cause" standard. See *U.S. v. Canby*, 1975, 519 F.2d 494 (7th Cir. 1975), cert. denied, 423 U.S. 1035 (1975); see also *Abulaj v. INS*, 665 F.3d 293 (3d Cir. 1981); *Al-Yilawi v. INS*, 445 F.2d 217 (D.C. Cir. 1971), cert. denied 404 U.S. 864 (1971).

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www.ice.gov

Referred to another gov't agency

Subject: Superseding Guidance on Reporting and Investigating Claims to United States
Citizenship

encountered within their area of responsibility are appropriately reported and investigated.

Interviews with detainees making claims to U.S. citizenship shall be conducted by either a Supervisory Immigration Enforcement Agent (SIEA) or Deportation Officer. Interviews will be recorded as sworn statements and include all questions needed to complete all fields on a Form I-213. In addition, the sworn statement must include probative questions designed to elicit information sufficient to allow an investigation of the person's claim of citizenship. This investigation may include vital records searches, family interviews, and other appropriate investigative measures.

If an affirmative claim to U.S. citizenship is made by an individual prior to the commencement of removal proceedings, the FOD will, in consultation with DRO headquarters and local Office of Chief Counsel (OCC), determine whether sufficient evidence exists to place that individual into removal proceedings. If an affirmative claim to U.S. citizenship is made by an individual following the issuance of the Notice of Appear (NTA), each OCC, in consultation with the FOD, who where necessary, should consult with HQ DRO, will determine the most appropriate course of action with respect to the disposition of the NTA and termination of the case, while providing any necessary advice to the FOD as to changes to the individual's custody conditions.

FODs shall ensure that all DRO employees in their area of responsibility (inclusive of those state, local or tribal cross-trained 287(g) officers) who are under their control, understand and adhere to this policy. Questions regarding this policy should be directed to Christopher Shanahan, Acting Assistant Director, Enforcement.

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EXHIBIT M

Policy Number: 16001.1
FEA Number: 045-01

Office of the Assistant Secretary


U.S. Department of Homeland Security
500 12th Street, SW
Washington, D.C. 20536

NOV 19 2009



U.S. Immigration
and Customs
Enforcement

MEMORANDUM FOR: Field Office Directors
Special Agents in Charge
Chief Counsels

FROM: John Morton 
Assistant Secretary

SUBJECT: Superseding Guidance on Reporting and Investigating Claims
to United States Citizenship

This memorandum supersedes the guidance issued on November 6, 2008, entitled "Superseding Guidance on Reporting and Investigating Claims to United States Citizenship." This guidance is intended to ensure claims to U.S. citizenship receive immediate and careful investigation and analysis.

While performing their duties, U.S. Immigration and Customs Enforcement (ICE) officers, agents, and attorneys, may encounter aliens who are not certain of their status or claim to be United States citizens (USC). As the Immigration and Nationality Act (INA) provides numerous avenues for a person to derive or acquire U.S. citizenship, ICE officers, agents, and attorneys, should handle these matters with the utmost care and highest priority. While some cases may be easily resolved, because of the complexity of citizenship and nationality law, many may require additional investigation and substantial legal analysis. As a matter of law, ICE cannot assert its civil immigration enforcement authority to arrest and/or detain a USC. Consequently, investigations into an individual's claim to U.S. citizenship should be prioritized and Office of Investigations (OI) and Detention and Removal Operations (DRO) personnel must consult with the Office of the Principal Legal Advisor's (OPLA) local Office of the Chief Counsel (OCC) as discussed below.

Claims at the Time of Encounter

When officers and agents encounter an individual who they suspect is without lawful status but claims to be a USC, the situation will fall into one of three categories: 1) evidence indicates the person is a USC; 2) some evidence indicates that the individual may be a USC but is inconclusive; and 3) no probative evidence indicates the individual is a USC. If evidence indicates the individual is a USC, ICE should neither arrest nor place the individual in removal proceedings. Where there is *some* probative evidence that the individual is a USC, officers and agents should consult with their local OCC as soon as practicable. After evaluating the claim, if the evidence of U.S. citizenship outweighs evidence to the contrary, the individual should not be taken into custody. The person may, however, still be placed in removal proceedings if there is reason to believe the

Subject: Superseding Guidance on Reporting and Investigating Claims to United States Citizenship

individual is in the United States in violation of law. Finally, where no probative evidence of U.S. citizenship exists and there is reason to believe the individual is in the United States in violation of law, the individual may be arrested and processed for removal. In all cases, any uncertainty about whether the evidence is probative of U.S. citizenship should weigh against detention.

Claims by Individuals Subject to an NTA

Agents and officers must fully investigate the merits of any claim to citizenship made by an individual who is subject to a Notice to Appear (NTA), whether the claim was made before or after the NTA was served on the individual. Such investigations should be prioritized and OI and DRO personnel should consult with their local OCC as soon as practicable when investigating such claims. In addition, OI and DRO, along with their local OCC, must jointly prepare a memorandum examining the claim using the attached template. A notation should be made in the Enforce Alien Removal Module (EARM) and a copy of the memorandum should be placed in the alien's A-file. The memorandum should also be saved in the General Counsel Electronic Management System (GEMS) and notated using the designated GEMS barcode.

Claims by Detained Individuals

If an individual already in custody claims to be a USC, an officer must immediately examine the merits of the claim and notify and consult with his or her local OCC. If the individual is unrepresented, an officer must immediately provide the individual with the local Executive Office for Immigration Review (EOIR) list of pro bono legal service providers, even if one was previously provided.

DRO and OPLA must also jointly prepare and submit a memorandum examining the claim and recommending a course of action to the HQDRO Assistant Director for Operations at the "USC Claims DRO" e-mailbox and to the HQOPLA Director of Field Operations at the "OPLA Field Legal OPS" e-mailbox. Absent extraordinary circumstances, this memorandum should be submitted no more than 24 hours from the time the individual made the claim. HQDRO and HQOPLA will respond to the field with a decision on the recommendation within 24 hours. A notation should be made in EARM and a copy of the memorandum and resulting decision should be placed in the alien's A-file. The memorandum and resulting decision should also be saved in GEMS and notated using the designated GEMS barcode.

If the individual's claim is credible on its face, or if the investigation results in probative evidence that the detained individual is a USC, the individual should be released from detention. Any significant change in circumstances should be reported to the "USC Claims DRO" e-mailbox and the "OPLA Field Legal Ops" e-mailbox.

Examination of the Merits

Interviews with detainees making such claims must be conducted by an officer or agent in the presence of and/or in conjunction with a supervisor. Interviews will be recorded as sworn statements and must include all questions needed to complete all fields on a Record of Deportable


Subject: Superseding Guidance on Reporting and Investigating Claims to United States Citizenship

Alien, Form I-213. In addition, the sworn statement must include additional probative questions designed to elicit information sufficient to allow a thorough investigation of the person's claim of citizenship. Additional steps to be taken may include vital records searches, family interviews, and other appropriate investigative measures. Officers and agents should also work with their local United States Attorney's Office to ensure that any statement includes information sufficient to use in prosecuting appropriate cases under 18 U.S.C. § 911, should it ultimately come to light that the individual intentionally made a false claim to U.S. citizenship.

State and Local Officers with Authority under INA § 287(g)

Field Office Directors (FODs) and Special Agents in Charge (SACs) shall ensure that all state and local officers with delegated immigration authority pursuant to INA § 287(g) within their area of responsibility understand and adhere to this policy. FODs and SACs are expected to thoroughly investigate all USC claims made by individuals encountered by 287(g) designated officers.

EXHIBIT N

Person: (k)(2), (b)(7)(e) M DOB: 11/17/1984 Current Age: 27 COB: JAMAI COC: JAMAI		<div>Aggravated Felon</div> <div>Detention History</div> <div>Criminal</div> 	
Subject ID: 271221408 Processing Disposition: Warrant of Arrest/Notice to Appear			
Case: (k)(2), (b)(7)(e) Type: BUF - EARM ERRORS			
Final Order of Removal: No	Time in Custody: N/A		Special Class:
Final Order Date: N/A	Depart / Cleared Status: ACTIVE		
Proceed With Removal: N/A			
Days Final Order in Effect: N/A			

Watson, Davino Hopeton Hopeton 046 633 823

Comments

FILTER BY COMMENT TYPE		SHOW / HIDE DELETED COMMENTS
<input type="checkbox"/> EARM	<input checked="" type="checkbox"/> Show Deleted Comments	
<input type="checkbox"/> EADM		
<input type="checkbox"/> ATD		
FILTER BY ENTERED DATE		
-- All Dates --		

All of the following comments are related to Case: (k)(2), (b)(7)(e)
 Results: 75 total

Date Entered	Entered By	Type	Comments
11/02/2011 03:54 PM		ADM	Per OPLA on 11/2/2011 Subject was determined to Derive USC Citizenship. Subject was released.
10/25/2011 01:52 PM		ADM	trsf from Batavia
10/25/2011 01:26 PM		ADM	
10/24/2011 12:32 PM		ADM	
10/24/2011 09:00 AM		ADM	
10/24/2011 07:15 AM		ARM	Case transferred to ETW ? ERO Etowah, AL sub office. Subject has a case appeal pending with the BIA.
10/17/2011 08:38 AM	(k)(2), (b)(6), (b)(7)(c)	ARM	10/17/11: BIA Pending / case remanded to BIA from Second Circuit Court on 05/31/11.
10/06/2011 09:05 AM		ARM	10/06/11: BIA Pending / case remanded to BIA from Second Circuit Court on 05/31/11.
10/04/2011 12:29 PM		ARM	10/04/11: BIA Pending / case remanded to BIA from Second Circuit Court on 05/31/11.
09/30/2011 04:08 PM		ARM	09/30/11: BIA Pending / case remanded to BIA from Second Circuit Court on 05/31/11.
09/20/2011 04:38 PM		ARM	09/20/11: BIA Pending / case remanded to BIA from Second Circuit Court on 05/31/11.
09/08/2011 09:17 AM		ARM	09/08/11: BIA Pending / case remanded to BIA from Second Circuit Court on 05/31/11.
08/30/2011 06:49 AM		ARM	08/30/11: BIA Pending / case remanded to BIA from Second Circuit Court on 05/31/11.
08/24/2011 09:30 AM		ARM	06/30/11: Consulting with OIL Attorney regarding case status. Did not do yearly POCR due to case being a 236 case, will revisit due to changes in Western District Courts. Attached is a copy of the Second Circuit decision in Wang v. Ashcroft, 320 F.3d 130 (2d Cir. 2003), which holds that the INA 241 removal period does not start when a circuit court issues a stay of removal order while judicial review of the removal order is pending before the circuit court. When a judicial stay of removal order is issued by the circuit court during judicial review of a removal order, the 90 day removal period under INA 241 does not start until the circuit court issues a final order granting or denying/dismissing the petition for review (PFR). Wang was a habeas case under review at the circuit on an appeal from the district court denial of a habeas petition seeking judicial review of a removal order. Judicial review of removal orders by district courts, in habeas proceedings, was abolished by legislation two years later. Notwithstanding, the Wang holding applies to a circuit court PFR authorized under the current INA 242 judicial review provisions. When a circuit court stay of removal order is issued in PFR proceedings, the alien petitioner continues to be detained under INA 236 (rather than INA 241) until the circuit court issues a final order in the PFR proceedings. At that point, the removal period and custody under INA 241 commences. Jim James W Grable Buffalo Chief Counsel DHS/ICE/OPLA (7)(R)(25)(b)(6), (b)(7)(B)(2)(b)(6), (b)(7)(c) (BB) - View Revision History
08/23/2011 07:16 PM		EARM	Case remanded to the BIA by the U.S. Court of Appeals for the 2nd Circuit on 05/31/11. Case is currently pending with the BIA. New I-286 served on subject, subject is not a Final Order at this point in time.
05/30/2011 05:21 AM	(k)(2), (b)(6), (b)(7)(c)	EARM	05/30/11: Per PACER: Petition for Review with 2nd Circuit Court of Appeals # 09-0657 is pending. Stay of removal in effect
05/02/2011 01:34 PM		EARM	04/29/11: Per PACER: Petition for Review with 2nd Circuit Court of Appeals # 09-0657 is pending. Stay of removal in effect

Date Entered	Entered By	Type	Comments
04/13/2011 07:39 AM		EARM	04/13/11: Subject issued POGR Notice and worksheet.
03/24/2011 02:29 PM		EARM	03/24/11: Per PACER: Petition for Review with 2nd Circuit Court of Appeals # 09-0657 is pending. Stay of removal in effect
02/25/2011 10:11 AM		EARM	02/25/11: Per PACER: Petition for Review with 2nd Circuit Court of Appeals # 09-0657 is pending. Stay of removal in effect
01/27/2011 03:00 PM		EARM	01/27/11: Per PACER: Petition for Review with 2nd Circuit Court of Appeals # 09-0657 is pending. Stay of removal in effect
12/27/2010 01:07 PM		EARM	12/27/10 Per PACER: Petition for Review with 2nd Circuit Court of Appeals # 09-0657 is pending. Stay of removal in effect
11/17/2010 08:47 AM		EARM	11/17/10 Per PACER: Petition for Review with 2nd Circuit Court of Appeals # 09-0657 is pending. Stay of removal in effect
10/13/2010 08:17 PM		EARM	10/13/10 Per PACER: Petition for Review with 2nd Circuit Court of Appeals # 09-0657 is pending. Stay of removal in effect
09/07/2010 05:38 PM		EARM	09/07/10 Per PACER: Petition for Review with 2nd Circuit Court of Appeals # 09-0657 is pending. Stay of removal in effect
07/28/2010 07:25 AM		EARM	07/28/10 Per PACER: Petition for Review with 2nd Circuit Court of Appeals # 09-0657 is pending. Stay of removal in effect
06/28/2010 02:20 PM		EARM	Per PACER: Petition for Review with 2nd Circuit Court of Appeals # 09-0657 is pending. Stay of removal in effect
06/02/2010 01:53 PM		EARM	Served Continue Detention Letter from year review. Next POGR due 05/11/11. Per PACER: Petition for Review with 2nd Circuit Court of Appeals # 09-0657 is pending. Stay of removal in effect - View Revision History
05/26/2010 11:09 AM		EARM	Joint Memo completed per HQ request regarding subjects claim to USC in court in 2008. Subject was issued an N-600 application in court by DHS that was denied by CIS. Subject's appeal to AAO was also dismissed. CIS Officer (k)(2),(b)(6),(b)(7)c contacted, Officer (k)(2),(b)(6),(b)(7)c advised that nothing further has to be completed on their end. Subject's N-600 was denied and has nothing in it that would change. - View Revision History
05/25/2010 12:12 PM		EARM	05/25/10 Per PACER: Petition for Review with 2nd Circuit Court of Appeals # 09-0657 is pending. Stay of removal in effect. Subject's yearly POGR routed to SDOO for review and routing for signatures.
04/23/2010 09:42 AM		EARM	Per PACER: Petition for Review with 2nd Circuit Court of Appeals # 09-0657 is pending. Stay of removal in effect.
04/14/2010 09:22 AM		EARM	Issued 30 day POGR Notice and Worksheet
03/26/2010 07:53 AM	(k)(2),(b)(6),(b)(7)c	EARM	Petition for Review with 2nd Circuit Court of Appeals # 09-0657 is pending. Stay of removal in effect.
02/11/2010 08:35 AM		EARM	Petition for Review with 2nd Circuit Court of Appeals # 09-0657 is pending. Stay of removal in effect.
01/28/2010 01:06 PM		EARM	Petition for Review with 2nd Circuit Court of Appeals # 09-0657 is pending. Stay of removal in effect.
01/14/2010 12:12 PM		EARM	Petition for Review with 2nd Circuit Court of Appeals # 09-0657 is pending. Stay of removal in effect.
01/06/2010 09:26 AM		EARM	Petition for Review with 2nd Circuit Court of Appeals # 09-0657 is pending. Stay of removal in effect.
12/24/2009 06:36 AM		EARM	Petition for Review with 2nd Circuit Court of Appeals # 09-0657 is pending. Stay of removal in effect.
12/15/2009 08:18 AM		EARM	Petition for Review with 2nd Circuit Court of Appeals # 09-0657 is pending. Stay of removal in effect.
12/04/2009 09:52 AM		EARM	Petition for Review with 2nd Circuit Court of Appeals # 09-0657 is pending. Stay of removal in effect.
11/20/2009 09:42 AM		EARM	11/20/2009: Petition for Review with 2nd Circuit Court of Appeals # 09-0657 is pending. Stay of removal in effect.
11/09/2009 01:00 PM		EARM	11/9/2009: Petition for Review with 2nd Circuit Court of Appeals # 09-0657 is pending. Stay of removal in effect.
11/02/2009 04:05 AM		EARM	11/2/2009: Petition for Review with 2nd Circuit Court of Appeals # 09-0657 is pending. Stay of removal in effect.
10/26/2009 12:20 PM		EARM	10/13/2009: Petition for Review with 2nd Circuit Court of Appeals # 09-0657 is pending. Stay of removal in effect. - View Revision History
10/26/2009 12:19 PM		EARM	10/26/2009: Petition for Review with 2nd Circuit Court of Appeals # 09-0657 is pending. Stay of removal in effect.
10/19/2009 09:38 AM		EARM	10/19/2009: Petition for Review with 2nd Circuit Court of Appeals # 09-0657 is pending. Stay of removal in effect.
10/12/2009 08:13 AM		EARM	2nd Circuit case 09-0657 was dismissed on 08/31/09-mandate issued. However, the mandate was recalled on 10/08/09, the petition for review was reinstated and the alien has a stay of removal pending the outcome of the petition for review.
10/05/2009 12:25 PM		EARM	Subject interviewed by Consulate; subject has sent paperwork to Consulate indicating that

Date Entered	Entered By	Type	Comments
			he is filing additional litigation with the 2nd Circuit. Consulate wants to hold off on issuing the TD until his fate is determined by the 2nd Circuit.
10/01/2009 02:59 PM		EARM	Per Mr. Blythe, Consulate will issue a TD upon the receipt of an itinerary. Subject will be removed via October's JPATS Flight.
10/01/2009 08:41 AM		EARM	Email'd copy of Pacer print out to Consulate, showing that 2nd Circuit Litigation has been dismissed.
09/25/2009 11:36 AM		EARM	9-25-2009; Case given to JPATS team for removal.
09/24/2009 01:34 PM		EADM	
09/24/2009 12:34 PM		EADM	
09/22/2009 03:44 PM		EARM	8/31/09 Notice to all parties of Mandate dated 8/31/09. [Entry date Aug 31/2009, (b)(6), (b)(7)c]
08/26/2009 12:54 PM		EARM	8-26-2009; Received message from (b)(2), (b)(6), (b)(7)c. She said that the Mandate is expected to be issued on / about 8/31/2009. Will wait PACER for it.
08/26/2009 10:43 AM		EARM	8-26-2009; Left message with (b)(2), (b)(6), (b)(7)c and Circuit @ 4:03 PM (b)(2), (b)(6), (b)(7)c requesting information on when the Mandate will be issued in the case.
08/26/2009 10:40 AM		EARM	8-26-2009; Mandate not issued yet.
07/27/2009 12:27 PM		EARM	7-27-2009; Subject's 2nd Circuit appeal W/Stay (#09-0657) was denied on 7-9-2009. Mandate has not been issued (yet).
06/10/2009 06:05 PM	(k)(2), (b)(6), (b)(7)c	EARM	6-10-2009; Subject's 2nd Circuit appeal W/Stay still pending (#09-0657).
05/11/2009 08:55 AM		EARM	5-11-2009; Recived A-File back from Buffalo Field Office 5-11-2009. Subject served with 90 day POOR decision to continue custody.
05/04/2009 06:01 PM		EARM	5-4-2009; Subject's PFR is still pending.
04/30/2009 06:41 PM		EARM	4-30-2009; Subject's 2nd Circuit PFR is still pending.
04/20/2009 05:29 PM		EARM	04/16/09 informed by Consulate's (b)(2), (b)(6), (b)(7)c that a TD is ready for issuance upon the receipt of an itinerary. Inform (b)(2), (b)(6), (b)(7)c that subject has litigation pending and we cannot accept a TD until his litigation is resolved.
03/13/2009 02:45 PM		EARM	Subject filed an appeal with the Second Circuit Court of appeals, Docket #09-0657ag. File returned to docket for monitoring.
03/10/2009 11:25 AM		EARM	Subject advised Consulate that he has 2nd Circuit Litigation Filed with a Stay of Removal and did not wish to proceed with the interview. Subject claims to have filed litigation late last week and will provide me with a docket # on rounds this week.
03/06/2009 11:03 AM		EARM	Interview scheduled with Consulate's (b)(2), (b)(6), (b)(7)c on 03/10/09 at 1000.
02/20/2009 08:17 AM		EARM	ETD completed on this date.
02/20/2009 08:10 AM		EARM	BIA APPEAL HAS BEEN DISMISSED- FILE TO DO FOR DEPORTATION
11/14/2008 10:46 AM		EARM	subj reserved appeal due by 12/15/2008
08/09/2008 03:43 PM	EARM_MIG	EARM	FILE LOCATION: TRANS/BUF
08/09/2008 02:34 PM	EARM_MIG	EARM	CENF:COURT 7/10/08. N-600 FWD TO BTV LITIGATION ON 7/11/08.
08/09/2008 01:55 PM	EARM_MIG	EARM	RUTH NTA - EPR OF 5/8/08 FILE TO BUF 4/11/08. CENF:5/21/08:FILE NFTS TO BTV/LIT FOR HEARINGS (b)(2), (b)(6), (b)(7)c
06/23/2008 08:09 AM	EARMR3_MIG	EADM	
06/23/2008 08:09 AM	EARMR3_MIG	EADM	All property and valuables at Allegany County Jail
05/08/2008 05:42 PM	EARMR3_MIG	EADM	All property and valuables at Allegany County Jail

Comment Type Legend

EARM: Case comments entered in the EARM system.

EADM: Detention comments entered in the EADM system.

ATD: Alternatives to Detention comments entered in the EARM system.

EXHIBIT O

Office of Detention and Removal Operations

U.S. Department of Homeland Security
4250 Federal Drive
Batavia, New York 14020



U.S. Immigration
and Customs
Enforcement

MEMORANDUM FOR: DIRECTOR OF FIELD LEGAL OPERATIONS, OPLA
ASSISTANT DIRECTOR FOR FIELD OPERATIONS, DRO

FROM: Chief Counsel, AOR, OPLA
Field Office Director, Field Office, DRO

SUBJECT: Case Analysis - Claim to United States Citizenship
A46 633 823

STATEMENT OF THE CASE:

The subject, Davino WATSON, DOB 11/17/1984, a native and citizen of Jamaica, entered the United States on August 4, 1998 at New York, New York as an immigrant class F2-2. WATSON was encountered and interviewed by a Castle Point, New York Immigration and Customs Enforcement (ICE) Agent on October 9, 2007 at the Downstate Correctional Facility. On April 10, 2008, a Notice to Appear (NTA) was issued for the subject charging him with violating sections 237(a)(2)(A)(iii) and 237(a)(2)(B)(i) of the Immigration and Nationality Act (INA). On June 25, 2008, WATSON claimed to be a United States Citizen (USC) in Immigration Court and was provided with an N-600 application by DHS. On July 11, 2008, WATSON's Alien file and N-600 application were forwarded to CIS for adjudication. On August 4, 2008, WATSON's N-600 application was denied by CIS. WATSON filed an appeal of his N-600 application denial with the Administrative Appeals Office (AAO). His appeal was dismissed on September 17, 2008.

FACTS:

The subject, Davino WATSON, DOB 11/17/1984, a native and citizen of Jamaica, entered the United States on August 4, 1998 at New York, New York as an immigrant class F2-2. At that time, he was 13 years old.

His mother (k)(2),(b)(6),(b)(7)c (mother) was born in Jamaica and never became an USC. The subject's father, (k)(2),(b)(6),(b)(7)c was born on (k)(2),(b)(6),(b)(7)c in Jamaica and became a naturalized USC on September 17, 2002, when WATSON was 17 years old. There is no evidence that WATSON's parents were ever legally married.

On November 23, 2004, WATSON was convicted of Attempted Robbery 2nd Degree, in Kings County Supreme Court, New York and was sentenced to 30 days incarceration and 5 years probation. On February 22, 2006, WATSON was re-sentenced to 8 months incarceration. On August 28, 2007, WATSON was convicted of Attempted Criminal Sale of a Controlled Substance in the 3rd Degree, in New York County Supreme Court, New York and was sentenced to 42 months incarceration, 2 years post release supervision, and license suspension for 6 months.

On October 9, 2007, WATSON was encountered and interviewed by a Castle Point, New York Immigration and Customs Enforcement (ICE) Agent at the Downstate Correctional Facility. On April 10, 2008, a Notice to Appear (NTA) was issued for the subject charging him with violating sections 237(a)(2)(A)(iii) and 237(a)(2)(B)(i) of the Immigration and Nationality Act (INA). On May 08, 2008, WATSON was taken into ICE custody upon completing his sentence with the New York State Department of Correctional Services (NYSDOCS). WATSON was served a NTA in person on May 08, 2008 and placed into removal proceedings.

On June 25, 2008, WATSON claimed to be a United States Citizen (USC) in Immigration Court and was provided with an N-600 application by DHS. On July 11, 2008, WATSON's Alien file and N-600 application were forwarded to CIS for adjudication. On August 4, 2008, WATSON's N-600 application was denied by CIS. WATSON filed an appeal of his N-600 application denial with the Administrative Appeals Office (AAO). His appeal was dismissed on September 17, 2008.

On November 13, 2008, WATSON was ordered removed by an Immigration Judge (IJ). WATSON did not accept the decision of the IJ and reserved his right to appeal. On November 26, 2008, WATSON filed an appeal with the Board of Immigration Appeals (BIA). On February 5, 2009, WATSON's appeal with the BIA was dismissed. WATSON currently has a Second Circuit PFR with a stay of removal pending.

LEGAL ANALYSIS

Section 321 INA, as it existed prior to WATSON's eighteenth birthday, states, in relevant part, the following:

(a) a child born outside of the United States of alien parents, becomes a citizen of the United States upon fulfillment of the following conditions:

- (1) The naturalization of both parents; or*
- (2) The naturalization of the surviving parent if one of the parents is deceased; or*
- (3) The naturalization of the parent having legal custody of the child when there has been a legal separation of the parents or the naturalization of the mother if the child was*

born out of wedlock and the paternity of the child has not been established by legitimation, and if

(4) Such naturalization takes place while such child is under the age of eighteen years; and

(5) Such child is residing in the United States pursuant to a lawful admission for permanent residence at the time of the naturalization of the parent last naturalized under clause (1) of this subsection, or the parent naturalized under clause (2) or (3) of this subsection, or thereafter begins to reside permanently in the United States while under the age of eighteen years.

(b) Subsection (a) of this section shall apply to an adopted child only if the child is residing in the United States at the time of naturalization of such adoptive parents, in the custody of his adoptive parent or parents, pursuant to a lawful admission for permanent residence.

Section 320 INA, the law as it existed at the time of WATSON's birth and prior to his eighteenth birthday, states the following:

(a) A child born outside of the United States, automatically becomes a citizen of the United States when all of the following conditions have been fulfilled:

(1) At least one parent of the child is a citizen of the United States, whether by birth or naturalization

(2) The child is under eighteen years.

(3) The child is residing in the United States in the legal and physical custody of the citizen parent pursuant to a lawful admission for permanent residence.

(b) Subsection (a) shall apply to a child adopted by a United States citizen parent if the child satisfies the requirements applicable to adopted children under 101(b)(1).

Title 8 of the Code of Federal Regulations (CFR) Section 320.1 states that "Child" means a person who meets the requirements of Section 101(c)(1) of the Act.

INA Section 101(c)(1) defines child as follows:

(c) As used in title III-

(1) The term "child" means an unmarried person under twenty-one years of age and includes a child legitimated under the law of the child's residence or domicile, or under the law of the father's residence or domicile, whether in the United States or elsewhere, and, except as otherwise provided in sections 320, and 321 of title III, a child adopted in the United States, if such legitimation or adoption takes place before the child reaches the age of 16 (except to the extent that the child is described in subparagraph (E)(ii) or (F)(ii) of subsection (b)(1)), 18a/ and the child is in the legal custody of the legitimating or adopting parent or parents at the time of such legitimation or adoption.

Pursuant to the definition of "child" as found in INA Section 101(c)(1), INA Sections 320 and 321 provide for derivation of United States citizenship through naturalization of the father of a child born out of wedlock if the child has been legitimated before age sixteen under the law of the child's or father's residence or domicile. Both New York and Jamaican law require marriage of the parents for legitimation (see Matter of Hines 24 I&N Dec. 544 (BIA 2008)). There is no evidence that WATSON's parents were ever married, as such WATSON does not

meet the definition of "child" as described in INA Section 101(c)(1) for purposes of derivative United States citizenship. Although the Department of Homeland Security has held that derivation of United States citizenship under INA Section 320 may apply to children born out of wedlock who have not been legitimated but who have United States citizen mothers, there is no evidence that WATSON's biological mother is or ever was a United States citizen, or that WATSON was ever adopted by a United States citizen mother. Accordingly, WATSON has failed to establish that he naturalized to United States citizenship pursuant to INA Sections 320 or 321.

CONCLUSION AND RECOMMENDATION

BUF OCC and USCIS conclude that WATSON is not a citizen of the United States. WATSON is subject to an order of removal entered by the Immigration Court and affirmed by the Board of Immigration Appeals. It is recommended that WATSON be held in immigration custody pending a decision by the Second Circuit in this case.

EXHIBIT P



U.S. Immigration and Customs Enforcement

Office of the Chief Counsel
130 Delaware Avenue Suite 203
Buffalo, NY 14202
Office: (716) 852-8522 (b)(6), (b)(7)c
Fax: (716) 551-5126

MEMORANDUM FOR: DIRECTOR OF FIELD LEGAL OPERATIONS, OPLA
ASSISTANT DIRECTOR FOR FIELD OPERATIONS,
DRO

FROM: Chief Counsel, AOR, OPLA *Carla J. Henninger*
Field Office Director, Field Office, DRO

SUBJECT: Case Analysis - Claim to United States Citizenship
A46 633 823

STATEMENT OF THE CASE:

The subject, Davino WATSON, DOB 11/17/1984, a native and citizen of Jamaica, entered the United States on August 4, 1998 at New York, New York as an immigrant class F2-2. WATSON was encountered and interviewed by a Castle Point, New York Immigration and Customs Enforcement (ICE) Agent on October 9, 2007 at the Downstate Correctional Facility. On April 10, 2008, a Notice to Appear (NTA) was issued for the subject charging him with violating sections 237(a)(2)(A)(iii) and 237(a)(2)(B)(i) of the Immigration and Nationality Act (INA). On June 25, 2008, WATSON claimed to be a United States Citizen (USC) in Immigration Court and was provided with an N-600 application by DHS. On July 11, 2008, WATSON's Alien file and N-600 application were forwarded to CIS for adjudication. On August 4, 2008, WATSON's N-600 application was denied by CIS. WATSON filed an appeal of his N-600 application denial with the Administrative Appeals Office (AAO). His appeal was dismissed on September 17, 2008.

FACTS:

The subject, Davino WATSON, DOB 11/17/1984, a native and citizen of Jamaica, entered the United States on August 4, 1998 at New York, New York as an immigrant class F2-2. At that time, he was 13 years old.

His mother, (k)(2), (b)(6), (b)(7)c mother) was born in Jamaica and never became an USC.

The subject's father, (k)(2), (b)(6), (b)(7)c was born on (k)(2), (b)(6), (b)(7)c in Jamaica and became a naturalized USC on September 17, 2002, when WATSON was 17 years old. There is no evidence that WATSON's parents were ever legally married.

On November 23, 2004, WATSON was convicted of Attempted Robbery 2nd Degree, in Kings County Supreme Court, New York and was sentenced to 30 days incarceration and 5 years probation. On February 22, 2006, WATSON was re-sentenced to 8 months incarceration. On August 28, 2007, WATSON was convicted of Attempted Criminal Sale of a Controlled Substance in the 3rd Degree, in New York County Supreme Court, New York and was sentenced to 42 months incarceration, 2 years post release supervision, and license suspension for 6 months.

On October 9, 2007, WATSON was encountered and interviewed by a Castle Point, New York Immigration and Customs Enforcement (ICE) Agent at the Downstate Correctional Facility. On April 10, 2008, a Notice to Appear (NTA) was issued for the subject charging him with violating sections 237(a)(2)(A)(iii) and 237(a)(2)(B)(i) of the Immigration and Nationality Act (INA). On May 08, 2008, WATSON was taken into ICE custody upon completing his sentence with the New York State Department of Correctional Services (NYSDOCS). WATSON was served a NTA in person on May 08, 2008 and placed into removal proceedings.

On June 25, 2008, WATSON claimed to be a United States Citizen (USC) in Immigration Court and was provided with an N-600 application by DHS. On July 11, 2008, WATSON's Alien file and N-600 application were forwarded to CIS for adjudication. On August 4, 2008, WATSON's N-600 application was denied by CIS. WATSON filed an appeal of his N-600 application denial with the Administrative Appeals Office (AAO). His appeal was dismissed on September 17, 2008.

On November 13, 2008, WATSON was ordered removed by an Immigration Judge (IJ). WATSON did not accept the decision of the IJ and reserved his right to appeal. On November 26, 2008, WATSON filed an appeal with the Board of Immigration Appeals (BIA). On February 5, 2009, WATSON's appeal with the BIA was dismissed. WATSON currently has a Second Circuit PFR with a stay of removal pending.

LEGAL ANALYSIS:

Section 321 INA, as it existed prior to WATSON's eighteenth birthday, states, in relevant part, the following:

(a) a child born outside of the United States of alien parents, becomes a citizen of the United States upon fulfillment of the following conditions:

(1) The naturalization of both parents; or

(2) The naturalization of the surviving parent if one of the parents is deceased;

or

(3) The naturalization of the parent having legal custody of the child when there has been a legal separation of the parents or the naturalization of the mother if the child was born out of wedlock and the paternity of the child has not been established by legitimation; and if

(4) Such naturalization takes place while such child is under the age of eighteen years; and

(5) Such child is residing in the United States pursuant to a lawful admission for permanent residence at the time of the naturalization of the parent last naturalized under

clause (1) of this subsection, or the parent naturalized under clause (2) or (3) of this subsection, or thereafter begins to reside permanently in the United States while under the age of eighteen years.

(b) Subsection (a) of this section shall apply to an adopted child only if the child is residing in the United States at the time of naturalization of such adoptive parents, in the custody of his adoptive parent or parents, pursuant to a lawful admission for permanent residence.

Section 320 INA, the law as it existed at the time of WATSON's birth and prior to his eighteenth birthday, states the following:

(a) A child born outside of the United States, automatically becomes a citizen of the United States when all of the following conditions have been fulfilled:

(1) At least one parent of the child is a citizen of the United States, whether by birth or naturalization

(2) The child is under eighteen years.

(3) The child is residing in the United States in the legal and physical custody of the citizen parent pursuant to a lawful admission for permanent residence.

(b) Subsection (a) shall apply to a child adopted by a United States citizen parent if the child satisfies the requirements applicable to adopted children under 101(b)(1).

Title 8 of the Code of Federal Regulations (CFR) Section 320.1 states that "Child" means a person who meets the requirements of Section 101(c)(1) of the Act.

INA Section 101(c)(1) defines child as follows:

(c) As used in title III-

(1) The term "child" means an unmarried person under twenty-one years of age and includes a child legitimated under the law of the child's residence or domicile, or under the law of the father's residence or domicile, whether in the United States or elsewhere, and, except as otherwise provided in sections 320, and 321 of title III, a child adopted in the United States, if such legitimation or adoption takes place before the child reaches the age of 16 (except to the extent that the child is described in subparagraph (E)(ii) or (F)(ii) of subsection (b)(1)), 18a/ and the child is in the legal custody of the legitimating or adopting parent or parents at the time of such legitimation or adoption.

Pursuant to the definition of "child" as found in INA Section 101(c)(1), INA Sections 320 and 321 provide for derivation of United States citizenship through naturalization of the father of a child born out of wedlock if the child has been legitimated before age sixteen under the law of the child's or father's residence or domicile. Both New York and Jamaican law require marriage of the parents for legitimation (see Matter of Hines 24 I&N Dec. 544 (BIA 2008)).

However, the issue remains as to whether Hines is to be applied purely prospectively or whether it has a retroactive effect. If Hines is a purely prospective interpretation of the law, Watson would be a derivative United States citizen pursuant to Matter of Clahar, 18 I&N Dec.1 (BIA 1981). Clahar held that all children born in Jamaica were legitimate at birth.

Pursuant to Clahar, at the time of his father's naturalization, Watson would have met the definition of child at INA § 101(c)(1) and would have fulfilled the conditions for derivative United States citizenship at INA § 320.

It is, therefore, possible that Watson is a derivative United States citizen.

CONCLUSION AND RECOMMENDATION:

Following further discussion with OPLA HQ, USCIS counsel, and DHS/OGC, it is concluded that Watson has provided probative evidence of United States citizenship based on Clahar. It is recommended that he be immediately released from DHS custody.

EXHIBIT Q

U.S. Department of Homeland Security

Notice to EOIR: Alien Address

Date: November 2, 2011File No: A046 633 823

To: Office of the Immigration Judge
 Executive Office for Immigration Review
 Jfk Federal Building 15 New Sudbury St,
 Room 320
 Boston, Massachusetts 02203

Event No: (k)(2),(b)(7)(e)

From: Department of Homeland Security
 Field Office Director 1250 Poydras St
 Suite 325
 New Orleans, Louisiana 70113

Davino Hopeton WATSON

Respondent: AKA:

This is to notify you that this respondent is:

☐ Currently incarcerated by other than DHS. A charging document has been served on the respondent and an Immigration Detainer- Notice of Action by the DHS (Form I-247) has been filed with the institution shown below. He/She is incarcerated at:

His/Her anticipated release date is: _____

☐ Currently detained by DHS at: _____

☐ Currently detained by DHS and transferred this date to a new location: _____

DHS motion for change of venue attached. ☐ Yes ☒ No☒ Released from DHS custody on the following condition(s):☒ Personal recognizance☐ Order of recognizance (Form I-220A)☐ Bond in the amount of \$ _____ ☐ Surety bond ☐ Cash bond☐ Other _____☒ Upon release from DHS custody, the respondent reported his/her address and telephone number will be:

1024 E 40th Street

Brooklyn, New York 11210

Phone not available

☒ Upon release from DHS custody, the respondent was reminded of the requirements contained in section 239(a)(1)(F)(ii) of the Immigration and Nationality Act, as amended, and provided with an EOIR change of address form (EOIR-33).

(k)(2),(b)(6),(b)(7)c

Deportation Officer

(Title of DHS official)

(k)(2),(b)(6),(b)(7)c

Gadsden, AL

(Printed name of DHS official)

(Location)

ICE 2014FOIA901.000001

EXHIBIT R

(b)(6), (b)(7)(C)

From: (b)(6), (b)(7)(C)
Sent: Wednesday, November 02, 2011 11:38 AM
To: (b)(6), (b)(7)(C)
Cc:
Subject: FW: Watson Brief

Seems like we need to get him out of DHS custody ASAP.

(b)(6), (b)(7)(C)

Deputy Chief Counsel
Buffalo Office of Chief Counsel
716-855- (b)(6), (b)(7)(C)
Blackberry: 716-888- (b)(6), (b)(7)(C)

***** Attorney/Client Privilege Communication *** Attorney Work Product *****

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From: (b)(6), (b)(7)(C)
Sent: Wednesday, November 02, 2011 11:06 AM
To: (b)(6), (b)(7)(C)
Subject: FW: Watson Brief

USCIS has just issued this determination, which is in agreement with the position in our brief. If so, Watson is a citizen.

(b)(6), (b)(7)(C)

Deputy Chief Counsel
U.S. Immigration and Customs Enforcement
Office of Chief Counsel
Stewart Detention Center
146 CCA Road
Lumpkin, Georgia 31815
229-838- (b)(6), (b)(7)(C) office
202-277- (b)(6), (b)(7)(C) blackberry
Email: (b)(6), (b)(7)(C)

***** Warning *** Attorney/Client Privilege *** Attorney Work Product *****

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From: [REDACTED] [mailto:[REDACTED]]

Sent: Wednesday, November 02, 2011 10:58 AM

To: [REDACTED]

Cc: [REDACTED]

Subject: RE: Watson Brief

Colleagues,

[REDACTED]

Regards,

[REDACTED]

[REDACTED]
Special Counsel for Field Management
Office of the Chief Counsel
U.S. Citizenship and Immigration Services
Office: 305 681 [REDACTED] (C)
Cell: 305 784 [REDACTED] (C)

EXHIBIT S

Department of Homeland Security
U.S. Citizenship and Immigration Services

OMB No. 1615-0057, Expires 10/31/08
**N-600, Application for
Certificate of Citizenship**

Print clearly or type your answers, using CAPITAL letters in black ink. Failure to print clearly may delay processing of your application.

Part I. Information about you. (Provide information about yourself, if you are a person applying for the Certificate of Citizenship. If you are a U.S. citizen parent applying for a Certificate of Citizenship for your minor child, provide information about your child).

1. Current legal name

Family Name (Last Name)

WATSON

Given Name (First Name)

DAVINO

Full Middle Name (If applicable)

HOPETON

2. Name exactly as it appears on your Permanent Resident Card (If applicable).

Family Name (Last Name)

WATSON

Given Name (First Name)

DAVINO

Full Middle Name (If applicable)

HOPETON

3. Other names used since birth

Family Name (Last Name)

NONE

Given Name (First Name)

Middle Name (If applicable)

4. U.S. Social Security # (If applicable)

085-88-2861

5. Date of Birth (mm/dd/yyyy)

11/17/1984

6. Country of Birth

JAMAICA W.I.

7. Country of Prior Nationality

JAMAICA

8. Gender

☒ Male ☐ Female

9. Height

5' 11"

Part 2. Information about your eligibility. (Check only one.)

A. I am claiming U.S. citizenship through:

- ☐ A U.S. citizen father or a U.S. citizen mother.
☐ Both U.S. citizen parents.
☐ A U.S. citizen adoptive parent(s).
☒ An alien parent(s) who naturalized.

B. ☒ I am a U.S. citizen parent applying for a certificate of citizenship on behalf of my minor (under 18 years) BIOLOGICAL child.

C. ☐ I am a U.S. citizen parent applying for a certificate of citizenship on behalf of my minor (less than 18 years) ADOPTED child.

D. ☐ Other (Please explain fully)

If your child has an "A" Number, write it here:

A# 046-633-823

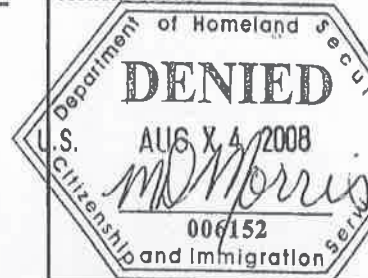
For USCIS Use Only

Returned	Receipt
Date	<p>FREE WAIVED DETAINED BY US Govt (ICE) EAD FOR BVP 7/15/08</p>
Date	
Resubmitted	
Date	
Date	
Reloc Sent	
Date	
Date	
Reloc Rec'd	
Date	

Remarks

N-600

Action Block



To Be Completed by

☐ Attorney or Representative, if any.

Fill in box if G-28 is attached to represent the applicant.

ATTY State License #

Part 3. Additional information about you. (Provide additional information about *yourself*, if you are the person applying for the Certificate of Citizenship. If you are a U.S. citizen parent applying for a Certificate of Citizenship for your *minor child*, provide the additional information about your *minor child*).

1. Home Address - Street Number and Name (Do not write a P.O. Box in this space)

Apartment Number

1024 EAST 40 th STREET				PT	
City	County	State/Province	Country	Zip/Postal Code	
BROOKLYN	KINGS	NY	USA	11210	

2. Mailing Address - Street Number and Name (If different from home address)

Apartment Number

SAME					
City	County	State/Province	Country	Zip/Postal Code	

3. Daytime Phone Number (If any)

Evening Phone Number (If any)

E-Mail Address (If any)

(718) 377-7027	(646) 321-3469	TASHA75CLARE47@YAHOO.COM
----------------	----------------	--------------------------

4. Marital Status

☒ Single, Never Married

☐ Married

☐ Divorced

☐ Widowed

☐ Marriage Annulled or Other (Explain)

N/A

5. Information about entry into the United States and current immigration status

A. I arrived in the following manner:

Port of Entry (City/State)

Date of Entry (mm/dd/yyyy)

Exact Name Used at Time of Entry

BKLYN, NY JFK	08/15/1998	DAVINO H WATSON
---------------	------------	-----------------

B. I used the following travel document to enter:

☒ Passport

☒ Passport Number

Country Issuing Passport

Date Passport Issued (mm/dd/yyyy)

SRC 9900753390	JAMAICA WI	
----------------	------------	--

Other (Please Specify Name of Document and Dates of Issuance)

N/A

C. I entered as:

☒ An immigrant (lawful permanent resident) using an immigrant visa

☐ A nonimmigrant

☐ A refugee

☐ Other (Explain)

D. I obtained lawful permanent resident status through adjustment of status (If applicable):

Date you became a Permanent Resident (mm/dd/yyyy)

USCIS Office where granted adjustment of status

N/A	N/A
-----	-----

6. Have you previously applied for a certificate of citizenship or U.S. passport?

☒ No

☐ Yes (Attach explanation)

Part 3. Additional information about you. (Provide additional information about yourself, if you are the person applying for the Certificate of Citizenship. If you are a U.S. citizen parent applying for a Certificate of Citizenship for your minor child, provide the additional information about your minor child). *Continued.*

7. Were you adopted? ☒ No ☐ Yes (Please complete the following information):

Date of Adoption (mm/dd/yyyy)

Place of Final Adoption (City/State or Country)

N/A

N/A

Date Legal Custody Began (mm/dd/yyyy)

Date Physical Custody Began (mm/dd/yyyy)

N/A

N/A

8. Did you have to be re-adopted in the United States?

☒ No ☐ Yes (Please complete the following information):

Date of Final Adoption (mm/dd/yyyy)

Place of Final Adoption (City/State)

N/A

N/A

Date Legal Custody Began (mm/dd/yyyy)

Date Physical Custody Began (mm/dd/yyyy)

N/A

N/A

9. Were your parents married to each other when you were born (or adopted)?

☒ No ☐ Yes

10. Have you been absent from the United States since you first arrived? (Only for persons born before October 10, 1952, who are claiming U.S. citizenship at time of birth; otherwise, do not complete this section.)

☒ No ☐ Yes

If yes, complete the following information about all absences, beginning with your most recent trip. If you need more space, use a separate sheet of paper.

Date You Left the United States (mm/dd/yyyy)	Date You Returned to the United States (mm/dd/yyyy)	Place of Entry Upon Return to the United States
N/A	N/A	N/A

Part 4. Information about U.S. citizen father (or adoptive father). (Complete this section if you are claiming citizenship through a U.S. citizen father. If you are a U.S. citizen father applying for a Certificate of Citizenship on behalf of your minor biological or adopted child, provide information about yourself below.)

1. Current legal name of U.S. citizen father.

Family Name (Last Name)

Given Name (First Name)

Full Middle Name (If applicable)

WATSON

HOPEYON

ULANDO

2. Date of Birth (mm/dd/yyyy)

3. Country of Birth

4. Country of Nationality

05/19/1954

JAMAICA WI

USA

5. Home Address - Street Number and Name (If deceased, so state and enter date of death.)

Apartment Number

1024 EAST 40th STREET

Rt

City

County

State/Province

Country

Zip/Postal Code

BROOKLYN

KINGS

NY

USA

11210

Part 4. Information about U.S. citizen father (or adoptive father). (Complete this section if you are claiming citizenship through a U.S. citizen father. If you are a U.S. citizen father applying for a Certificate of Citizenship on behalf of your minor biological or adopted child, provide information about yourself below.) *Continued.*

6. U.S. citizen by:

- ☐ Birth in the United States
☐ Birth abroad to U.S. citizen parent(s)
☐ Acquisition after birth through naturalization of alien parent(s)
☒ Naturalization

Date of Naturalization (mm/dd/yyyy)

Place of Naturalization (Name of Court and City/State or USCIS or Former INS Office Location)

09/17/2002

U.S. DISTRICT COURT EASTERN DISTRICT

Certificate of Naturalization Number

Former "A" Number (If known)

A041458063

7. Has your father ever lost U.S. citizenship or taken any action that would cause loss of U.S. citizenship?

- ☒ No ☐ Yes (Provide full explanation on a separate sheet(s) of paper.)

8. Dates of Residence and/or Physical Presence in the United States (Complete this only if you are an applicant claiming U.S. citizenship at time of birth abroad)

Provide the dates your U.S. citizen father resided in or was physically present in the United States. If you need more space, use a separate sheet(s) of paper.

From (mm/dd/yyyy)	To (mm/dd/yyyy)
N/A	N/A

9. Marital History

A. How many times has your U.S. citizen father been married (including annulled marriages)?

ONE TIME

B. Information about U.S. citizen father's **current spouse**:

Family Name (Last Name)

Given Name (First Name)

Full Middle Name (If applicable)

CARVEY

EUNICE

SONIA CLARY

Date of Birth (mm/dd/yyyy)

Country of Birth

Country of Nationality

04/11/1947

JAMAICA

USA

Home Address - Street Number and Name

Apartment Number

1024 EAST 40th STREET

PT

City

County

State or Province

Country

Zip/Postal Code

BROOKLYN

KINGS

NY

USA

11210

Date of Marriage (mm/dd/yyyy)

Place of Marriage (City/State or Country)

09/12/1986

BROOKLYN NY USA

Spouse's Immigration Status:

- ☒ U.S. Citizen ☐ Lawful Permanent Resident ☐ Other (Explain)

C. Is your U.S. citizen father's current spouse also your mother?

☐ No

☒ Yes

Part 5. Information about your U.S. citizen mother (or adoptive mother). (Complete this section if you are claiming citizenship through a U.S. citizen mother (or adoptive mother). If you are a U.S. citizen mother applying for a Certificate of Citizenship on behalf of your minor biological or adopted child, provide information about yourself below).

1. Current legal name of U.S. citizen mother.

Family Name (Last Name)

Given Name (First Name)

Full Middle Name (If applicable)

WATSON (LARGO) EUNICE SONIA CHARLE

2. Date of Birth (mm/dd/yyyy)

3. Country of Birth

4. Country of Nationality

04/11/1947 JAMAICA W.I. USA

5. Home Address - Street Number and Name (If deceased, so state and enter date of death)

Apartment Number

1024 EAST 40th STREET RT

City

County

State/Province

Country

Zip/Postal Code

BROOKLYN KINGS N.Y. USA 11210

6. U.S. citizen by:

☐ Birth in the United States

☐ Birth abroad to U.S. citizen parent(s)

☐ Acquisition after birth through naturalization of alien parent(s)

☒ Naturalization

Date of Naturalization (mm/dd/yyyy)

Place of Naturalization (Name of Court and City/State or USCIS)

09/16/1986 US OF AMERICA EASTERN DIST OF NEW YORK

Certificate of Naturalization Number

Former "A" Number (If known)

35817015

7. Has your mother ever lost U.S. citizenship or taken any action that would cause loss of U.S. citizenship?

☒ No

☐ Yes (Provide full explanation on a separate sheet(s) of paper.)

8. Dates of Residence and/or Physical Presence in the United States (Complete this only if you are an applicant claiming U.S. citizenship at time of birth abroad)

Provide the dates your U.S. citizen father resided in or was physically present in the United States. If you need more space, use a separate sheet(s) of paper.

From (mm/dd/yyyy)	To (mm/dd/yyyy)
N/A	N/A

9. Marital History

A. How many times has your U.S. citizen mother been married (including annulled marriages)?

TWICE

B. Information about U.S. citizen mother's **current spouse**:

Family Name (Last Name)

Given Name (First Name)

Full Middle Name (If applicable)

WATSON HOPE TON ULANDO

Date of Birth (mm/dd/yyyy)

Country of Birth

Country of Nationality

05/19/1954 JAMAICA W.I. USA

Part 5. Information about your U.S. citizen mother (or adoptive mother). (Complete this section if you are claiming citizenship through a U.S. citizen mother (or adoptive mother). If you are a U.S. citizen mother applying for a Certificate of Citizenship on behalf of your minor biological or adopted child, provide information about yourself below). *Continued.*

C. Information about U.S. citizen mother's current spouse: (Continued.)

Home Address - Street Number and Name

Apartment Number

1024 EAST 40th STREET Apt

City

County

State or Province

Country

Zip/Postal Code

BROOKLYN KINGS NY USA 11210

Date of Marriage (mm/dd/yyyy)

Place of Marriage (City/State or Country)

09/12/1986 BROOKLYN NY USA

Spouse's Immigration Status:

☒ U.S. Citizen ☐ Lawful Permanent Resident ☐ Other (Explain)

D. Is your U.S. citizen mother's current spouse also your father?

☐ No ☒ Yes

Part 6. Information about military service of U. S. citizen parent(s). (Complete this only if you are an applicant claiming U.S. citizenship at time of birth abroad.)

1. Has your U. S. citizen parent(s) served in the armed forces? ☐ No ☐ Yes

2. If "Yes," which parent? ☐ U.S. Citizen Father ☐ U.S. Citizen Mother

3. Dates of Service. (If time of service fulfills any of required physical presence, submit evidence of service.)

From (mm/dd/yyyy)

To (mm/dd/yyyy)

From (mm/dd/yyyy)

To (mm/dd/yyyy)

4. Type of discharge. ☐ Honorable ☐ Other than Honorable ☐ Dishonorable

Part 7. Signature.

I certify, under penalty of perjury under the laws of the United States, that this application and the evidence submitted with it is all true and correct. I authorize the release of any information from my records, or my minor child's records, that U.S. Citizenship and Immigration Services needs to determine eligibility for the benefit I am seeking.

Applicant's Signature

Printed Name

Date (mm/dd/yyyy)

Hopeton Watson Hopeton U WATSON 7/7/08

Part 8. Signature of person preparing this form, if other than applicant.

I declare that I prepared this application at the request of the above person. The answers provided are based on information of which I have personal knowledge and/or were provided to me by the above-named person in response to the questions contained on this form.

Preparer's Signature

Preparer's Printed Name

Date (mm/dd/yyyy)

Name of Business/Organization (If applicable)

Preparer's Daytime Phone Number

()

Preparer's Address - Street Number and Name

City

County

State

Zip Code

NOTE: Do not complete the following parts unless a USCIS officer instructs you to do so at the interview.

Part 9. Affidavit.

I, the (applicant, parent or legal guardian) _____ do swear or affirm, under penalty of perjury laws of the United States, that I know and understand the contents of this application signed by me, and the attached supplementary pages number () to () inclusive, that the same are true and correct to the best of my knowledge, and that corrections number () to () were made by me or at my request.

Signature of parent, guardian or applicant

Date (mm/dd/yyyy)

Waived

Subscribed and sworn or affirmed before me upon examination of the applicant (parent, guardian) on _____ at _____

Signature of Interviewing Officer

Title

Part 10. Officer Report and Recommendation on Application for Certificate of Citizenship.

On the basis of the documents, records and the testimony of persons examined, and the identification upon personal appearance of the underage

beneficiary, I find that all the facts and conclusions set forth under oath in this application are ☐ true and correct; that the applicant did ☒

derive or acquire U.S. citizenship on *Denied* (mm/dd/yyyy), through (mark "X" in appropriate section of law or, if

section of law not reflected, insert applicable section of law in "Other" block): ☐ section 301 of the INA ☐ section 309 of the INA

☒ section 320 of the INA ☒ section 321 of the INA ☐ Other _____

and that (s)he ☐ has ☐ has not been expatriated since that time. I recommend that this application be ☐ granted ☒ denied and that

☐ A or ☐ AA Certificate of Citizenship be issued in the name of _____

District Adjudication Officer's Name and Title

District Adjudication Officer's Signature

Michele D. Morris, DAO *Michele D. Morris*

I do ☐ do not ☐ concur in recommendation of the application.

District Director or Officer-in-Charge Signature

Date (mm/dd/yyyy)

U.S. DEPARTMENT OF HOMELAND SECURITY
Citizenship & Immigration Services
Federal Center
130 Delaware Avenue
Buffalo, New York 14202

DECISION

Refer to this File Number: A046 633 823

Date: **AUG 04 2008**

Davino Hopeton Watson
Buffalo Federal Detention Facility
4250 Federal Drive
Batavia, NY 14020

It is ordered that your Form N-600, Application for Citizenship

☒ be denied because:

☐ be revoked because:

Please see attached.

You may, if you wish, appeal this decision. You must submit such an appeal to THIS OFFICE with a filing fee of \$585.00. If you do not file an appeal within the time allowed, this decision is final.

- ☐ The Board of Immigration Appeals (Board) in Falls Church, Virginia. It must reach this office within 30 calendar days from the date this notice is served (18 days if this notice is mailed).
- ☒ The Administrative Appeals Unit (AAU) in Washington, D.C. It must reach this office within 30 calendar days from the date this notice is served (33 days if this notice is mailed).

Do NOT send your appeal directly to the Board or to the AAU. Please direct any questions you may have to the Immigration and Naturalization Service office nearest your residence.

Sincerely yours,

for *Edward A. Newman*

Edward A. Newman
Field Operations Director

Enclosure(s)

ATTACHMENT TO FORM I-292

FILE: A46 633 823
APPLICANT: Davino Hopeton WATSON
APPLICATION: Application for Citizenship Certificate, Form N-600

Your Application for Certificate of Citizenship, (Form N-600), was filed on July 15, 2008 pursuant to Sections 320 or 321 of the Immigration and Nationality Act (INA). Section 321 INA, the law in effect at the time of your birth, was repealed by the Child Citizenship Act of 2000 {CCA} which became effective on February 27, 2001 - the CCA applies only to those children born on or after February 27, 2001 or those under eighteen years of age as of that date. Since you were under eighteen on February 27, 2001, we must also consider Section 320 INA, the current law and the law in effect prior to your eighteenth birthday. Your application is based upon your claim of derivation of United States citizenship through the naturalization of your father.

A review of the record establishes the following:

1. You were born on November 17, 1984 in Jamaica.
2. On August 4, 1998, you entered the United States as a lawful permanent resident of the United States on an immigrant visa.
3. The CCA went into effect on February 27, 2001. You were 16 years old on this date.
4. Your biological father, Hopeton Ulando Watson, was born on May 19, 1954 in Jamaica. He became a United States citizen on September 17, 2002. You were 17 years old on this date.
5. You turned eighteen years old on November 17, 2002.
6. Your biological mother, Dorette McFarlane, was born in Jamaica. She never became a United States citizen.
7. Your biological parents never married.
8. On your Form N-600, you indicated that you were never adopted yet you also indicated that Eunice Sonia Clare Carvey is your mother. You submitted no evidence to establish that she adopted you.

Section 321 INA stated, in part, the following:

“(A) a child born outside of the United States of alien parents..., becomes a citizen of the United States upon fulfillment of the following conditions:

- (1) *Naturalization of both parents*; or
- (2) *The Naturalization of the surviving parent if one of the parents is deceased*; or
- (3) The naturalization of the parent having legal custody of the child when there has been a legal separation of the parents or *the naturalization of the mother if the child was born out of wedlock* and the paternity of the child has not been established by legitimation; and if
- (4) *Such Naturalization takes place while such child is under the age of eighteen years*; and
- (5) Such child is residing in the United States pursuant to a lawful admission for permanent residence at the time of the naturalization of the parent last naturalized under clause (1) of this subsection, or the parent naturalized under clause (2) or (3) of this subsection, or thereafter begins to reside permanently in the United States while under the age of eighteen years.”

Section 320 of the Immigration and Nationality Act states the following:

“(a) A child born outside of the United States automatically becomes a citizen of the United States when all of the following conditions have been fulfilled:

(1) At least one parent of the child is a citizen of the United States, whether by birth or naturalization.

(2) *The child is under the age of eighteen years.*

(3) *The child is residing in the United States in the legal and physical custody of the citizen parent pursuant to a lawful admission for permanent residence.*

(b) *Subsection (a) shall apply to a child adopted by a United States citizen parent if the child satisfies the requirements applicable to adopted children under section 101(b)(1)."*

Title 8 Code of Federal Regulations (CFR) Section 320.1 states that "Child" means a person who meets the requirements of section 101(c)(1) of the Act."

Section 101(c)(1) INA defines child as follows:

"(c) As used in title III-

(1) The term "child" means an unmarried person under twenty-one years of age and includes a child legitimated under the law of the child's residence or domicile, or under the law of the father's residence or domicile, whether in the United States or elsewhere, and, except as otherwise provided in sections 320, and 321 of title III, a child adopted in the United States, if such legitimation or adoption takes place before the child reaches the age of 16 years (except to the extent that the child is described in subparagraph (E)(ii) or (F)(ii) of subsection (b)(1)), 18a/ and the child is in the legal custody of the legitimating or adopting parent or parents at the time of such legitimation or adoption".

8 CFR Section 320.3(b) requires the following evidence:

"...(b) Evidence.

(1) An applicant under this section shall establish eligibility under § 320.2. In addition to the forms and the appropriate fee as required in §103.7(b)(1) of this chapter, an applicant must submit the following required documents unless such documents are already contained in the Service administrative file(s):...

(v) If the child was born out of wedlock, documents verifying legitimation according to the laws of the child's residence or domicile or father's residence or domicile (if applicable);..."

Pursuant to the definition of "child" as found in Section 101(c)(1) INA, Sections 320 and 321 INA provide for derivation of United States citizenship through the naturalization of the father of a child born out of wedlock, if the child has been legitimated before age sixteen under the law of the child's or father's residence or domicile. 8 CFR Section 320.3 requires that evidence of such legitimation be provided with the application. Both New York State and Jamaican law [see Matter of Hines 24 I&N Dec. 544 (BIA 2008)] require marriage of the parents for legitimation. The record contains no evidence that your father and biological mother were ever married. In fact, the record shows that your father was married only one time, to his current spouse, Clare Watson. Therefore, there is no evidence that you were legitimated. As such, you do not meet the definition of "child" as described in Section 101(c)(1) INA for purposes of derivative United States citizenship. In addition, although the Service has held that derivation of United States citizenship under Section 320 INA may apply to children born

out of wedlock who have not been legitimated but who have United States citizen mothers, there is no evidence that your biological mother is or ever was a United States citizen or that you were ever adopted by a United States citizen mother. As such, you did not qualify as a "child" pursuant to Section 101(c)(1) INA as required for derivation of United States citizenship under Section 320 INA. Therefore, you did not derive United States citizenship pursuant to Sections 320 or 321 INA and are ineligible for a Certificate of Citizenship. Accordingly, your Application for Citizenship is hereby denied.

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM)

I. (a) PLAINTIFFS

Davino Watson

DEFENDANTS

Juan Estrada, Michael Ortiz, Timothy Gunther, John Does 1-8, and the United States

(b) County of Residence of First Listed Plaintiff Kings County, NY

(EXCEPT IN U.S. PLAINTIFF CASES)

County of Residence of First Listed Defendant _____

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

(c) Attorneys (Firm Name, Address, and Telephone Number)

Holland & Knight LLP

31 West 52nd Street

New York, NY 10019 212.513.3200

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☐ 3 Federal Question (U.S. Government Not a Party)
- ☒ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance	PERSONAL INJURY	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 375 False Claims Act
<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 690 Other	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 400 State Reapportionment
<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 315 Airplane Product Liability		PROPERTY RIGHTS	<input type="checkbox"/> 410 Antitrust
<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 320 Assault, Libel & Slander		<input type="checkbox"/> 820 Copyrights	<input type="checkbox"/> 430 Banks and Banking
<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 330 Federal Employers' Liability		<input type="checkbox"/> 830 Patent	<input type="checkbox"/> 450 Commerce
<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 340 Marine		<input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 460 Deportation
<input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans)	<input type="checkbox"/> 345 Marine Product Liability		SOCIAL SECURITY	<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations
<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits	<input type="checkbox"/> 350 Motor Vehicle	LABOR	<input type="checkbox"/> 861 HIA (1395ff)	<input type="checkbox"/> 480 Consumer Credit
<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 355 Motor Vehicle Product Liability	<input type="checkbox"/> 710 Fair Labor Standards Act	<input type="checkbox"/> 862 Black Lung (923)	<input type="checkbox"/> 490 Cable/Sat TV
<input type="checkbox"/> 190 Other Contract	<input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 720 Labor/Management Relations	<input type="checkbox"/> 863 DIWC/DIWW (405(g))	<input type="checkbox"/> 850 Securities/Commodities/Exchange
<input type="checkbox"/> 195 Contract Product Liability	<input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<input type="checkbox"/> 740 Railway Labor Act	<input type="checkbox"/> 864 SSID Title XVI	<input type="checkbox"/> 890 Other Statutory Actions
<input type="checkbox"/> 196 Franchise		<input type="checkbox"/> 751 Family and Medical Leave Act	<input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 891 Agricultural Acts
		<input type="checkbox"/> 790 Other Labor Litigation		<input type="checkbox"/> 893 Environmental Matters
		<input type="checkbox"/> 791 Employee Retirement Income Security Act		<input type="checkbox"/> 895 Freedom of Information Act
REAL PROPERTY	CIVIL RIGHTS		FEDERAL TAX SUITS	<input type="checkbox"/> 896 Arbitration
<input type="checkbox"/> 210 Land Condemnation	<input checked="" type="checkbox"/> 440 Other Civil Rights		<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)	<input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision
<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 441 Voting	PRISONER PETITIONS	<input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 950 Constitutionality of State Statutes
<input type="checkbox"/> 230 Rent Lease & Ejectment	<input type="checkbox"/> 442 Employment	Habeas Corpus:		
<input type="checkbox"/> 240 Torts to Land	<input type="checkbox"/> 443 Housing/Accommodations	<input type="checkbox"/> 463 Alien Detainee		
<input type="checkbox"/> 245 Tort Product Liability	<input type="checkbox"/> 444 Amer. w/Disabilities - Employment	<input type="checkbox"/> 510 Motions to Vacate Sentence		
<input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 445 Amer. w/Disabilities - Other	<input type="checkbox"/> 530 General		
	<input type="checkbox"/> 448 Education	<input type="checkbox"/> 535 Death Penalty		
		Other:		
		<input type="checkbox"/> 540 Mandamus & Other		
		<input type="checkbox"/> 550 Civil Rights		
		<input type="checkbox"/> 555 Prison Condition		
		<input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement		
		IMMIGRATION		
		<input type="checkbox"/> 462 Naturalization Application		
		<input type="checkbox"/> 465 Other Immigration Actions		

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from Another District (specify)
- ☐ 6 Multidistrict Litigation

VI. CAUSE OF ACTIONCite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
US Constitution Fourth and Fifth Amendments, 28 U.S.C. s. 2671 et seq.

Brief description of cause:

Bivens claims for unlawful detention by DHS/ICE officials, and FTCA claims for same

VII. REQUESTED IN COMPLAINT:☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE

DOCKET NUMBER

DATE

0/31/2014

SIGNATURE OF ATTORNEY OF RECORD

Robert J. Burns

OR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

CERTIFICATION OF ARBITRATION ELIGIBILITY

Local Arbitration Rule 83.10 provides that with certain exceptions, actions seeking money damages only in an amount not in excess of \$150,000, exclusive of interest and costs, are eligible for compulsory arbitration. The amount of damages is presumed to be below the threshold amount unless a certification to the contrary is filed.

I, Robert J. Burns, counsel for Plaintiff Davino Watson, do hereby certify that the above captioned civil action is ineligible for compulsory arbitration for the following reason(s):

- ☒ monetary damages sought are in excess of \$150,000, exclusive of interest and costs,
- ☐ the complaint seeks injunctive relief,
- ☐ the matter is otherwise ineligible for the following reason

DISCLOSURE STATEMENT - FEDERAL RULES CIVIL PROCEDURE 7.1

Identify any parent corporation and any publicly held corporation that owns 10% or more of its stocks:

N/A

RELATED CASE STATEMENT (Section VIII on the Front of this Form)

Please list all cases that are arguably related pursuant to Division of Business Rule 50.3.1 in Section VIII on the front of this form. Rule 50.3.1 (a) provides that "A civil case is "related" to another civil case for purposes of this guideline when, because of the similarity of facts and legal issues or because the cases arise from the same transactions or events, a substantial saving of judicial resources is likely to result from assigning both cases to the same judge and magistrate judge." Rule 50.3.1 (b) provides that "A civil case shall not be deemed "related" to another civil case merely because the civil case: (A) involves identical legal issues, or (B) involves the same parties." Rule 50.3.1 (c) further provides that "Presumptively, and subject to the power of a judge to determine otherwise pursuant to paragraph (d), civil cases shall not be deemed to be "related" unless both cases are still pending before the court."

NY-E DIVISION OF BUSINESS RULE 50.1(d)(2)

- 1.) Is the civil action being filed in the Eastern District removed from a New York State Court located in Nassau or Suffolk County? No
- 2.) If you answered "no" above:
- a) Did the events or omissions giving rise to the claim or claims, or a substantial part thereof, occur in Nassau or Suffolk County? No
- b) Did the events or omissions giving rise to the claim or claims, or a substantial part thereof, occur in the Eastern District? No

If your answer to question 2 (b) is "No," does the defendant (or a majority of the defendants, if there is more than one) reside in Nassau or Suffolk County, or, in an interpleader action, does the claimant (or a majority of the claimants, if there is more than one) reside in Nassau or Suffolk County? Unknown

(Note: A corporation shall be considered a resident of the County in which it has the most significant contacts).

BAR ADMISSION

I am currently admitted in the Eastern District of New York and currently a member in good standing of the bar of this court.

☒ Yes ☐ No

Are you currently the subject of any disciplinary action (s) in this or any other state or federal court?

☐ Yes (If yes, please explain) ☒ No

I certify the accuracy of all information provided above.

Signature: Robert J. Burns

