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 8 UNITED STATES DISTRICT COURT  
 9 CENTRAL DISTRICT OF CALIFORNIA  
 10 WESTERN DIVISION

11	YANIV ATTIAS	)	Case No. CV 15-7942-GW(JPRx)
12		)	
13		)	Agency File No. A096-812-660
14	Plaintiff,	)	
15	ELAINE DUKE*, Acting Secretary of the	)	<b><u>ORDER ON PLAINTIFF'S MOTION</u></b>
16	Department of Homeland Security, <i>et al.</i> ,	)	<b><u>FOR SUMMARY JUDGMENT</u></b>
17	Defendants.	)	Date: September 28, 2017, 8:30 A.M.
18		)	
19		)	Before: Honorable George H. Wu
20		)	

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 24 \*Elaine Duke is substituted for her predecessors, John F. Kelly, and Jeh Johnson  
 25 pursuant to Fed. R. Civ. P. 25(d)  
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1 Having considered the Plaintiff's Motion for Summary Judgment, the Court finds  
2 as follows:

- 3 1. The USCIS's decision to revoke the petition, to the extent that it was based  
4 on a finding that Plaintiff's marriage to Smith was a sham, is arbitrary and  
5 capricious and is reversed.
- 6 2. The USCIS's revocation of Allen's I-130 petition based wholly on the fact  
7 Plaintiff and Allen lived separately for part of their marriage was arbitrary  
8 and capricious. Such evidence is not probative and substantial evidence of  
9 marriage fraud, and even if it were, the rest of the evidence on the record  
10 proves the marriage was bona fide under the higher clear and convincing  
11 standard.

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13 Given the above findings, the Court hereby ORDERS the following:

- 14  
15 1. The Court grants Plaintiff's motion for summary judgment for his  
16 Administrative Procedures Act challenge to the USCIS's January 6, 2016  
17 decision to revoke Allen's I-130 Petition.
- 18 2. The Court hereby reverses the USCIS's January 6, 2016 decision and  
19 reinstates Allen's I-130 Petition.

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21 **IT IS SO ORDERED.**

22  
23 Date: October 3, 2017



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25 GEORGE H. WU, U.S. District Judge  
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