

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

MOHAMMED MUSA ATIFFI,
Plaintiff,
v.
HILARY RODHAM CLINTON, et
al.,
Defendants.

No. CIV. S-12-3001 LKK/DAD

ORDER

The Government has filed an application pursuant to Fed. R. Civ. P. 60(a), for relief from the court's order of November 6, 2013 (ECF No. 29), solely to make three general "corrections" in that order.¹ See ECF No. 31. The parties, having now settled the case, have also submitted a stipulation to dismiss the case without prejudice.

1. The Application for Reconsideration.

First, the Government asks the court to correct its

¹ Because the application will be granted only in part, to correct a plain error, the court finds that no response from plaintiff is necessary.

1 reference to a "USCIS letter." The Government correctly points
2 out that the November 8, 2012 letter to Ms. Atiffi is from the
3 consular office, not the United States Citizenship and
4 Immigration Services ("USCIS"). Accordingly, the references in
5 the order to "USCIS letter" (ECF No. 29 at 4 lines 9 & 10, and at
6 5 line 7), are hereby **AMENDED** to read "letter from the consular
7 office."

8 Second, The Government objects to the court's reference to a
9 consular official's ability to grant "immediate relative status,"
10 asserting that consular officials cannot grant such status. The
11 Government further asserts that the court cited only 22 C.F.R.
12 § 42.21, and misinterpreted the applicable regulations, for the
13 proposition that consular officials could grant such status. In
14 fact, however, the court cited 22 C.F.R. § 42.41 for that
15 proposition, and quoted it in the accompanying footnote, No. 6.
16 The regulation reads:

17 Consular officers are authorized to grant to
18 an alien the immediate relative ... status
19 accorded in a petition approved in the
20 alien's behalf upon receipt of the approved
petition or official notification of its
approval.

21 22 C.F.R. § 42.41 (emphasis added). The Government's application
22 does not mention this regulation, nor that the court cited,
23 quoted and relied upon it. Accordingly the Government's request
24 to "correct" the order in this respect is not well-taken and is
25 hereby **DENIED**.

26 Third, the Government requests that the court delete
27 Footnote 18 of the order, asserting that the footnote "suggested"
28 that the petition could be returned to the State Department

1 "without the participation of Plaintiff." ECF No. 31 at 2. The
2 government misreads the footnote. It does not suggest that
3 plaintiff would have no participation in the process, only that
4 he is prevented from "participating meaningfully," if the
5 Government fails to provide a specific reason for the denial of a
6 visa. The Government's request to amend the order in this
7 respect is accordingly **DENIED**.

8 **2. Dismissal.**

9 Pursuant to the Stipulation of the parties (ECF No. 30), the
10 matter is **DISMISSED** without prejudice.

11 IT IS SO ORDERED.

12 DATED: December 10, 2013.

13
14
15 

16 LAWRENCE K. KARLTON
17 SENIOR JUDGE
18 UNITED STATES DISTRICT COURT
19
20
21
22
23
24
25
26
27
28