



ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

Committee on Adjudication Minutes April 23, 2012

Members Attending

Judge John Vittone (ret.) (Chair)	Judge Edward Kelly	Susan Tsui Grundmann
Elaine Kaplan	Nadine Mancini	Judge Randall Frye (by telephone)
Judge Robert Lesnick (by telephone)	Ivan Fong (by telephone)	Bob Schiff (by telephone)

Adam Loiacono (attending on
behalf of Ivan Fong)

ACUS Staff Attending

Paul R. Verkuil Chairman	Jeffrey Lubbers Acting Director of Research & Policy	Funmi E. Olorunnipa Staff Counsel
Christopher Shannon Intern		

Invited Guests Attending

Lenni B. Benson,
Consultant, ACUS Immigration Adjudication Project

Russell Wheeler,
Consultant, ACUS Immigration Adjudication Project

Jean King, EOIR

Thea Lay, USCIS

Members of the Public Attending

Judge Denise Slavin, EOIR and NAIJ
Rebecca Fenneman (by telephone)
Karen Grisez, ABA Commission on Immigration



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The meeting commenced at 10:00am in the conference room of the Administrative Conference.

Meeting Opening

Judge Vittone made opening remarks and briefly discussed his plans for the framework of the discussion. Judge Vittone then called for the approval of the April 5, 2012 minutes. Ms. Olorunnipa offered two minor edits; she requested that Judge be added to Edward Kelly's name in the heading of the minutes and all times he is addressed as mister be changed to Judge. The committee approved the minutes and the two amendments to the minutes. Judge Vittone then stated that the plan for the meeting was to have a vote on the entire set of recommendations at the end of the meeting and simply discuss the recommendation during the meeting, noting objections to individual recommendations. Therefore, there were no formal votes on any recommendation discussed in these minutes. Judge Vittone then began the committee discussion with the preamble of the recommendation.

Discussion of the Preamble

Ms. Mancini recommended adding language to the preamble stating the importance of the recommendations beyond just the magnitude of the backlog in our immigration adjudication system. The committee agreed and Mr. Lubbers and Ms. Olorunnipa stated they would incorporate additional language.

Discussion of the Recommendations

After discussion, there was some rewording and edits of recommendations 1-14 which Ms. Olorunnipa incorporated into a revised draft of the recommendations. The committee agreed to these changes. There was no agreement on recommendation 15. Judge Kelly stated he could only agree to a limited recommendation only approving of current practices and could not support a recommendation that bound EOIR to an unknown future plan developed by DHS. Mr. Fong voiced support for recommendation 15 as written. Judge Vittone suggested that a new recommendation 15 be written to take into account the committee's discussion. Judge Kelly and Mr. Fong expressed strong opposition to recommendation 16. Ms. Benson clarified that the goal of recommendation 16 was to create equal treatment between private and government attorneys. Judge Vittone stated that the conference would circulate a new recommendation 16 based on the discussion.

After discussion, there was some rewording and edits of recommendations 17-19 which Ms. Olorunnipa incorporated into a revised draft of the recommendations. Mr. Fong expressed some reservations about recommendation 20. Ms. Benson then suggested narrowing the definition of "appropriate circumstances" and other edits. The committee agreed to remove the



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language “pilot program” from recommendation 21. There was extensive discussion of recommendation 22. Judge Kelly expressed concern over EOIR’s authority to enact the recommendation. Ms. Grisez suggested applying recommendation 22 to both private and government attorneys. Mr. Loiacono stated he opposed adding government attorneys to recommendation 22. Judge Vittone then stated that recommendation 22 would be reworked and discussed at a future meeting. There was some discussion of recommendations 23 and 24; a few edits were suggested and incorporated into the recommendations by Ms. Olorunnipa. Judge Kelly and Mr. Loiacono stated that because their respective agencies were involved in litigation related the asylum process they could not comment on recommendations relating to asylum. Judge Slavin stated that the NAIJ endorsed recommendations 25-27. Mr. Fong and Ms. Lay expressed concern over the inefficiencies and redundancies recommendation 26 would cause. Ms. Benson stated that this was an area where quality trumped inefficiency in the recommendations. Judge Vittone stated that the committee would discuss the remaining recommendations at the next meeting.

Meeting Closing

Judge Vittone stated that the next committee meeting would be on May 7th from 1:30pm-4:30pm. He noted he would like to focus on only the controversial recommendations. He also stated that the May 7th meeting would be the last meeting on the immigration adjudication project and there would be a formal vote for approval at that meeting. He concluded the meeting at 1pm.