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1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK
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3 CATHOLIC LEGAL IMMIGRATION
4 NETWORK, INC., *et al.*

5 Plaintiffs,

6 v.

26 Civ. 858 (JAV)

7 MARCO RUBIO, *et al.*

Telephone Conference

8 Defendants.

9 -----x

New York, N.Y.
August 31, 2026
2:30 p.m.

10 Before:

11 HON. JEANNETTE A. VARGAS,

District Judge

12 APPEARANCES

13 THE LEGAL AID SOCIETY
14 Attorneys for Plaintiffs
15 BY: SUSAN WELBER
16 EMILY LUNDGREN
17 HASAN SHAFIQULLAH

18 DEMOCRACY FORWARD FOUNDATION
19 Attorneys for Plaintiffs
20 BY: EREZ REUVENI

21 COLOMBO & HURD, PL
22 Attorneys for Plaintiffs
23 BY: SARAH S. WILSON

24 NATIONAL IMMIGRATION LAW CENTER
25 Attorneys for Plaintiffs
BY: JOANNA INGRAM

CENTER FOR CONSTITUTIONAL RIGHTS
Attorneys for Plaintiffs
BY: ANGELO GUISADO

Q8VFcatC

DEPARTMENT OF JUSTICE - CIVIL DIVISION
Attorneys for Defendants

BY: JULIAN KURZ

Q8VFcatC

1 (Case called)

2 MR. REUVENI: Good afternoon, your Honor.

3 Erez Reuveni from Democracy Forward on behalf of the
4 plaintiffs in this matter.

5 THE COURT: Good afternoon.

6 Is anyone else appearing on behalf of plaintiffs?

7 MS. INGRAM: Yes, your Honor. Good afternoon.

8 This is Joanna Ingram appearing on behalf of the
9 plaintiffs for the National Immigration Law Center.

10 THE COURT: Good afternoon, Ms. Ingram.

11 MR. HENLEY: Go ahead.

12 MR. SHAFIQULLAH: Good afternoon, your Honor.

13 Hasan Shafiquallah from The Legal Aid Society on behalf
14 of the plaintiffs.

15 THE COURT: Good afternoon.

16 Do we have any more appearances for plaintiff?

17 MS. WILSON: Good afternoon.

18 Sara Wilson on behalf of the plaintiffs.

19 MR. HENLEY: Sorry about that, your Honor.

20 Good afternoon.

21 Even Henley at The Legal Aid Society, also on behalf
22 of the plaintiffs.

23 MS. WELBER: Also Susan Welber from The Legal Aid
24 Society on behalf of the plaintiffs.

25 Thank you.

Q8VFcatC

1 MR. GUIADO: Angelo Guisado, Center for
2 Constitutional Rights, also on behalf of the plaintiffs.

3 Thank you, your Honor.

4 THE COURT: Anyone else for plaintiffs?

5 MR. REUVENI: No, your Honor. That should be it.

6 THE COURT: And for defendants?

7 (Pause)

8 THE COURT: Defendants?

9 MR. REUVENI: Mr. Kurz was on here right you got on,
10 your Honor, so I'm wondering if he got disconnected somehow.

11 MR. KURZ: Hello.

12 THE COURT: Mr. Kurz.

13 MR. KURZ: Yes. I apologize. I got dropped from the
14 conference, but I am here now.

15 THE COURT: Can you make your appearance, please.

16 MR. KURZ: Yes. This is Julian Kurz for defendants.

17 THE COURT: All right. We are here today on behalf's
18 application.

19 One moment, please.

20 (Pause)

21 THE COURT: We are here today, as I said, on
22 plaintiff's application for enforcement of the emergency -- I
23 apologize. We're getting a lot of chats, messages that are
24 disrupting in this Teams message.

25 Whoever is on the public line, please, this is a court

Q8VFcatC

1 proceeding, so please do not be dropping messages into the
2 chat. Thank you.

3 Let me see if we can actually disable the chat
4 function.

5 (Pause)

6 THE COURT: All right. Well, I have the IT folks
7 working on this so I will try to proceed, but, please, I'm
8 going to ask again that people not drop messages into the chat
9 function. It is disrupting my ability to communicate with
10 counsel and to proceed with this Teams hearing, which, we are
11 proceeding by Teams because of the -- at the request of the
12 government, so I do understand Mr. Kurz was located in
13 Washington.

14 So, this is not my preferred way of proceeding and for
15 something like this, I prefer to be in person, but we'll try to
16 make do with whatever technological limitations we have today.
17 All right.

18 Hopefully the chat line has now been disconnected.

19 We are here today for plaintiffs' emergency
20 application to enforce the partial judgment that was issued in
21 this case. Let me start then with plaintiff, since it's your
22 application.

23 I do want to start off by saying, however, that I am
24 skeptical, based on the current record before me, that there
25 has been a violation of the judgment. The judgment is a

Q8VFcatC

1 vacatur of the policy. There's no injunction in this case
2 preliminary or permanent and so, therefore, the burden is on
3 you to convince me otherwise as to why there needs to be
4 enforcement where we are, currently.

5 MR. REUVENI: Thank you, your Honor, and understood.

6 Let me just start with what you raised, your Honor, on
7 the matter of whether -- what our burden is and what a motion
8 to enforce looks like in the vacatur context.

9 I think we should start with, what did your order do?
10 It vacated the visa ban. It found it patently unlawful for a
11 number of reasons. It's contract statute, as the Court knows.
12 And what was the affect of the vacatur? The government doesn't
13 dispute this. It immediately sprung back the preexisting legal
14 framework that required the processing of visas and to either
15 grant, deny, refuse, *et cetera*, on some statutory basis.

16 That doesn't mean the government had to immediately
17 start pumping out visa grants or denials -- that's not our
18 position -- but it does mean, in our view, that it needed to
19 take some -- do something to acknowledge the Court's order and
20 to communicate to consular officers and the public they are
21 aware of the order and that they are doing something to comply
22 with the Court's order. And that is not, in our view, issuing
23 an inunction; that is the Court ensuring that what the vacatur
24 aimed to accomplish is, in fact, happening.

25 And I just want to point out, it's been ten days since

Q8VFcatC

1 the Court issued its order, and there are a number of things
2 that the government has done and has not done that, we think,
3 rise to the level of at least requirement the government to
4 explain themselves in writing as to what exactly it is they are
5 doing.

6 First I want to point out that even as of today, I
7 reached out to counsel earlier today to confer to see if there
8 was anything we could narrow down in terms of the issues before
9 the Court. We were not able to do that. But even today
10 consular officers -- it is my understanding; it is plaintiff's
11 understanding -- have not received any notification of the fact
12 of the Court's order.

13 THE COURT: If someone is not muted, can you make sure
14 you're muting your line?

15 Why don't you continue.

16 MR. REUVENI: Thank you, your Honor.

17 So, ten days. It's been ten days. No notification to
18 consular officers. All we that understand the government has
19 done -- and, of course, grateful they've taken this minimal
20 step -- is, they've finally updated their website after their
21 filing on Friday to acknowledge, in one sentence, the Court's
22 order.

23 They've done one other thing that we're, of course,
24 pleased with. They've informed the Court in their declaration
25 that a contractor has been improperly disseminating information

Q8VFcatC

1 about the effect of the Court's order. They've informed that
2 contractor to cease doing that. That's good. That's great.
3 These are two minimal steps. We are not begrudging that.

4 Nevertheless, there are significant actions the
5 government has taken since the Court's order that they've not
6 responded to in their declaration, leaving out here, we
7 think, is a strong suggestion of something other than in good
8 faith complying with the court's order.

9 First the evening of August 21, within hours after
10 your Honor's order issued, very publicly and very loudly
11 spokespeople from the Department of State announced that all
12 visa processing was paused until further notice and then,
13 through various outreach to press, informed the public -- not
14 in any official statement, but just -- unknown sources, unnamed
15 individual spokespeople from the Department informing the
16 public that this pause was in order to comply with your Court's
17 order.

18 I would think that the way one complies with an order
19 vacating a global visa pause is not to immediately institute a
20 global visa pause without explanation, without seeking leave
21 from the Court that there's a need to do so. If the government
22 couldn't comply with the order, if having to reinstitute the
23 controlling Immigration and Nationality Act framework was a
24 burden for some reason, if there's some other policy or plan or
25 activity that the Department of State is engaged in that causes

Q8VFcatC

1 them conflict with the Court's order, there's a way to go about
2 getting relief. It's coming to the Court and saying: We need
3 a stay, or we need a partial stay, or appealing, or seeking
4 clarification, something. They didn't do any of that.

5 Instead --

6 THE COURT: Can I just interrupt to say, why is a
7 global visa pause a violation of my order? Let's start there.

8 MR. REUVENI: I think that depends on why they're
9 doing it.

10 So, if they have a -- if they had issued an --
11 immediately in the subsequent to your order, a global visa
12 pause that continues to have the intent and effect of
13 preventing those that are subject to the 75-country visa ban
14 from having their visas processed, that's just a visa ban under
15 another name.

16 THE COURT: Well, it's not if they do it uniformly to
17 everyone, right?

18 MR. REUVENI: I haven't heard the government tell us
19 that this is a new agency action. What I have heard the
20 government --

21 THE COURT: I'm not saying that they need to.

22 You have represented that this action was violative of
23 the Court's judgment and order, and so I'm probing you on that.
24 In what way do you think it was violative, and how? Because
25 that was what you just stated.

Q8VFcatC

1 MR. REUVENI: Understood, your Honor.

2 Thank you for the question.

3 Again, I think the effect of the vacatur --
4 concededly, it's not an injunction -- but by vacating the visa
5 ban, the intent of the order and the legal effect of the order
6 is for the prior processing regime under the statutes you
7 identified in your order springing back to life, and that
8 actually requires them to proceed with visa processing.

9 So to come back within hours with a new visa ban under
10 the guise of -- depending on which reporter we're talking
11 about -- whether it's the public charge or compliance with your
12 Court's order -- immediately within hours, that's not abiding
13 by the controlling legal framework; that's just pitting another
14 visa ban back in effect.

15 And I think the reason why that action raises
16 significant questions is that public statements are to the
17 effect of: We've long planned this pause to program for public
18 charge issues. They told the press they complied with this
19 since early August. I would have expected the government's
20 brief, and particularly their declarants, to support that. But
21 the government's brief says nothing about that. The declarant
22 says nothing about that. They've walked away from that.
23 They're not willing to back that up under penalty of perjury,
24 and that, to me, raises a strong inference that something else
25 is going on.

Q8VFcatC

1 I haven't seen any announcements of interviews being
2 canceled before your court order was issued, your Honor, only
3 after, so that's one of several things that, to us, raises
4 significant questions about what is the government really doing
5 here.

6 Second, they told the public: Don't worry. This is a
7 short cancellation; we're just canceling interviews through
8 August. The government's brief says the same thing although
9 again, I'll note, it's interesting the declaration does not.
10 So, for me, when my declarant doesn't want to back up something
11 that I'm saying, that tells me the declarant doesn't think it's
12 true.

13 And then the day after DOJ filed its brief, already,
14 DOS, the Department of State, was canceling all of the
15 interviews for September. So already, what they're saying is,
16 a short, brief pause to train on the Court's order or to train
17 on public charge. Now it's looking like a minimum. like a
18 one-and-a-half-month pause.

19 We've heard no confirmation from the government when
20 interviews will be rescheduled. No one has had interviews
21 rescheduled, which is something that should be happening, given
22 the vacatur, given the legal effect of it. Instead, all of our
23 clients, all of our plaintiffs, and everything we've seen in
24 social media, Reddit, and elsewhere, no one has had their
25 interview rescheduled.

Q8VFcatC

1 And this is particularly interesting as a reason why
2 we don't think the government is turning square corners here.
3 The government doesn't need to train on any of this, although
4 I'll let Mr. Kurz explain otherwise, if he disagrees. You'll
5 recall that visa ban was written in such a way that it's very
6 easy to move on from.

7 So the ban and the administrative record specifically
8 direct, first, for consular officers find any impossible
9 inadmissibility ground and then deny on that basis, and then
10 failing that, find a public-charge basis to deny, and failing
11 that, refuse the visa under 221(g) -- or under U.S.C. 1201(g)
12 and put it in administrative processing with the handy code:
13 for a IV pause.

14 So, they've tagged every single person who should no
15 longer be tagged. At a minimum, that tag should be lifted and
16 the consular officers should be told, it's time to process
17 those visas.

18 Now, we're not asking you to tell them how to process
19 those visas that's within their discretion, but what they have
20 to do is, they have to: issue the visa, deny the visa, or
21 refuse the visa. One of those three things are the options
22 they have. Option four, global pause to replace prior pause is
23 not one of them that's authorized by statute or that's
24 necessary to implement the Court's order.

25 And I will say, this is no -- this is no knock on the

Q8VFcatC

1 Department of Justice or my opposing counsel. He can only work
2 with the information he's given by his client, so if this is a
3 knock on anyone, it is his client.

4 We, plaintiffs, have, for the last ten days, reached
5 out repeatedly to get some clarity to understand what's
6 happening, what's not been happening, and we've received just
7 nothing, absolutely nothing.

8 All we know is that guidance hasn't reached the
9 consular officers, interviews have been cancelled through
10 September, that the Department of State keeps takes actions
11 contrary to what their own orders are telling you in court, and
12 all of this raises to us the strong inference that something
13 else is going on. What, really, the Department of State is
14 trying to do is run out the clock on this Court's order and
15 come up with some other block to prevent visa processing.

16 If they do that in an Administrative Procedure
17 Act-compliant way, so be it, and we'll meet them in court,
18 potentially, and challenge that action. But right now, I don't
19 know what's going on in the Department of State. All the visa
20 applicants or plaintiffs, nobody knows what is the current
21 operative legal regime.

22 The Department has said they're doing public charge
23 training, but as the Court knows, we've challenged the
24 operative public charge policy, the November 6, 2025, public
25 charge cable. We didn't move for summary judgment on it, but

Q8VFcatC

1 it's at issue in this case. That's been in effect for ten
2 months.

3 Have they not trained on it at all? If there's some
4 new policy, some new amendment to the Foreign Affairs Manual,
5 the government should tell us and the world, frankly, what that
6 is, so people can understand what the new legal expectations of
7 them are, now that your order has set aside the prior visa ban.

8 So to us, all of those things taken together, the
9 government's course of conduct in meeting and conferring with
10 us, what appears to be the client of DOJ saying one thing
11 publically but DOJ saying another thing in court unsupported by
12 any declaration under oath, and this very confusing statement
13 about training on the public charge ground, when nothing has
14 changed -- I'm sorry. I'll just pause for a second so someone
15 can mute themselves.

16 (Pause)

17 MR. REUVENI: Okay. These conflicting statements
18 about when the directive was given to train on public
19 challenge.

20 It would be very easy for the government to submit a
21 very brief status report that explains why we, the plaintiffs,
22 are wrong, but our assertions are unrebutted at this point, so
23 we think we've met our burden and now the government should
24 rebut it. And their declarations thus and their submissions
25 have done anything but; they've raised for more questions than

Q8VFcatC

1 they've answered, leaving our plaintiffs continuing to exist in
2 a state of ongoing limbo.

3 The harms our plaintiffs suffer that the Court
4 identified in its order, that our supplemental declarations
5 have identified, are compounding by the day. Our
6 organizational clients are, perhaps, even more injured now than
7 they were before, because they are diverting huge resources to
8 deal with this huge uncertainty that exists right now.

9 And again, what we are asking for is very modest. We
10 are not asking for some sort of injunctive order on top of the
11 vacatur. We're not asking the Court to direct action in visa
12 adjudications. That's not something that we -- the Court can
13 do in an APA vacatur context.

14 What we are asking for is that the government just
15 answer -- respond to our questions, provide, under oath, an
16 explanation for what is going on, and if there's a plausible
17 explanation, then nothing to see here. But until -- unless and
18 until they do that, the only conclusion we can draw is that
19 they are up to something else and they're trying desperately to
20 find a way not to implement the Court's order.

21 So we think the Armstrong declaration is missing key
22 information that would be relevant to the Court's ability to
23 determine whether it needs to enforce its order. We think
24 we've submitted sufficient evidence that's been unrebutted by
25 the government that makes our -- whatever initial showing we

Q8VFcatC

1 need to make.

2 And whoever gave the directive to cancel interviews in
3 the hours after your Court's order, I don't know if that's
4 Mr. Armstrong, I don't know if that's the assistant secretary
5 to whom Mr. Armstrong reports, but somebody gave that
6 directive. That person, through a status report and a
7 declaration should explain -- particularly if it predates the
8 Court's order -- what, when and how that order was issued, and
9 when visas will again be processed consistent with the Court's
10 order.

11 And I'll reserve some time for rebuttal, if the Court
12 will allow.

13 THE COURT: Mr. Kurz, let me turn to you. I am
14 concerned about the implications for the visas that were the
15 subject of my order, or, I should say, the visa applications
16 that were subject to my order. And specifically, I, as part of
17 the vacatur, I not only vacated the policy, but I also vacated
18 to the denials of the applicants who were denied solely on the
19 basis of the policy and remanded for further adjudication by
20 the agency.

21 What steps has the Department of State taken with
22 respect to the remand portion of that decision?

23 MR. KURZ: Thank you, your Honor.

24 Defendants recognize that the judgment is fully
25 operative. We are proceeding on that basis. Policy-only

Q8VFcatC

1 refusals have been vacated and remanded. The State Department
2 is implementing the judgment. The State has updated its web
3 page. The web page now states that, because of this Court's
4 order, the 75-country pause, quote, is no longer in effect.

5 As opposing counsel noted, the Department is
6 coordinating guidance to embassies and consulates concerning
7 implementation of the order, including processing applicants
8 previously refused under the policy.

9 The rescheduling is also tied to a global public
10 charge training initiative that applies beyond the 75
11 countries. Implementation of the Court's order is occurring in
12 the context of that broader update to the Department's public
13 charge procedures and training. State is coordinating the
14 guidance for policy-only cases with these updated procedures.

15 And --

16 THE COURT: So when are the individuals who were the
17 subject of these remands going to get decisions on their visas?

18 Because as I understand it, the status -- for those
19 individuals whose decisions were vacated, at the time they were
20 vacated, all other potential grounds for denial of their visa
21 had already been considered pursuant to the policy, and it was
22 only when the only remaining basis was the policy, itself, that
23 they were then denied on the basis of the policy.

24 And as counsel for plaintiff just alluded to, there
25 was a code placed on their application, which

Q8VFcatC

1 presumably, then, would make it fairly easy to ascertain the
2 universe of such applicants and for the State Department to
3 act.

4 Are they going to need to be reinterviewed? Does the
5 scheduling of an interview matter? I'm not familiar enough at
6 the ground level of the process. Is this something where an
7 applicant needs to come back for an interview, or is this
8 simply an administrative matter where, now, the consular office
9 will grab that application and it will either be granted or
10 refused?

11 MR. KURZ: Thank you, your Honor.

12 It's true that the Department can identify the
13 universe of individuals who are affected here because of the
14 tag that was assigned to their cases, but that doesn't mean
15 that their cases are necessarily ready to approve immediately.

16 One issue is that time-limited police clearances and
17 medical exams were not necessary to enter a refusal that was
18 based solely on the policy, and those cases are not necessarily
19 ready for immediate issuance as a result of the vacatur of the
20 policy.

21 It is possible --

22 THE COURT: What do you mean by that?

23 MR. KURZ: That those -- the individuals whom --

24 THE COURT: What are you referring to when you say
25 that time-limited police and medical clearances? What,

Q8VFcatC

1 specifically, are you referring to?

2 MR. KURZ: I'm referring to information that these
3 individuals need to submit to the Department to demonstrate
4 that they meet other requirements for the issuance of a visa,
5 they need to show that they are medically qualified for a
6 visa, they may need to show in many cases that -- or, in
7 certain cases, that they don't -- that they are not ineligible
8 for a visa on our grounds related to their criminal history or
9 national security concerns.

10 And they have to provide updated evidence of those
11 things. There's a time limitation on how long that evidence is
12 good for, so if an individual submitted that evidence in the
13 past and the time limitation has now expired, they would need
14 to submit that evidence again.

15 THE COURT: How long was the evidence good for?

16 MR. KURZ: I'm not sure, your Honor, the exact
17 timeframe that that the medical and police evidence is good
18 for.

19 THE COURT: And how many of our vacatur does this
20 affect?

21 MR. KURZ: I don't have information on the percentage
22 that are affected, your Honor.

23 THE COURT: All right. So, some number of individuals
24 may have time-lapsed documentation that now needs to be
25 renewed.

Q8VFcatC

1 MR. KURZ: Yes, your Honor.

2 I think the number is likely significant, but I don't
3 want to give a particular percentage or number.

4 THE COURT: All right. And for those individuals, has
5 that information been requested of them?

6 MR. KURZ: I don't have information that that
7 information has been requested.

8 And your Honor asked specifically about whether some
9 of the affected individuals will be reinterviewed and in some
10 cases, they may need to be reinterviewed to confirm that they
11 still -- even though they previously did not, were not
12 ineligible for any other reason, they may need to be
13 reinterviewed now to confirm that they remain eligible on all
14 other grounds.

15 THE COURT: And so when will those be rescheduled?
16 I'm looking for some timeframes from the government.

17 You're telling me there's steps that need to be taken,
18 so what is the plan and what's the timeframe for those steps?

19 MR. KURZ: I can't give you a specific time frame,
20 your Honor. The information that I can give you is that the
21 Department has been conducting a global public charge training
22 initiative that applies beyond the 75 countries. This is not
23 specific to the 75 countries that were affected by the policy.

24 And the department is formulating guidance, both on
25 how to implement this Court's order and how to effectuate it in

Q8VFcatC

1 the context of this broader update to the Department's public
2 charge procedures training.

3 THE COURT: I'm not sure why the broader update to the
4 public charge had to do with my order remanding.

5 The Department is entitled to do whatever training it
6 wishes to do. My order and judgment certainly doesn't preclude
7 them from undergoing training, but at the same time, they have
8 to be processing the remand of the individual applicants.

9 They can train all they want and do a broader public
10 training on public charge all they want, but these were
11 individuals who were already found to be not subject to the
12 public charge provisions.

13 Unless there's something, new information for any
14 applicant, a consular officer has already done that review and
15 was -- and they were refused a visa based pre-early on the
16 policy, so it's not as if the consular office is going to go
17 back and do a new public charge review, so I don't understand
18 why this training, this global initiative training -- as I said
19 Department of State is well within its rights to do, what does
20 that have to do with the remand for these individuals who have
21 already been found not to be subject to the public charge?

22 MR. KURZ: The point, your Honor --

23 THE COURT: Because I hope you're not saying what
24 they're going to do is do another public charge analysis.

25 MR. KURZ: No, your Honor, I'm not saying that.

Q8VFcatC

1 THE COURT: Right, so who cares what they're training
2 them on for purposes of the remand.

3 MR. KURZ: What they're training them on is: one, how
4 to implement this global matter that, agreed, doesn't affect
5 these cases, but it still is something that the Department
6 needs to train on; and the second thing that they're training
7 on is --

8 THE COURT: As I said, they're free to train on, but I
9 don't understand what kind of training takes so much time that
10 everyone has to pause for weeks at a full-time.

11 I mean, I've been through lots of training in my life
12 and some of its very intense and yet, it still doesn't make me
13 months to do it.

14 MR. KURZ: Your Honor, I'm not saying it will take
15 months to do it. I don't expect it will take months.

16 But as I mentioned, many of these cases will need to
17 be reinterviewed. Many of these cases will need updated
18 documents. And the Department needs to train officers on the
19 cases in which that will be necessary and in which cases to
20 require that.

21 THE COURT: And that's very reasonable, Mr. Kurz, so
22 I'm just asking for a timeline on doing that.

23 We're now ten days past the judgment, so certainly
24 well within the window for the agency to be providing that
25 guidance to their consular officers. I wouldn't expect this to

Q8VFcatC

1 be done immediately. But I'm hoping that with ten days out
2 from the vacatur, there is a plan in place for accomplishing
3 this.

4 THE DEFENDANT: Your Honor, I don't have a particular
5 date, but I want to emphasize that the judgment requires the
6 Department not to apply to policy and to treat policy-only
7 refusals as vacated and remanded.

8 The Court did not require the Department to issue
9 written instructions by a particular date.

10 THE COURT: No, but it required remand, and part of
11 remand is to actually adjudicate the cases. That's the
12 remand, right?

13 I'm not requiring you to issue written instructions.
14 You've told me that you want to issue written instructions.
15 That doesn't come from me. You have literally, seconds ago,
16 told me that part of this global initiative that the Department
17 of State wants to undergo is to provide written instructions as
18 to how to implement my order. Right?

19 MR. KURZ: Correct. Correct.

20 THE COURT: Okay. So I'm not requiring it. You've
21 told me this is something that you want to do. So I'm
22 asking, so if that's a necessary step before the remand of the
23 applications can be accomplished, when should I expect that
24 stuff to be accomplished?

25 MR. KURZ: I'm sorry, your Honor. I cannot give you a

Q8VFcatC

1 particular date. I don't have a particular date.

2 But, again, the record shows that the Department is
3 doing what this Court ordered. The Department is treating the
4 policy as no longer operative. It's coordinating
5 implementation for the affected cases. And it is treating
6 policy-only refusals as vacated and remanded. The Department
7 recognizes the Court's order and is acting in accordance with
8 it. The fact that the Department has temporarily paused
9 interviewed does not demonstrate non-compliance.

10 THE COURT: Here's what I'm going to do.

11 I am going to require a status update from the
12 Department.

13 And as to the broader -- let me start with this. As
14 to the broader motion to enforce, I am going to deny in part
15 and grant in part.

16 Now, I recognize that the defendant has raised Rule
17 62(A) as an issue. Rule 62(a) provides that judgment and
18 proceeding to enforce are stayed for 30 days after the entry
19 unless the Court orders otherwise. I think there's some
20 ambiguity as to whether that Rule applies in this circumstance.
21 Rule 62(c) exempts injunctions from the scope of that stay.
22 Whether a vacatur qualifies as an injunction, there's certainly
23 some precedent for that. I'll cite to *National TPS Alliance v.*
24 *Noem*, WL 2639214 (N.D. Cal., September 11, 2025).

25 But regardless, Rule 62(a) does not purport to make a

Q8VFcatC

1 judgment ineffective. The judgment is in effect, as defendant
2 recognizes. And certainly, I can always order otherwise and
3 exempt this case from the a 62(a) stay, if needed.

4 But for purposes of today's ruling, I have not found
5 there to be evidence that the government is refusing to comply
6 with the Court's order as the record currently exists. The
7 government has represented that the individual applications
8 have, in fact, been vacated and remanded with respect to my
9 judgment vacating the policy, itself. As we've noted, I did
10 not issue any injunction that provided a specific date or time
11 for action. It was just a vacatur order.

12 But my August 24 judgment, when it was issued, the
13 government has responded by placing on the relevant State
14 Department web page a message clarifying that, quote: As of
15 August 21, 2026, in accordance with the Court's order in *CLINIC*
16 *v. Rubio*, the January 2026 pause of immigrant visa issuance to
17 nationals of 75 countries is no longer in effect, and the
18 government has further represented in its Armstrong declaration
19 that the State Department is treating the January 14 guidance
20 as no longer operative and that its operations are proceeding
21 in accordance with that judgment. And that's ECF No. 90 at 3
22 and also ECF 90-1, which is the Armstrong declaration at
23 paragraph 5.

24 So, there is some evidence that the government is
25 acting in accordance with the judgment in this case.

Q8VFcatC

1 However, I am concerned about the timeframe for the party --
2 for the individual applications to be acted upon, particularly
3 with respect to this representation that there's some kind of
4 indefinite pause on immigrant visa interviews, and there's been
5 no representation that this pause is not extended to the very
6 individuals who are the subject of my vacatur and remand order.

7 So, in light of that, I am going to request a status
8 update next Tuesday. I believe next Monday is a holiday, so
9 next Tuesday, which would be, I believe, September --

10 THE DEPUTY CLERK: Judge.

11 THE COURT: Yes.

12 THE DEPUTY CLERK: September 8, Judge.

13 THE COURT: Thank you. September 8.

14 A status update, including a declaration under penalty
15 of perjury, should be submitted that provides an update as to
16 the status of the remanded applicants and to what extent the
17 remand process is underway and what steps the Department has
18 taken to both identify the individuals who are subject to the
19 remand, to notify them of any updated materials that they may
20 need to submit as part of the remand process -- if there are
21 such paperwork that needs to be resubmitted -- and if they need
22 to have a rescheduled interview, whether or not that interview
23 has been rescheduled and the timeframe for doing so.

24 Mr. Kurz, do you have any questions about what will be
25 required in that status update letter?

Q8VFcatC

1 MR. KURZ: No, your Honor. I understand.

2 THE COURT: All right. Is there anything else we need
3 to take up for today?

4 UNIDENTIFIED SPEAKER: Your Honor, about a DBA lottery
5 --

6 THE COURT: Is counsel speaking?

7 I'm not sure if that was counsel.

8 THE DEPUTY CLERK: It was not counsel; I've muted
9 them.

10 MR. REUVENI: Your Honor, thank you for clarifying the
11 order.

12 Just a couple things, very short, if I may,
13 housekeeping or, perhaps, relevant to the status report. So I
14 heard Mr. Kurz say that all the decisions that were issued
15 subject to the visa ban were vacated and remanded. I heard him
16 say that.

17 Our clients have not received any notice of any such
18 thing. In the normal course, if that has, in fact, happened,
19 they would have received an email informing them they've been
20 taken out of administrative processing. None of that has
21 happened with respect to our clients, with respect to our
22 organization's clients, and I have not seen that happen
23 anywhere reporting publicly or social media.

24 So I would ask that the status report, in addition to
25 what you've outlined, make clear when our clients receive --

Q8VFcatC

1 when, specifically, the administrative processing for our
2 clients ended and what documentation or communications have
3 been sent to them.

4 I'm not saying Mr. Kurz is wrong. Maybe this has
5 happened. But as our declarations made clear, we have no basis
6 to understand that yes, what has happened, has happened. So,
7 we need something in the status report something that
8 communicates, yes, this is in fact happened, all the 212(g)
9 folks we represent are no longer in administrative processing.

10 That's my first housekeeping item. I'll stop there --

11 THE COURT: I will adopt that but also say, it does
12 not extend simply to the individuals represented by plaintiff
13 organizations, but it extends to everyone who is the subject of
14 the vacatur order that, by next week, Mr. Kurz, you should be
15 able to provide the Court with assurance that if, in
16 fact, these individuals have been remanded, their applications
17 have been remanded, that they've been provided with some kind
18 of administrative notice.

19 I mean, usually, that is the process of -- you
20 know, you don't simply update it in your internal paperwork but
21 don't let the individuals know that they're out of
22 administrative hold so, presumably, some notice will go out to
23 these individuals.

24 (Pause)

25 THE COURT: Mr. Kurz, you may be on mute; I can't

Q8VFcatC

1 tell.

2 MR. KURZ: I'm sorry, your Honor. Can you hear me?

3 THE COURT: I can.

4 MR. KURZ: We understand. We will include that in --

5 THE COURT: All right. Thank you.

6 Anything else from plaintiff's counsel?

7 MR. REUVENI: Yes, one other item.

8 So, I heard the government represent to the Court,
9 without any specifics and without support from their
10 declaration, that there's been an ongoing global training
11 initiative for public charge. Unclear as to when that started.
12 As we suggested in our papers, it started the moment after your
13 Honor issued your order.

14 But as your colloquy with Mr. Kurz suggested, why does
15 that matter for the individuals here? I would think that if
16 what Mr. Kurz has suggested is happening, that there would be
17 communications to that I effect, and I would ask that the
18 status report include those communications, to the extent that
19 they exist, and if they don't exist, I think that's rather
20 telling.

21 THE COURT: I'm not going to request that, because,
22 frankly, this global training interests me very little.

23 I have a vacatur order. The policy needs to be set
24 aside, and these individuals who are subject to the policy need
25 to be reprocessed without the application of the policy.

Q8VFcatC

1 What global training the government engages is beyond
2 that is up to them, certainly within the bounds of their
3 discretion. And if you want to pursue discovery about that in
4 relation to your still-pending claims regarding the public
5 charge provisions, the government's policy, you can make such
6 an application.

7 MR. KURZ: Your Honor, I'm sorry. You're muted.

8 THE COURT: How long was I muted?

9 MR. KURZ: I think for about ten seconds.

10 THE COURT: All right. I don't know how that
11 happened, since I didn't touch anything but, apparently, the
12 technology is what it is today.

13 I was simply saying that, whatever the implications of
14 their global training, I don't find that particularly relevant
15 for purposes of the motion to enforce, so I'm going to ask them
16 to provide a status report with respect to the individual
17 accommodations that are the subject to the order, and if you
18 want to pursue that discovery otherwise, you may make an
19 application to do so.

20 MR. REUVENI: Understood. Thank you, your Honor.

21 And one final point.

22 I did hear of Mr. Kurz saying --

23 THE COURT: I think, Mr. Reuveni, now you've been
24 muted.

25 MR. REUVENI: Okay. I'll just start from the

Q8VFcatC

1 beginning, then. I think I've been muted the whole time.

2 Sorry.

3 THE COURT: No, this is just one of those Teams lines
4 that just seems to want to do what it does. I think it's just
5 overwhelmed by the number of people.

6 MR. REUVENI: I was just going to say one last point.
7 I understand that the Court is not inclined to direct the
8 government to include something about the global training, but
9 I did hear Mr. Kurz say that, based on that global
10 training, they believe they may need to reinterview many
11 people, including our clients, but many others, including those
12 that you've ordered remands on their adjudications.

13 As we discussed it earlier and as you noted with your
14 colloquy with Mr. Kurz, these people have all had and have been
15 heavily vetted for public charge. And to the extent the
16 government is going to use public charge training as an excuse
17 to reinterview, which will delay, obviously, and require
18 additional burden on our plaintiffs and others, I would ask
19 that they be explained in their submission to the Court, what
20 are the criteria that they're going to use to determine whether
21 there's a need to reinterview, given every one of these people
22 who have been 221(g)-ed under the policy have already been
23 vetted extensively for public charge and the government has
24 identified no new public charge authority since its November
25 cable of last year.

Q8VFcatC

1 THE COURT: Well, as I certainly just explained to
2 Mr. Kurz, it is my understanding that there will be no public
3 charge review, and I believe that he just confirmed that that
4 is the case.

5 Mr. Kurz, would you like to reconfirm that for the
6 Court?

7 Mr. Kurz, you're on mute.

8 (Pause)

9 THE COURT: I think you are still on mute.

10 (Pause)

11 THE COURT: I cannot hear Mr. Kurz. You may need to
12 drop off and rejoin if your line is not working correctly.

13 (Pause)

14 THE COURT: I think Mr. Kurz is entirely frozen at
15 this point, so hopefully he can drop off and rejoin us.

16 I see he was able to drop off so, hopefully, he'll be
17 able to log back in.

18 Ms. Molinelli, when you see Mr. Kurz, can you make
19 sure he's able to get back on the line.

20 MR. KURZ: Can your Honor hear me?

21 THE COURT: Mr. Kurz, is that you?

22 MR. KURZ: Yes.

23 THE COURT: I can hear you, can't see you.

24 MR. KURZ: I'm trying to turn on the video.

25 Everything is very slow.

Q8VFcatC

1 THE COURT: We can hear you, so I think that's good
2 enough for purposes.

3 MR. KURZ: Okay.

4 THE COURT: So where we left off is that I had asked
5 you to confirm your prior statement that the public charge
6 there will not need to be a reevaluation of public charge with
7 respect to the individuals who have been remanded because they
8 have already been through the public charge process and a
9 consular officer has already determined that they are not
10 reasonably likely to be a public charge under the terms of the
11 statute. That is why, in fact, that they were subject to the
12 policy, because -- or, at least, to the pause under the
13 policy, because had they been excluded under a public charge
14 provision, then the consular officer would not have needed to
15 rely on the policy for the refusal; is that correct?

16 MR. KURZ: That is my understanding, your Honor.

17 Of course it is possible that someone who previously
18 did not, was not ineligible on public charge grounds for
19 reasoning other than or outside of the framework of the policy
20 could now be ineligible on public charge grounds, I don't know
21 that anyone within the affected group will fall into that
22 category, but my understanding is that that will not occur in
23 either all or almost all cases.

24 THE COURT: Well, as part of the status report, can
25 you please confirm that we're not going to send everyone in

Q8VFcatC

1 this category back to the drawing board and have to restart a
2 public charge analysis as if they are applying for the first
3 time. That would be very contrary to the import of my
4 order, which is simply that they're being remanded to be now
5 adjudicated with the understanding that they were only refused
6 based on the policy, and so to now require everyone to like,
7 basically, go back to the drawing backward who was subject to
8 this policy that I found to be unlawful and to essentially
9 start from scratch would be grossly inequitable.

10 So if you could confirm what the Department's position
11 is going to be with respect to how this reprocessing and remand
12 is going to occur and that they are not going to be subject to,
13 basically, a fresh analysis but only requested of documents
14 that might supplement anything that's happened.

15 As you said, for example, time-lapsed medical
16 authorizations, time-lapsed police reports, to make sure that
17 nothing has happened in the interim that would have made them
18 ineligible, that is what I understand that this process is
19 looking at but not basically starting from scratch with the
20 application.

21 MR. KURZ: Yes, your Honor.

22 I understand, and we will include that in our report.

23 THE COURT: Anything else before we adjourn?

24 MR. REUVENI: Nothing from plaintiffs, your Honor.

25 Thank you.

Q8VFcatC

1 MR. KURZ: Nothing from the government.

2 Thank you.

3 THE COURT: All right.

4 The status report will be due 5 p.m. on next

5 Tuesday, then.

6 All right. Court is adjourned.

7 (Adjourned)

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