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USCIS Settles Fight Over Blank Space Application Rejections

By **Jennifer Doherty**

Law360 (July 7, 2021, 7:23 PM EDT) -- U.S. Citizenship and Immigration Services has reached a tentative deal with three individuals whose applications for immigration benefits were rejected because they left fields empty, a settlement that could affect thousands of individuals.

If approved by the California federal court, the agreement could allow approximately 60,000 people who applied for humanitarian relief or for lawful status as victims of crime but who were refused under an agency rule called the No Blank Space Rejection Policy to resubmit their requests.

That number, based on USCIS' own estimates of rejections issued under the policy, does not even include all derivative family members who also lost out on asylum or withholding of removal protections or U visa status during the 14 months the policy was in effect, according to attorney Matt Adams of the Northwest Immigrant Rights Project, who signed the deal on Tuesday on behalf of the plaintiffs.

"USCIS will permit an applicant who is covered by Section II.B. of this settlement agreement and whose Form I-589, I-918, and/or I-918A was rejected due to the No Blank Space Rejection Policy, to resubmit that same benefit request within 365 calendar days, beginning on the effective date of this settlement agreement," the agreement states.

The deal commits the agency to issuing notices to all 43,501 asylum-seekers and 17,000 U visa applicants denied under the policy within 90 days after the deal takes effect. For the three named plaintiffs, they should receive a notice — backdated to their original submission date — confirming that their applications have been received within 15 days.

Covered individuals include people who applied for asylum or withholding of removal starting on Oct. 7, 2019, or who applied for U nonimmigrant status starting on Dec. 30, 2019, whether or not they have been identified by USCIS.

"After we filed suit, USCIS agreed to rescind the policy (as of December 22, 2020)," Adams said in a statement on Wednesday. "There may have been additional rejections following this revision, however. Any applicant who had their application rejected based on the rescinded policy (that is, after December 22, 2020), will still benefit under this agreement if they demonstrate it was rejected pursuant to this policy."

Attorneys for Northwest Immigrant Rights Project, the National Immigration Litigation Alliance and Van Der Hout LLP alleged in their **proposed class action** last fall that the policy had contributed to a jump in the number of rejections received by vulnerable migrants.

Before 2019, USCIS accepted the forms at issue with fields that didn't apply to the applicant left blank. When the agency changed that policy, the migrants and advocacy groups alleged that USCIS "buried" announcements related to the shift in the depths of its website, rather than going through standard rulemaking procedure.

Under the terms of the proposed agreement, neither side admits any liability.

"We are happy that the agreement provides comprehensive relief, ensuring that applicants and their qualifying family members are not barred from moving forward with applications for asylum or U visas, simply because they were originally rejected pursuant to the misguided policy," Adams said.

The next order of business will be to see how the court responds to the deal at a hearing scheduled for July 13.

The U.S. Department of Justice declined to comment.

The immigrants are represented by Matt Adams, Aaron Korthuis and Margot Adams of NWIRP, Trina Realmuto, Mary Kenney and Tiffany Lieu of the NILA and Zachary Nightingale and Helen Beasley of Van Der Hout LLP.

The government is represented by Elizabeth Kurlan and Sara Winslow of the U.S. Attorney's Office for the Northern District of California.

The case is Vangala et al. v. U.S. Citizenship and Immigration Services et al., case number 3:20-cv-08143, in the U.S. District Court for the Northern District of California.

--Editing by Nicole Bleier.

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