

EOIR FOIA Processing (EOIR)

From: Sukkar, Elisa (EOIR)
Sent: Tuesday, August 10, 2010 12:18 PM
To: Keller, Mary Beth (EOIR)
Cc: Moutinho, Deborah (EOIR)
Subject: RE: (b) (6)

Dear MTK:

I have the response from OPR and I had discussed with Deborah that if you wanted me to, I could discuss with the IJ the comments from OPR and do the counseling at the same time.

I have to sit down with the IJ for several issues including the incident with you, the incident at the CLE desk and the fact that (b) (6) excused (b) (6) for part of the conference without an actual approval by the DCIJ.

(b) (6) was out last week several days and is out this week two days. I believe (b) (6) is coming back tomorrow. I asked (b) (6) to provide an available time for us to talk. (b) (6) normally brings NAIJ representation so (b) (6) may coordinate with Judge Slavin to be present for a discussion.

As soon as I have a date from the IJ, I will inform you.

Thanks. EMS

From: Keller, Mary Beth (EOIR)
Sent: Monday, August 09, 2010 3:06 PM
To: Sukkar, Elisa (EOIR)
Cc: Moutinho, Deborah (EOIR)
Subject: (b) (6)

Elisa,
The (b) (6) opr close out --- you had said you were going to do some counseling w/ the ij. Did that occur and if so, what date?
Trying to keep the db updated.
Tx.
mtk

MaryBeth Keller
Assistant Chief Immigration Judge
EOIR/OCIJ
703/305-1247
mary.beth.keller@usdoj.gov

12422

EOIR FOIA Processing (EOIR)

From: Rosenblum, Jeff (EOIR)
Sent: Wednesday, August 18, 2010 6:47 PM
To: Reinfurt, Sandy (EOIR); Keller, Mary Beth (EOIR)
Subject: Re: (b) (6) - OPR question

My inclination is no because OPR drafted the letter, and (b) (6) is not being disciplined, so (b) (6) has no right to the letter (not to mention the (b) (6) issue).

I don't think Judge Sukkar needs to tell (b) (6) that there is a letter; she can explain that the agency contacted OPR and this is what they said.

All that being said, it's not the equivalent of a report. I would contact OPR and find out whether they have a problem with us disclosing it.

From: Reinfurt, Sandy (EOIR)
To: Keller, Mary Beth (EOIR)
Cc: Rosenblum, Jeff (EOIR)
Sent: Wed Aug 18 16:45:40 2010
Subject: RE: (b) (6) - OPR question
Sure. Let me know what works for you

From: Keller, Mary Beth (EOIR)
Sent: Wednesday, August 18, 2010 4:45 PM
To: Reinfurt, Sandy (EOIR)
Cc: Rosenblum, Jeff (EOIR)
Subject: RE: (b) (6) - OPR question

Yep. Not urgent, as we have a plan to handle.
Tomorrow?

From: Reinfurt, Sandy (EOIR)
Sent: Wednesday, August 18, 2010 4:35 PM
To: Keller, Mary Beth (EOIR)
Cc: Rosenblum, Jeff (EOIR)
Subject: RE: (b) (6) - OPR question

Mary Beth,
Can we discuss this?

Thanks,
Sandy

From: Keller, Mary Beth (EOIR)
Sent: Wednesday, August 18, 2010 4:03 PM
To: Rosenblum, Jeff (EOIR)
Cc: Reinfurt, Sandy (EOIR)
Subject: (b) (6) - OPR question

12423

Jeff or Sandy,

Recall that one of our complainants about Judge (b) (6) also simultaneously went to OPR. OPR looked into the case, but was unable to confirm or refute the complainant's claim because the judge failed to record the hearing in question. In a July 9, 2010 letter to Tom Snow from Mary Pat, OPR notes that they contacted me, and that I advised of performance issues with the judge, including (b) (6) tendency to go off the record. OPR also notes that I advised of several BIA remands of the IJ's decisions, (b) (6) remedial training, and (b) (6) reprimand. OPR determined not to inquire further, but says that they have asked me to inform them of any future allegations concerning the judge, and agreed that I could inform Judge (b) (6) of OPR's decision not to investigate the present complaint and the likelihood that they would open an investigation in the future.

Judge Sukkar is intending to do a counseling session with the judge next Thursday, and we've agreed that she should discuss this with the Judge, rather than me.

Judge Sukkar has asked about whether she can provide the OPR document to the judge if (b) (6) asks for it. I think that the answer is no, particularly given our recent conversation with NAIJ about signing the confidentiality agreement --- For now Judge Sukkar will tell (b) (6) that (b) (6) would have to check into, if the judge asks. But, wanted to get your thoughts.

We are not taking disciplinary action. However, Judge Sukkar has agreed at Judge (b) (6) request to allow Judge Slavin to be present for the conversation next week.

There's nothing to hide in the document, but, I think this falls into the same general area as a no finding, which we never release. Just has a twist.

mtk

MaryBeth Keller

Assistant Chief Immigration Judge

EOIR/OCIJ

703/305-1247

mary.beth.keller@usdoj.gov

Moutinho, Deborah (EOIR)

From: Keller, Mary Beth (EOIR)
Sent: Monday, September 13, 2010 3:06 PM
To: Moutinho, Deborah (EOIR)
Subject: FW: (b) (6) /Matter of (b) (6)

When?

From: Burr, Sarah (EOIR)
Sent: Monday, September 13, 2010 3:01 PM
To: Keller, Mary Beth (EOIR)
Subject: RE: (b) (6) /Matter of (b) (6)

(b)(5) & Non-Responsive [REDACTED] I have not done a performance review with (b) (6) since (b) (6) still on the (b) (6) detail. I will address this case with (b) (6) when I do (b) (6) performance review, which should be quite soon. This case occurred in 4/08 and is not within the PWP time period

From: Keller, Mary Beth (EOIR)
Sent: Friday, September 10, 2010 10:04 AM
To: Burr, Sarah (EOIR)
Cc: Moutinho, Deborah (EOIR)
Subject: (b) (6) /Matter of (b) (6)

(b) (6)
Sarah,
This one came from BIA 4/09 — think that was after the IJ was off the bench. Did this one get addressed at her interim? If so, we'll need the date for that to close out as oral counseling. (b)(5) & Non-Responsive

(b)(5) & Non-Responsive [REDACTED]

Lx.
mtk

MaryBeth Keller
Assistant Chief Immigration Judge
EOIR/OCIJ
703/305-1247
mary.beth.keller@usdoj.gov

12520

9/14/2010

Moutinho, Deborah (EOIR)

From: Keller, Mary Beth (EOIR)
Sent: Tuesday, October 05, 2010 9:07 AM
To: Moutinho, Deborah (EOIR)
Subject: FW: (b) (6) tracking

This is to close out (b) (6) on (b) (6) #68. Oral counseling – performance context.
mtk

From: Burr, Sarah (EOIR)
Sent: Tuesday, October 05, 2010 8:51 AM
To: Keller, Mary Beth (EOIR)
Subject: RE: (b) (6) tracking

PWP counseling was on 9/20/10.

From: Keller, Mary Beth (EOIR)
Sent: Monday, October 04, 2010 10:27 AM
To: Burr, Sarah (EOIR)
Cc: Moutinho, Deborah (EOIR)
Subject: RE: (b) (6) tracking

Sarah,
Need the date on this pwp counseling to close this out.
Tx.
mtk

From: Burr, Sarah (EOIR)
Sent: Friday, September 17, 2010 11:35 AM
To: Keller, Mary Beth (EOIR)
Subject: RE: (b) (6) tracking

Will do when I speak to (b) (6) next week regarding (b) (6) mid-term PWP counseling.

From: Keller, Mary Beth (EOIR)
Sent: Friday, September 17, 2010 10:21 AM
To: Burr, Sarah (EOIR)
Cc: Moutinho, Deborah (EOIR)
Subject: RE: (b) (6) tracking

Also, the only other currently open issue wrt to (b) (6) is Matter of (b) (6) which came from BIA 4/09/10, noting intemperance and undue impatience.

This is what I have at the latest from you on that.

(b) (6) complaint # 68
On 4/9/10 line put that ACIJ is considering as part of larger disciplinary issue.

(b)(5) & Non-Responsive

Let us know.

Tx.
mtk

10/5/2010

12521

From: Burr, Sarah (EOIR)
Sent: Friday, September 17, 2010 10:11 AM
To: Keller, Mary Beth (EOIR)
Subject: RE: (b) (6) tracking

Sounds good to me.

From: Keller, Mary Beth (EOIR)
Sent: Friday, September 17, 2010 10:10 AM
To: Burr, Sarah (EOIR)
Cc: Moutinho, Deborah (EOIR)
Subject: (b) (6) tracking

Sarah,
For db tracking purposes, the (b) (6) proposed suspension does not relate to any currently "pending" complaint. The (b) (6) complaint from which our investigation launched was "resolved" and "closed" in the db by our decision to take (b) (6) off the bench and detail (b) (6) to (b) (6) while we investigated. (b) (6)'s specific complaint is not directly addressed in the proposed suspension. Hence, we need to "open" something in order to track this resolution. I have done what I think the complaint intake form should look like and will send you a copy, so you can see how I think we should do this.

Namely, for example, "EOIR" (us) is the source of the complaint, based on ongoing allegations of intemperate conduct. The nature of the complaint is "in court conduct", and the latest agency action is your proposed suspension on September 15.

We will track it from there.

Tx
mtk

MaryBeth Keller
Assistant Chief Immigration Judge
EOIR/OCIJ
703/305-1247
mary.beth.keller@usdoj.gov

12522

10/5/2010

We talked for about 45 minutes to an hour and then I told (b) (6) that I was withdrawing my approval for (b) (6) to be a speaker at the AILA conference. (b) (6) accepted that without complaint and cancelled (b) (6) speaking engagement about 20 minutes after we finished talking.

(b) (5)

From: Keller, Mary Beth (EOIR)
Sent: Monday, May 11, 2009 11:53 AM
To: Burr, Sarah (EOIR)
Cc: Pomeranz, Sharon (EOIR)
Subject: (b) (6) incident

Sarah,

When you get a chance, would you send me the summary of the (b) (6) incident?

We should discuss soon and decide what to do. Non-Responsive

but wanted to put this on the radar since it's been on my mind since we withdrew (b) (6) authorization to go to the AILA conf. We can loop Sharon in at some point... Non-Responsive

Non-Responsive

Tx.

mtk

MaryBeth Keller
Assistant Chief Immigration Judge
OCIJ/EOIR
Mary.Beth.Keller@usdoj.gov
703.305.1247

12558

5/12/2009

Moutinho, Deborah (EOIR)

From: Keller, Mary Beth (EOIR)
Sent: Wednesday, April 28, 2010 1:08 PM
To: Moutinho, Deborah (EOIR)
Subject: FW: this and that

The info on the oral reply schedule is good – it came from Larry Kidd. On (b) (6)

From: Keller, Mary Beth (EOIR)
Sent: Tuesday, April 27, 2010 5:47 PM
To: Burr, Sarah (EOIR)
Subject: RE: this and that

BTW, I hear (b) (6) oral reply is now scheduled for May 7 with the Director.
mtk

From: Burr, Sarah (EOIR)
Sent: Tuesday, April 27, 2010 4:57 PM
To: Keller, Mary Beth (EOIR)
Subject: this and that

I got the (b) (6) ROP and will take a look. Do you have time tomorrow to talk about the parameters of the NAF review? I'll be in my office in the afternoon; please let me know what time is good for you. Thanks, Sarah

Sarah M. Burr
Assistant Chief Immigration Judge
26 Federal Plaza
New York, N.Y.

12621

4/28/2010

Keller, Mary Beth (EOIR)

From: Barnes, Jennifer (EOIR)
Sent: Wednesday, February 11, 2009 2:00 PM
To: Sukkar, Elisa (EOIR); Keller, Mary Beth (EOIR)
Cc: Anderson, Scott C. (EOIR)
Subject: RE: concern as to denial to recuse

Judge Sukkar – please let me know when this issue is decided by the Board and then we will take it from there –

Jenni

Jennifer Barnes
 Bar Counsel
 Executive Office for Immigration Review
 (703) 305-1020

From: Sukkar, Elisa (EOIR)
Sent: Wednesday, February 11, 2009 11:26 AM
To: Keller, Mary Beth (EOIR)
Cc: Barnes, Jennifer (EOIR)
Subject: RE: concern as to denial to recuse

Dear Mary Beth:

There are currently 11 interlocutory appeals that she has filed with the BIA on this matter. As to the rest of her claims, the IJ in (b) (6) contacted me as to attorney misconduct. Judge (b) (6) gave her time to address her scheduling conflict with Judge (b) (6). It is not true that the IJ demanded (b) (6) presence. The IJs were trying to accommodate each other's dockets. The attorney became disruptive, refused to enter Judge (b) (6) courtroom and began to address the court from the hallway. When she entered the courtroom, she told the IJ that she was not going to speak to (b) (6) or address the allegations. The IJ had to reset the cases. I spoke to the IJ and instructed (b) (6) to proceed with the alien and turn to DHS for any necessary evidence if she fails to appear to represent her clients or if she refuses to enter the courtroom or if she enters, but refuses to address the court. She wants all cases to be assigned to Judge (b) (6) and she wants all of her cases with Judge (b) (6) to be reset waiting the decisions from the BIA. She recently filed a motion with the BIA to hold her cases before Judge (b) (6) in abeyance until they decide the interlocutory appeals.]

Part of the problem here is that the attorney is used to only one IJ in (b) (6) and now that we have two IJs, she keeps complaining that cases are being set with the two IJs and that she never before had to represent aliens in two courtrooms at the same time. Judge (b) (6) explained to counsel that the reason she never had to do that before was because (b) (6) was the only IJ in (b) (6) but now that there are two of them, she needed to file motions for continuances each time she had a conflict. We routinely accommodate attorneys in the larger courts to address quick master calendars with another IJ during a recess of the individual hearing, if the need arises. Apparently, it was a major commotion that day. The CA has sent the DAR CDs upon my request, to review.

This attorney has had a pattern of disrespect with the court. The CA has informed me that she comes to the window at the court and, in the presence of others with a loud voice, is addressing the issues on her Motion to Recuse with anyone at the window. Her conduct over the years and her unprofessional behavior are well known.

Please advise if you need anything else, Elisa

From: IJConduct, EOIR (EOIR)
Sent: Tuesday, February 10, 2009 9:48 AM
To: Sukkar, Elisa (EOIR)
Cc: Keller, Mary Beth (EOIR)

Moutinho, Deborah (EOIR)

(b) (6)

From: Sukkar, Elisa (EOIR)
Sent: Tuesday, November 17, 2009 7:48 PM
To: Keller, Mary Beth (EOIR)
Cc: Moutinho, Deborah (EOIR)
Subject: RE: (b) (6) - old complaint

Dear MTK:

I have reviewed my files and this is what I have.

Atty (b) (6) wrote to former CIJ David Neal on October 1, 2008 requesting that the IJ be removed from her cases. The attorney filed several motions asking for the IJ to recuse (b) (6) based upon past professional dealings. The IJ denied the motions and the attorney filed 11 interlocutory appeals. The BIA dismissed them. I am pleased to report, based upon my conversations with the CA and the IJ, that the attorney no longer asks for the IJ to recuse (b) (6).

During this time period, and while all of this was going on, we received the anonymous complaint. I addressed it with the IJ the same day I received it which was on October 31, 2008. (b) (6) indicated that (b) (6) daughter comes in to the office after (b) (6) walks from school so that she can be given a ride by the IJ to swimming lessons. After (b) (6) drops (b) (6) daughter at (b) (6) classes, the IJ comes back to the office and works until 7:00 or 8:00 pm. (b) (6) indicated (b) (6) does not leave early but that (b) (6) would leave around 4:45 pm and was absent for about 15 minutes and comes back in to work. Whoever filed the complaint, apparently saw (b) (6) leaving but not returning back to the office to put in additional hours. But this practice is no longer occurring as the IJ (b) (6) said it will not happen anymore and (b) (6) would make other arrangements for (b) (6) daughter.

The second aspect of this anonymous complaint was also addressed. It dealt with the timing of when (b) (6) conducted the bond hearings for cases in which there was also a removal hearing occurring. (b) (6) was doing the removal hearings in the morning and the bond hearings in the afternoon causing attorneys to have two different hearings on the same day for the same alier (b) (6) was told not to set different times and instead to address the removal and the bond hearings back to back and during the same time slot.

The other matter relates to the request for comments as part of the IJ review process. A copy of the AILA letter dated February 20, 09 that was sent to IJ (b) (6) was also sent to former CIJ Neal. I conducted a VTC meeting with the IJ and (b) (6) mentor IJ (b) (6) in March 2009. I went over all of the AILA comments with the IJ. (b) (6) understands the need to be flexible when scheduling cases.

The IJ throughout has been very understanding, gracious and has made the necessary adjustments. I will say this, the private bar was for so many years used to working with one IJ that (b) (6) addition to the bench as a second judge threw them for a loop sometimes. They have never had a conflict in immigration court before and at times were upset with this IJ for the fact they had a conflict to begin with. They have now gotten used to it.

I have not received any other complaints for this IJ. (b) (6) works hard and is doing very well.

In summary, all complaints and comments have been addressed with the IJ.

Please advise if you need anything else. Thanks. EMS

From: Keller, Mary Beth (EOIR)
Sent: Friday, November 13, 2009 4:23 PM
To: Sukkar, Elisa (EOIR)
Cc: Moutinho, Deborah (EOIR)
Subject: RE: (b) (6) - old complaint

Elisa,
I also found one more, commentary from the AILA Chapter Chair, that came in in March. We will forward to you; betting you already have. But in case not.
Sounds like flexibility and scheduling issues, though they characterize the issues as ones with "temperament."
Tx.
mtk

From: Keller, Mary Beth (EOIR)

11/18/2009

12644; 12652

Sent: Friday, November 13, 2009 4:13 PM

To: Sukkar, Elisa (EOIR)

Cc: Moutinho, Deborah (EOIR)

Subject: (b) (6) - old complaint

Elisa,

Trying to catch up w/ a year's worth of unattended matters in terms of update... Judge (b) (6) had two complaints, one of which you determined the atty exhibited misconduct and not the ij, that was (b) (6). There was another one, anonymous, but alleging that the judge was picking up (b) (6) daughter on work time, and some scheduling /calendar issues etc. I think I recall that you were going to discuss the assertions with (b) (6). Whatever came of that one? If you would let me know, I will update the db and close this out. I know the judge is still in (b) (6) so want to make sure I have everything closed out properly.

Tx.

mtk

MaryBeth Keller

Assistant Chief Immigration Judge

EOIR/OCIJ

703/305-1247

mary.beth.keller@usdoj.gov

11/18/2009

12645; 12653

Moutinho, Deborah (EOIR)

(b) (6)

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Sent: Tuesday, November 17, 2009 7:48 PM
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11/18/2009

12652; 12644;
12660

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mtk

From: Keller, Mary Beth (EOIR)

11/18/2009

12660; 12644;
12652

EOIR FOIA Processing (EOIR)

From: Frantz, Brigitte (EOIR)
Sent: Thursday, October 22, 2009 3:50 PM
To: Keller, Mary Beth (EOIR)
Subject: RE: Complaint regarding IJ (b) (6)

Ummm...next time you get a voicemail like that, I totally want to hear it.

From: Keller, Mary Beth (EOIR)
Sent: Thursday, October 22, 2009 3:26 PM
To: Rothwarf, Marta (EOIR); Fong, Thomas (EOIR)
Cc: Frantz, Brigitte (EOIR); Pomeranz, Sharon (EOIR); Moutinho, Deborah (EOIR)
Subject: RE: Complaint regarding IJ (b) (6)

Hi all,
I have not had an opportunity to talk to Marta and respond to (b) (6) yet. He left me a voicemail today, continuing his request that CIJ O' Leary do his job n(!), and investigate the conspiracy to commit murder being engaged in by the IJ. He also advised that he and his wife will be murdered in the next 30 days unless we do something about this, and that that will be the Department's fault.
Marta, are you in tomorrow?
I will need to look at the complaint again and talk w/ you about responding.
Tx.
mtk

From: Keller, Mary Beth (EOIR)
Sent: Thursday, September 17, 2009 3:22 PM
To: Rothwarf, Marta (EOIR); Fong, Thomas (EOIR)
Cc: Frantz, Brigitte (EOIR); Pomeranz, Sharon (EOIR); Moutinho, Deborah (EOIR)
Subject: RE: Complaint regarding IJ (b) (6)

Marta,
All I will need to discuss w/ you is what I can say on behalf of the CIJ in terms of a response. Let me look at it, draft something, and I'll be in touch.
Thanks.
mtk

MaryBeth Keller
Assistant Chief Immigration Judge
OCIJ/EOIR
Mary.Beth.Keller@usdoj.gov
703.305.1247

From: Rothwarf, Marta (EOIR)
Sent: Thursday, September 17, 2009 3:04 PM
To: Fong, Thomas (EOIR)
Cc: Keller, Mary Beth (EOIR); Frantz, Brigitte (EOIR); Pomeranz, Sharon (EOIR)
Subject: RE: Complaint regarding IJ (b) (6)

Hi Judge Fong,

I will be happy to work with MaryBeth and Brigitte on this.

I (b) (6) may wish to consult with Brigitte to get a PRAO opinion on whether under (b) (6) bar rules (b) (6) might have a conflict given the litigation that these respondents keep bringing. In the event that I (b) (6) were to decide to recuse (b) (6) any other IJ assigned to handle this case may face the same issues that are currently being encountered by you and everyone else who has come in contact with these individuals.

Marta

From: Fong, Thomas (EOIR)
Sent: Wednesday, September 16, 2009 5:12 PM
To: Pomeranz, Sharon (EOIR); Rothwarf, Marta (EOIR)
Subject: FW: Complaint regarding IJ (b) (6)

Mary Beth, responded and indicated she will need to handle the complaint.

Thomas Y.K. Fong
Assistant Chief Immigration Judge
Immigration Court/EOIR/DOJ
606 South Olive Street, 15th Floor
Los Angeles, CA 90014
(213)894-3906 (b) (6)
thomas.fong@usdoj.gov

From: Keller, Mary Beth (EOIR)
Sent: Wednesday, September 16, 2009 1:09 PM
To: Fong, Thomas (EOIR)
Cc: Moutinho, Deborah (EOIR)
Subject: RE: Complaint regarding IJ (b) (6)

Yeesh. No. Let me do it.
I will consult w/ Marta.
Thanks for pointing that out.
mtk

MaryBeth Keller
Assistant Chief Immigration Judge
OCIJ/EOIR
Mary.Beth.Keller@usdoj.gov
703.305.1247

From: Fong, Thomas (EOIR)
Sent: Wednesday, September 16, 2009 4:03 PM
To: Keller, Mary Beth (EOIR)
Cc: Moutinho, Deborah (EOIR)
Subject: RE: Complaint regarding IJ (b) (6)

Mary Beth,

A question to you of legal propriety and the appearance of a conflict of interest---This is the rare instance where although the "complaint" has been properly referred under EOIR complaint procedures to me as IJ (b) (6) ACIJ---I am

now (as of August 7, 2009) also one of many named who are allegedly participating in a "conspiracy to commit murder and political persecution" upon the complainant and spouse. Thus, as a defendant in these respondents' alleged latest "filed Complaint/Lawsuit" (see page 10 of his faxed submission) should I be reviewing and responding to (b) (6) (b) (6) complaint against IJ (b) (6)? Tom

Thomas Y.K. Fong
Assistant Chief Immigration Judge
Immigration Court/EOIR/DOJ
606 South Olive Street, 15th Floor
Los Angeles, CA 90014
(213)894-3906 (b) (6)
thomas.fong@usdoj.gov

From: Moutinho, Deborah (EOIR)
Sent: Wednesday, September 16, 2009 12:34 PM
To: Fong, Thomas (EOIR)
Subject: RE: Complaint regarding IJ (b) (6)

Yes, that is correct, sorry for not being clearer ☺

From: Fong, Thomas (EOIR)
Sent: Wednesday, September 16, 2009 3:33 PM
To: Moutinho, Deborah (EOIR)
Subject: RE: Complaint regarding IJ (b) (6)

Deb, I will do so, but do you mean Marta is handling the federal district court litigation, but not the complaint which I assume I must deal with?

Thomas Y.K. Fong
Assistant Chief Immigration Judge
Immigration Court/EOIR/DOJ
606 South Olive Street, 15th Floor
Los Angeles, CA 90014
(213)894-3906 (b) (6)
thomas.fong@usdoj.gov

From: Moutinho, Deborah (EOIR)
Sent: Wednesday, September 16, 2009 12:28 PM
To: Fong, Thomas (EOIR)
Subject: Complaint regarding IJ (b) (6)

Good Afternoon Judge Fong

Judge Keller wanted me to pass this onto you and mentioned that you may want to speak with Ms. Rothwarf from OGC as she is already handling the issue.

If you have any questions or require additional information please let me know.

Thanks

Deborah Moutinho

Staff Assistant

Moutinho, Deborah (EOIR)

From: (b) (6) @aol.com
Sent: Thursday, August 20, 2009 3:14 PM
To: IJConduct, EOIR (EOIR)
Cc: (b) (6) @aol.com
Subject: Complaint for Judicial Misconduct
Attachments: (b) (6) EOIRComplaint (b) (6) (8-20-2009).doc

Honorable Chief Immigration Judge, Brian M. O'Leary:

It is with great reluctance and dismay that I present the attached complaint, my first and only, against an Immigration Judge during my entire career as a private attorney.

However, as strongly as I may feel about the nature of developments in this matter, personal sentiments aside, Judge (b) (6) self-righteousness had a chilling effect on people present in his courtroom questioning the fairness of (b) (6) judgeship. A fact that should be taken into consideration while reviewing the attached Complaint.

A Motion to Recuse Immigration Judge (b) (6) has, as of this writing, been filed with the EOIR's Clerk in (b) (6) on August 20, 2009.

Your immediate review and consideration of this matter is greatly appreciated.

(b) (6)

→ 3100
My is your agent
Review the record
3168 My may have
done this by

EOIR FOIA Processing (EOIR)

From: Sukkar, Elisa (EOIR)
Sent: Friday, November 05, 2010 2:12 PM
To: Sukkar, Elisa (EOIR); Keller, Mary Beth (EOIR)
Cc: Morris, Florencio (EOIR); Moutinho, Deborah (EOIR)
Subject: RE: complaint on Judge (b) (6) in (b) (6)

Correction:

I looked at my chart. The date is March 31, 2010 not January. Thanks. EMS

From: Sukkar, Elisa (EOIR)
Sent: Friday, November 05, 2010 2:07 PM
To: Keller, Mary Beth (EOIR)
Cc: Morris, Florencio (EOIR); Moutinho, Deborah (EOIR)
Subject: RE: complaint on Judge (b) (6) in (b) (6)

MTK:

We have not conducted PWP review with this IJ. We pulled all complaints and will address with (b) (6) (b) (6) is now at HQ but will be here next week.

This complaint was unsubstantiated. The claim is that she is now confronting hardship in Jamaica after the IJ deported her there. That determination was made soon after I reviewed her complaint in July 2009.

But all of this was addressed with (b) (6) when we did the initial PWP review on January 31, 2010.

EMS

From: Keller, Mary Beth (EOIR)
Sent: Thursday, October 28, 2010 5:25 PM
To: Sukkar, Elisa (EOIR)
Cc: Morris, Florencio (EOIR); Moutinho, Deborah (EOIR)
Subject: FW: complaint on Judge (b) (6) in (b) (6)

Elisa,

This is the only one I do not have a resolution for for Judge (b) (6) You had indicated in an email earlier this month that you were going to use pwp interim to cover some things with (b) (6) Let me know if this was one, or if this was some other resolution per the below.

Txl
mtk

From: Keller, Mary Beth (EOIR)
Sent: Monday, August 23, 2010 1:04 PM
To: Sukkar, Elisa (EOIR)
Cc: Moutinho, Deborah (EOIR)
Subject: RE: complaint on Judge (b) (6) in (b) (6)

Elisa,

Is this one closed out as could not be substantiated? If so, could you please provide us a date, even if it is estimated by you – she also alleged in the original attachments that Judge (b) (6) notarized an affidavit without asking for ID? ?? Tx.
mtk

closed.

From: Smith, Gary (EOIR)
Sent: Tuesday, May 11, 2010 5:02 PM
To: (b) (6) (EOIR); (b) (6) (EOIR)
Subject: FW: judge (b) (6)

Judge (b) (6) We're going to need to come up with a very objective response to (b) (6) complaint. Please review this and let's begin working on it. Thanks. (I recognize that she has been problematic there and will likely continue to be.)

From: Keller, Mary Beth (EOIR)
Sent: Tuesday, May 11, 2010 4:33 PM
To: Smith, Gary (EOIR)
Subject: FW: judge (b) (6)

Gary,

Here is what I initially got. Then I spoke with her on May 03 on the phone. She reiterated most of what was in the (b) (6) and added a few other things. She claims problems with respondents getting into the (b) (6) facility following their release; and problems with respondents getting copies of the 213s in their own records from either DHS or the judge.

I have also attached an email she sent me following our phone conversation relating to (b) (6).

I think the substance of what she is asserting that we may want to get the judge to respond to are

(1) improperly closing hearings? (b) (5)

(b) (5)

(2) IJ ordering the guards to have her removed from the building? (b) (5)

(b) (5)

(3) Failure to record hearings. (b) (5)

(b) (5)

(4) Stated policy of categorically denying bond unless there are ten years of income tax records in evidence. (b) (5)

(b) (5)

mtk

-----Original Message-----

From: (b) (6) [mailto:(b) (6)]
Sent: Thursday, April 29, 2010 12:43 AM
To: Keller, Mary Beth (EOIR)
Subject: RE: judge (b) (6)

Dear Ms. Keller,

Thanks for your follow up explanation. I was hoping to talk with you to have an understanding of the process I should be expecting, including a

5/12/2010

12834

Inmates: range w/sec. guys.
(b) (6) = worst

Staff at (b) (6) horrible all down
the line
Guard followed me 19th
I had 2 CK in / say which of

Disparities b/w (b) (6)
in there & not when they know

MTK. dar. leave a public lobby!
(w/ area 4 EOR office)

handcuffs / hiding name
pushed me - I was walking!
(b) (6) - low - misd. battery
then I left

showing
off?

(b) (6) says get her out of here. (#)
(out of blog)

Complaints
Not closed out

(b)(5) & Non-Responsive

(b)(5) & Non-Responsive

hiding (b) (6) from me
said low M & Fri
should MON!

→ VTC went out.
Cancel?! (b) (6) tried.
Atty reg'd re-boot (b) (6) did.

Sat Morn w/ lawyers in a.m.
Came back aft. lunch

Issues for ALA & appeal
not the focus of my complt.

Judge asked me, have / asked why
(see my notes) don't have now
kept telling me 2 live

Closing w/ 100% denial rate!
Categorical Denial

→ R is pro se ~
I can have u removed.

4.19.10

Went 2 get ups
got m.v. → I left
is it asy / said it *

I said
Have 2 give a reason ~ she
said no. 70

I writing notes to record

In addn to phys assault
my research was interrupted

**Assistant Chief Immigration Judge
OCIJ/EOIR**

(b) (6)
703.305.1247

From: Neal, David L. (EOIR)
Sent: Tuesday, September 02, 2008 6:50 PM
To: Keller, Mary Beth (EOIR)
Subject: FW: First Cut Appeal Recommendation: (b) (6)

fyi.

status on chart if asked by KAO tomorrow?

From: Sheehan, Sue (EOIR)
Sent: Tuesday, September 02, 2008 4:43 PM
To: Rosen, Scott (EOIR); Neal, David L. (EOIR)
Cc: Nimick, Lockhart (EOIR); Liebmann, Beth (EOIR)
Subject: FW: First Cut Appeal Recommendation: (b) (6)

David and Scott - This is regarding the (b) (6) Cir.'s recent decision on IJ (b) (6) denial of continuance for fingerprinting, where the alien had no good excuse for the failure to comply. Although OIL management decided not to seek a rehearing and we are not pushing for one, the OIL attorney believed that Judge (b) (6) was a victim of vendetta by (b) (6) and insisted that the "Department owes it to competent and capable employees to vigorously defend them against slurs." Just wanted to let you know and also in case you want to share with Judge (b) (6) if you think it is appropriate. . . .

Thank you,

Sue B. Sheehan
Associate General Counsel
U.S. DOJ - EOIR - OGC
(703)605-1366
sue.sheehan@usdoj.gov

From: Hausman, Allen (CIV)
Sent: Thursday, August 21, 2008 1:45 PM
To: Liebmann, Beth (EOIR); Nimick, Lockhart (EOIR); Sheehan, Sue (EOIR)
Subject: FW: First Cut Appeal Recommendation: (b) (6)

To EOIR: Please provide OIL with your agency's recommendation regarding seeking further review of the (b) (6) Circuit's published adverse decision. Attached is my appeal recommendation and the decisions of the (b) (6) Circuit panel, the BIA and the IJ. Allen Hausman (202-616-4873)

13208

From: Hausman, Allen (CIV)
Sent: Thursday, August 21, 2008 1:36 PM

To: Hussey, Thom (CIV); Kline, David (CIV); McConnell, David (CIV); Keener, Donald (CIV); Green, Christel (CIV)

Subject: First Cut Appeal Recommendation: (b) (6)

My memorandum recommending petitioning for reconsideration en banc from the adverse decision in (b) (6)

(b) (6), is attached (WordPerfect document). Also attached (pdf documents) are: the panel decision, the BIA decision, the IJ's oral decision. I briefed this case. Nancy Friedman argued. A second case involving the failure to provide fingerprints was argued the same day. The decision is still pending.

13209

3/16/2010

Keller, Mary Beth (EOIR)

From: Keller, Mary Beth (EOIR)
Sent: Thursday, June 10, 2010 4:11 PM
To: DuFresne, Jill (EOIR)
Cc: Moutinho, Deborah (EOIR)
Subject: FW: oral argument trip report -- (b) (6)
 (b) (6) -- argued on June 3, 2010

Jill,

This is Judge (b) (6)

This came into the ij conduct mailbox as part of what I think is a new process at OIL (I am seeking clarification) that anything even tangentially involving an ij conduct assertion be brought to our attn this way.

This case is mostly NOT about the IJ, but I've highlighted some in red. We have hard copies of the BIA decision and IJ decision. BIA says nothing about the IJ that is problematic in its 6 page decision, and the IJ's decision is 30 pages!

Forwarding for your information mostly, re the allegations regarding the judge's questioning. Obviously, if you see anything in here that we need to address, let me know! Otherwise, let us know if we close this as merits related or unsubstantiated or failure to state a claim.

mtk

From: Keller, Mary Beth (EOIR)
Sent: Wednesday, June 09, 2010 11:17 AM
To: IJConduct, EOIR (EOIR); Moutinho, Deborah (EOIR)
Subject: RE: oral argument trip report -- (b) (6)
 (b) (6) -- argued on June 3, 2010

This one actually has at least a tangential ij conduct issue, so makes more sense.
 Who is the IJ?

From: IJConduct, EOIR (EOIR)
Sent: Wednesday, June 09, 2010 11:06 AM
To: Keller, Mary Beth (EOIR)
Subject: FW: oral argument trip report -- (b) (6)
 (b) (6) -- argued on June 3, 2010

This looks like another one like we got the other day from (b) (6)

From: McManus, Keith (CIV)
Sent: Tuesday, June 08, 2010 12:46 PM
To: IJConduct, EOIR (EOIR)
Subject: FW: oral argument trip report -- (b) (6)
 (b) (6) -- argued on June 3, 2010

From: McManus, Keith (CIV)
Sent: Tuesday, June 08, 2010 11:16 AM
To: Oil, IJTraining Issues; Remands, OIL (EOIR)
Subject: oral argument trip report -- (b) (6)
 (b) (6) -- argued on June 3, 2010

(b) (6)**Keller, Mary Beth (EOIR)**

From: Keller, Mary Beth (EOIR)
Sent: Friday, September 19, 2008 11:18 AM
To: Sukkar, Elisa (EOIR)
Cc: Pomeranz, Sharon (EOIR)
Subject: RE: Alien Number Requested
Follow Up Flag: Follow up
Flag Status: Red

Elisa,

(b) (5)

mtk

MaryBeth Keller
Assistant Chief Immigration Judge
OCIJ/EOIR
Mary.Beth.Keller@usdoj.gov
703.305.1247

From: Sukkar, Elisa (EOIR)
Sent: Wednesday, September 17, 2008 4:25 PM
To: Keller, Mary Beth (EOIR)
Cc: Pomeranz, Sharon (EOIR)
Subject: RE: Alien Number Requested

Dear Mary Beth and Sharon:

Judge **(b) (6)** spoke to **(b) (6)** this morning and I had a meeting with IJ **(b) (6)** at noon and the IJ **(b) (6)** came to see me this afternoon and we went over this matter. **(b) (6)** acknowledges that these are **(b) (6)** words and **(b) (6)** regrets them. **(b) (6)** points out that **(b) (6)** wrote this in December of 2007 before all the meetings that we have had with **(b) (6)**.

I went over with **(b) (6)** the sensitive nature of cases dealing with rape, sexual orientation and battered spouses or family members. **(b) (6)** did say the case was old and **(b) (6)** was frustrated with the attempts of the family to bring this last minute claim.

I sent most of the comments to you and the CIJ today so you see how both DHS and AILA perceive **(b) (6)**. The comments were very favorable to **(b) (6)** knowledge, fairness and work ethics.

Again I told **(b) (6)** that this can happen at anytime to any of us beyond any probationary period.

(b) (5)

We have addressed this with **(b) (6)** fully today. Thank you, Elisa

13537

9/24/2008



U.S. Department of Justice
Executive Office for Immigration Review
Office of the Chief Immigration Judge
5107 Leesburg Pike, Suite 2500
Falls Church, Virginia 22041

Chief Immigration Judge

MEMORANDUM

TO: Kevin A. Ohlson
Director

FROM: 
David L. Neal
Chief Immigration Judge

DATE: September 23, 2008

SUBJECT: Trial period evaluation for Judge (b) (6)

Judge (b) (6) is scheduled to complete (b) (6) trial period on December 23, 2008. Because there are unusual elements in (b) (6) evaluation, this memorandum sets out specific items for your consideration.

Evaluation feedback. Overall, we have received very favorable feedback on Judge (b) (6) performance and courtroom conduct. (b) (6) supervisor and (b) (6) two mentors report that (b) (6) has a good work ethic and has worked diligently to gain a command of the law. (b) (6) supervisor and mentors also report that (b) (6) is receptive to advice and has demonstrated a willingness to learn from (b) (6) mistakes.

We also solicited feedback from both the government bar and the private bar. The government bar speaks highly of Judge (b) (6) characterizing (b) (6) as fair, professional, and respectful. The private bar similarly approves of (b) (6) characterizing (b) (6) as having appropriate courtroom demeanor and temperament. (There was one item of anonymous criticism that (b) (6) is not sensitive to political asylum cases rooted in domestic violence.) A concern raised by both bars is that Judge (b) (6) sometimes interjects (b) (6) personal knowledge of medical issues from (b) (6) days as a (b) (6), but Judge (b) (6) has been counseled to refrain going outside the record and relying on personal knowledge.

Complaints. Judge (b) (6) has been the subject of two formal complaints during (b) (6) probationary period. The first complaint involved an oral decision in which (b) (6) cited a website that was not cited by either party or otherwise referenced in the record. The second complaint involved the improper pretermission of an asylum application and a failure to give a pro se respondent proper advisals with respect to voluntary departure. Neither complaint warranted discipline, but Judge (b) (6) was counseled accordingly in both instances.

Keller, Mary Beth (EOIR)

From: Romig, Jeff (EOIR)
Sent: Monday, March 16, 2009 4:07 PM
To: Keller, Mary Beth (EOIR)
Cc: Moutinho, Deborah (EOIR); Romig, Jeff (EOIR)
Subject: FW: Affidavit of Complaint from (b) (6)
Follow Up Flag: Follow up
Flag Status: Red
Attachments: Complaintresponse.wpd

Hi Mary Beth: This is a complaint that I inherited from Rico concerning IJ (b) (6). You may recall that complaints against IJ (b) (6) and (b) (6) were filed by "pro se" respondents. (b) (5)

(b) (5)
 (b) (5) The response to the complaint against IJ
 (b) (6) was previously mailed out by Rico.

(b) (5)
 (b) (5) and then
 update OGC and Heidi Brissette concerning the status of the case. Thanks, Jeff

From: Bartolomei, Jr. Rico (EOIR)
Sent: Wednesday, January 21, 2009 6:59 PM
To: Romig, Jeff (EOIR)
Cc: Keller, Mary Beth (EOIR)
Subject: FW: Affidavit of Complaint from (b) (6)

Good Afternoon Jeff,

Here is the email to which I referred earlier. I am asking Glenda to send the ROP to you. Thanks, Rico.

From: Bartolomei, Jr. Rico (EOIR)
Sent: Monday, November 24, 2008 2:00 PM
To: Keller, Mary Beth (EOIR)
Cc: Moutinho, Deborah (EOIR); Viray, Glenda (EOIR)
Subject: Affidavit of Complaint from (b) (6)

Good Afternoon Mary Beth:

I have attached a draft of the second complaint that I have received from a respondent in the (b) (6) area who had a connection with Attorney (b) (6). This one is a bit more complicated than that last letter because the respondent was never really represented by him at her hearing, but the record shows that he had intended to marry her. The nature of their relationship was a relevant issue before the IJ as it impacted upon the date that she filed asylum. According to the respondent, Attorney (b) (6) informed her that her asylum case was not strong and that she did not have to worry before they would get married. After the respondent broke off her marriage to him, she went a second attorney and ultimately filed for asylum. That attorney had bar issues and the respondent filed a complaint against her, but the record showed that she did not file a complaint against Attorney (b) (6). At her hearing before the IJ and then before the BIA, she was represented by the same attorney (b) (6). The BIA dismissed her appeal (and related family members) on March 4, 2008. Westlaw reflects that she filed a pro se petition for review with the (b) (6) Circuit on March 25, 2008. OIL has filed a response brief on

13567

3/19/2009

(b) (6)**Moutinho, Deborah (EOIR)**

From: Keller, Mary Beth (EOIR)
Sent: Thursday, September 18, 2008 10:24 AM
To: Anderson, Scott C. (EOIR)
Cc: Moutinho, Deborah (EOIR)
Subject: RE: Complaints Concerning Two IJs

Thanks Scott. I am here, or, you can drop off with Deborah Moutinho any time.
We should probably figure out some coordination just generally on this, as I see this becoming a common pattern. We can talk more about after PWP negotiations in early Oct when I can breathe again!
mtk

MaryBeth Keller
Assistant Chief Immigration Judge
OCIJ/EOIR
Mary.Beth.Keller@usdoj.gov
703.305.1247

From: Anderson, Scott C. (EOIR)
Sent: Thursday, September 18, 2008 10:08 AM
To: Keller, Mary Beth (EOIR)
Subject: Complaints Concerning Two IJs

Mary Beth,

OGC received two complaints against IJs that were intended for OCIJ but were misdirected to us. These complaints both involve allegations of bias or dislike for an attorney named **(b) (6)**

(b) (6) The interesting think about this is that Jenni filed a Notice of Intent to Discipline involving this attorney concerning his failure to appear at three hearings. The IJs complained about were both involved in informing Jenni of **(b) (6)** misconduct.

Please let me know when I can bring the complaints down to you (or let me know if I should give them to someone else). If possible, it would probably be helpful if Jenni could learn any findings that are made concerning the complaints. I suspect that the issues raised in the complaints will show up in her disciplinary case as a way to attack to IJs' credibility.

Thanks,

Scott

Scott Anderson
Deputy Bar Counsel, EOIR
(703) 305-0992

9/18/2008

13570

EOIR FOIA Processing (EOIR)

From: Smith, Charles (EOIR)
Sent: Tuesday, May 11, 2010 4:10 PM
To: Keller, Mary Beth (EOIR)
Cc: Hatch, Paula (EOIR)
Subject: RE: Results of OPR Investigation

We'll get it. Paula will forward to OCIJ upon receipt.

From: Keller, Mary Beth (EOIR)
Sent: Tuesday, May 11, 2010 2:38 PM
To: Smith, Charles (EOIR)
Subject: FW: Results of OPR Investigation

Chip,
Would you all/we get a copy of the OPR report on IJ (b) (6) if it involved matters when (b) (6) was an AUSA?
mtk

From: Keller, Mary Beth (EOIR)
Sent: Tuesday, May 11, 2010 2:37 PM
To: Romig, Jeff (EOIR); Moutinho, Deborah (EOIR); Kelly, Ed (EOIR)
Subject: RE: Results of OPR Investigation

I will check in w/ ELR, but if this involved conduct prior to (b) (6) employment with EOIR, I'm thinking we may not even see it, particularly with no finding of misconduct.
mtk

From: Romig, Jeff (EOIR)
Sent: Tuesday, May 11, 2010 2:30 PM
To: Moutinho, Deborah (EOIR); Kelly, Ed (EOIR); Keller, Mary Beth (EOIR)
Subject: RE: Results of OPR Investigation

I believe it is sent first to OGC.

From: Moutinho, Deborah (EOIR)
Sent: Tuesday, May 11, 2010 11:03 AM
To: Kelly, Ed (EOIR); Romig, Jeff (EOIR); Keller, Mary Beth (EOIR)
Subject: RE: Results of OPR Investigation

I don't remember seeing it and just checked the data base and nothing is noted in there

Deborah

From: Kelly, Ed (EOIR)
Sent: Tuesday, May 11, 2010 2:02 PM
To: Romig, Jeff (EOIR); Keller, Mary Beth (EOIR)

Cc: Moutinho, Deborah (EOIR)
Subject: RE: Results of OPR Investigation

Jeff, Mary Beth,

Thanks, this is happy news. FYI: Judge (b) (6) Lift Letter did go downtown April 1. The end of (b) (6) trial period will be August 2, 2010. The Lift Letter noted the OPR investigation, including a description of the specific issue under investigation. The letter contained the following language:

- "We will report further on Judge (b) (6) fitness for permanent duty should the OPR report contain additional information of concern. We expect Judge (b) (6) will successfully complete (b) (6) trial period."

Looks like we can put it to rest. Mary Beth, one question on the mechanics of the thing: Do you get a copy of the OPR report so we can consider this "official" ? Thanks,

-Ed

From: Romig, Jeff (EOIR)
Sent: Tuesday, May 11, 2010 1:51 PM
To: Keller, Mary Beth (EOIR)
Cc: Moutinho, Deborah (EOIR); Kelly, Ed (EOIR)
Subject: FW: Results of OPR Investigation

Mary Beth: This was the OPR investigation concerning IJ (b) (6) when (b) (6) was an AUSA in (b) (6) I have not seen the results of the OPR investigation, but no finding of misconduct was made.

I'm not sure if IJ (b) (6) lift letter has gone down to the Department—I seem to recall OPR was trying to wrap this up before (b) (6) trial period concluded. Jeff

From: (b) (6) (EOIR)
Sent: Tuesday, May 11, 2010 10:07 AM
To: Romig, Jeff (EOIR)
Cc: Pomeranz, Sharon (EOIR)
Subject: Results of OPR Investigation

I just received the results of my OPR investigation. There was no finding of misconduct.

Would you like me to fax or mail you a copy of the letter? (We do not have scanning capacity.)

EOIR FOIA Processing (EOIR)

From: Burr, Sarah (EOIR)
Sent: Monday, November 01, 2010 2:24 PM
To: Keller, Mary Beth (EOIR)
Subject: RE: (b) (6)

Detail ended (b) (6) and back on bench (b) (6)

From: Keller, Mary Beth (EOIR)
Sent: Friday, October 29, 2010 4:33 PM
To: Burr, Sarah (EOIR)
Cc: Moutinho, Deborah (EOIR)
Subject: RE: (b) (6)

Hi Sarah,
Just for the records in the db...what was the actual date that Judge (b) (6) detail to (b) (6) ended and (b) (6) was back on the bench?
Tx.
mtk

From: Burr, Sarah (EOIR)
Sent: Thursday, September 16, 2010 10:41 AM
To: Keller, Mary Beth (EOIR)
Subject: RE: (b) (6)

It went well. (b) (6) seems to like the idea of going to (b) (6). I don't know what (b) (6) will do on the proposed suspension; (b) (6) said (b) (6) wants to see the ROPs on all the cases cited in the specifications.

From: Keller, Mary Beth (EOIR)
Sent: Thursday, September 16, 2010 8:55 AM
To: Burr, Sarah (EOIR)
Subject: RE: (b) (6)

How did it go? Any indication of whether (b) (6) will respond or accept?

From: Burr, Sarah (EOIR)
Sent: Thursday, September 16, 2010 8:49 AM
To: Keller, Mary Beth (EOIR)
Subject: RE: (b) (6)

(b) (6) is not on detail. I served IJ (b) (6) with the suspension letter late yesterday and already told (b) (6) s going to (b) (6) in early October.

From: Keller, Mary Beth (EOIR)
Sent: Tuesday, September 14, 2010 5:37 PM
To: Burr, Sarah (EOIR)
Subject: (b) (6)

I've checked w/ Marcia and no one is on the registers for (b) (6)

Checking the 52s — (b) (6) is reassigned to (b) (6), not on detail, right?

Jeff thinks we are fine reassigning (b) (6) but I sent him the contract lang to look at - he's on his way to the NAC.

Will let you know the final word!

mtk

MaryBeth Keller

Assistant Chief Immigration Judge

EOIR/OCIJ

703/305-1247

mary.beth.keller@usdoj.gov

13811

EOIR FOIA Processing (EOIR)

From: Smith, Gary (EOIR)
Sent: Wednesday, October 20, 2010 8:40 AM
To: Keller, Mary Beth (EOIR)
Cc: Moutinho, Deborah (EOIR)
Subject: FW: Judge (b) (6) duty att'y request

MaryBeth: This message came in to me late yesterday. I checked the case in the database and familiarized myself with it. I sent a copy of the substance of (b) (6) note below to Judge (b) (6) this morning, had (b) (6) read it and asked (b) (6) to call me back this morning. (b) (6) called me back a few minutes later. (b) (6) quickly denied discussing the merits of the case and instructing her to reach an agreement with the other attorney. I told (b) (6) that this is a case which has not even yet been assigned to (b) (6) (it is a Judge (b) (6) case set for individual hearing in December 2011), the government attorney perceived that (b) (6) was pressuring her to agree to a grant, (b) (6) discussion should have been with both parties (not one) and that it appeared (b) (6) was prejudging the case. (b) (6) again denied discussing the merits of the case, but simply scheduling, and changed the subject to other situations not related to this case. (b) (6) said (b) (6) had (b) (6) robe on when discussing the case with (b) (6). I focused (b) (6) again on this case (Matter of (b) (6) A(b) (6)). I told (b) (6) that (b) (6) should have either put the case on for a prehearing conference or a master calendar where both parties were present and that (b) (6) had set (b) (6) up for just such criticism. (b) (6) apologized for being defensive and said that (b) (6) understood. I told (b) (6) the best approach would be to give the case to another judge to hear and (b) (6) said (b) (6) would do that. I will follow up to see that that is done.

I can log this one as a complaint if you think it appropriate. With (b) (6) history of ruminating on issues, I expect that (b) (6) will come back with something else on this.

From: Smith, Gary (EOIR)
Sent: Tuesday, October 19, 2010 5:51 PM
To: (b) (6)
Subject: Re: Judge (b) (6) duty att'y request

(b) (6) thanks for bringing it to my attention and I will look into it. **Non-Responsive**
Non-Responsive Thanks again.

From: (b) (6)
To: Smith, Gary (EOIR)
Sent: Tue Oct 19 17:25:14 2010
Subject: FW: Judge (b) (6) duty att'y request
Hi Judge Smith (Gary),

Please see the below email and tell me what you think. I think this inappropriate of the IJ. I am not trying to get anyone in trouble but I don't want complaints that the ACCs are being non-responsive.

Please feel free to call me. (b) (6)

Thanks,

(b) (6)
Chief Counsel

(b) (6)
Department of Homeland Security
Immigration and Customs Enforcement
Office of Principal Legal Advisor

EOIR FOIA Processing (EOIR)

From: Smith, Gary (EOIR)
Sent: Wednesday, April 06, 2011 11:27 AM
To: Keller, Mary Beth (EOIR)
Cc: Moutinho, Deborah (EOIR)
Subject: Below

I counseled Judge (b) (6) Immigration Court, at 7:30 am, April 6, 2011, telephonically concerning two issues:

- (1) Matter of (b) (6) This was the case where the attorney for the respondent, (b) (6) had responded to a query about how Judge (b) (6) was progressing in terms of conduct and performance. She said that (b) (6) had commented on the respondent not appearing to be a homosexual. I told Judge (b) (6) that I had reviewed the oral decision and the record and recited some of the comments that (b) (6) had made in the oral decision. I told (b) (6) that (b) (6) needs to be circumspect about remarks (b) (6) makes that could be perceived as stereotyping and that attorneys and respondents may take comments like those (b) (6) made out of the overall context of the case. I told (b) (6) that I had reviewed the evidence in the case and the respondent had earlier in his testimony stated that (b) (6) tried to conceal that (b) (6) was a homosexual. Judge (b) (6) said that this came up late in the case and that (b) (6) had been surprised about it. I told (b) (6) to always carefully choose (b) (6) words, particularly in a case of this nature. I told (b) (6) that IJ (b) (6) has written (b) (6) on LGBTI issues with various citations to Board and circuit decisions and (b) (6) may want to reach out to her to obtain that. I told (b) (6) the circuit courts do seize on comments of the judge to find stereotyping. (b) (6) said (b) (6) will be more cautious on (b) (6) comments.
- (2) On the topic of (b) (6) issuing minute orders only and no oral (or written) decisions in cases where the respondent has what (b) (6) finds is an aggravated felony, I told (b) (6) that (b) (6) needs to quit trying to abbreviate the decisions to that extent and that (b) (6) needs to issue an oral decision in those. (b) (6) said that (b) (6) thought it was okay to do that at the time based on some of the cases (b) (6) had read but now understands the Board does not approve of that practice, and (b) (6) is now issuing oral decisions in those cases. (b) (6) said that (b) (6) thought there were only about five such cases. (An example is Matter of (b) (6), a decision (unpublished) by the Board on 3-31-2011, returned to the IJ for a full decision.

(b) (6) seemed to take both issues to heart and I left it at that. (b) (6) asked me if there is a date yet for (b) (6) requested transfer and I told (b) (6) there is not one set yet.

Gary W. Smith
Assistant Chief Immigration Judge
(703) 305-1247

Moutinho, Deborah (EOIR)

From: Smith, Gary (EOIR)
Sent: Friday, April 29, 2011 8:37 AM
To: Keller, Mary Beth (EOIR)
Cc: Moutinho, Deborah (EOIR)
Subject: FW: IJC Memo - Matter of (b) (6) (March 14, 2011)

Attachments: Discussion with IJ (b) (6) 4-29-11.doc; FW 140 Had to Continue Case..htm; FW 125 and waiting for video conference.htm; RE: Friday, April 29; RE Friday April 29 (2).htm; RE Friday April 29.htm; IJ Durling - Discussion with IJ (b) (6) .htm

I received Judge (b) (6) three-page response to me on Matter of (b) (6). I provided you a copy. I counseled (b) (6) orally on April 29, 2011, at 7:45 about that case, as well as about another matter that occurred this week when (b) (6) adjourned a hearing because there was a VTC technical issue. On the latter, I told (b) (6) not to adjourn cases for that reason until a supervisor has told (b) (6) that they can't connect for the hearing. On both matters, (b) (6) said (b) (6) understood and didn't offer any rebuttal to what I told (b) (6). I attached a summary of what I told (b) (6).

I would like to close out Matter of (b) (6) as oral counseling. I also had (b) (6) mentor judge talk with (b) (6) about the case, and (b) (6) reported back to me (last attachment).

From: Smith, Gary (EOIR)
Sent: Monday, April 11, 2011 9:11 AM
To: (b) (6) (EOIR)
Subject: RE: IJC Memo - Matter of (b) (6) (March 14, 2011)

It should arrive at the Court today or tomorrow. I will extend the response date to April 25th, which should give you time.

From: (b) (6) (EOIR)
Sent: Monday, April 11, 2011 8:30 AM
To: Smith, Gary (EOIR)
Subject: RE: IJC Memo - Matter of (b) (6) (March 14, 2011)

ACIJ Smith: My response is due the 18th, but I have not yet received the ROP.

(b) (6)
Immigration Judge
Executive Office for Immigration Review (EOIR)

(b) (6)

From: Smith, Gary (EOIR)
Sent: Friday, April 01, 2011 7:53 AM
To: (b) (6) (EOIR)
Subject: RE: IJC Memo - Matter of (b) (6) (March 14, 2011)

Thanks.

From: (b) (6) (EOIR)
Sent: Thursday, March 31, 2011 4:42 PM
To: Smith, Gary (EOIR)
Subject: RE: IJC Memo - Matter of (b) (6) (March 14, 2011)

ACIJ Smith: I will provide a response when I review the ROP. Thank you.

(b) (6)

13921

4/29/2011

EOIR FOIA Processing (EOIR)

From: Weil, Jack (EOIR)
Sent: Wednesday, September 28, 2011 1:08 PM
To: Keller, Mary Beth (EOIR)
Cc: McGoings, Michael (EOIR)
Subject: Letter re: Complaint Against Judge (b) (6)

Follow Up Flag: Follow up
Flag Status: Completed

MaryBeth,

DCIJ McGoings approached me this morning regarding our proposed handling of the letter received from the individual who was not satisfied with the handling of his complaint against IJ (b) (6). I had dismissed the complaint as frivolous and merits based. I maintain that we follow your original proposal that you issue a letter indicating that you, as ACIJ for conduct and professionalism, have reviewed the handling of the complaint and find that the complaint was properly handled and denied as merits based. Although I continue to agree with the frivolous finding, due to intervening events relating to the remand of the case by the Board, I would affirm the dismissal on the merits based ground only this time around. DCIJ McGoings has the file if you would like to review it. He requested time to review the matter and is read to act now. Please call me if you wish to discuss this or have any questions.

Thank you,
Jack

EOIR FOIA Processing (EOIR)

From: Keller, Mary Beth (EOIR)
Sent: Friday, December 30, 2011 2:03 PM
To: (b) (6) (EOIR)
Subject: (b) (6) response
Attachments: RE: IJC Memo - Matter of (b) (6) (September 21, 2011)

Judge (b) (6)

I received your comments regarding your decisions in (b) (6) the latest of which resulted in a remand by the Board to a different immigration judge.

You indicate that prior to issuing your oral decision on remand, you discussed the case with your former mentor in the (b) (6) immigration court and your former ACIJ, and that amid those discussions, you "may have inadvertently overlooked the BIA's instruction at the very end of the remand order," and said that you "believed the BIA wanted me to address my reasons for denying the case."

Discussing cases with your mentor judge or another colleague or supervisor is very good practice. However, I would counsel you to ensure that after doing so, you give close attention to the specifics of any BIA instructions, to the extent that they are specifically set forth. Also, would you give me your thoughts on the Board's concern regarding the respondent's contention that you held a "closed" hearing prior to your May 19, 2011 decision?

In the future, please note that an email response is acceptable and advisable, to avoid the Fed ex costs.

Thank you.
Mtk

MaryBeth Keller
Assistant Chief Immigration Judge
EOIR/OCIJ
703/305-1247
mary.beth.keller@usdoj.gov

Immigration Judge Complaint Intake Form

HQ Use Only:
complaint #: _____
source: first / subsequent

Date Received at OCIJ: January 19, 2012

complaint source type	
<input type="checkbox"/> anonymous <input checked="" type="checkbox"/> respondent's attorney <input type="checkbox"/> third party (e.g., relative, uninterested attorney, courtroom observer, etc.) <input type="checkbox"/> other: _____	<input type="checkbox"/> BIA <input type="checkbox"/> respondent <input type="checkbox"/> OIL <input type="checkbox"/> EOIR <input type="checkbox"/> OPR <input type="checkbox"/> DHS <input type="checkbox"/> OIG <input type="checkbox"/> Main Justice <input type="checkbox"/> media
complaint receipt method	
<input checked="" type="checkbox"/> letter <input type="checkbox"/> fax	<input type="checkbox"/> IJC memo (BIA) <input type="checkbox"/> unknown <input type="checkbox"/> email <input type="checkbox"/> other: _____ <input type="checkbox"/> phone (incl. voicemail) <input type="checkbox"/> in-person
date of complaint source (i.e., date on letter, date of appellate body's decision)	complaint source contact information
January 18, 2012	name: _____ address: (b) (6) email: _____ phone: _____ fax: _____
additional complaint source details (i.e., DHS component, media outlet, third party details, A-number)	
A(b) (6) A(b) (6) A(b) (6); A(b) (6) A(b) (6)	

IJ name	base city	ACIJ
IJs (b) (6) and (b) (6)	(b) (6)	Dee Nadkarni
relevant A-number(s)	date of incident	
	letters dated 1.18.12(2) and 1.25.12	
allegations		
Attorney (b) (6) alleges that IJs (b) (6) and (b) (6) are improperly denying his motions for continuance. (b) (6) contends that he has personal and health issues that have prevented his "full-time aggressive practice of law," but that his condition "has not necessarily affected [his] job." (b) (6) maintains that he is a military veteran who suffers from PTSD and cancer. He repeatedly requests additional time in the form of continuances in his (b) (6) cases. He makes a passing reference to racial prejudice on the part of IJ (b) (6) . (b) (6) wrote a separate letter relating to IJ (b) (6) requesting his cell phone number from office staff for a telephonic appearance.		
nature of complaint		
<input type="checkbox"/> in-court conduct <input type="checkbox"/> incapacity	<input type="checkbox"/> out-of-court conduct <input type="checkbox"/> other: _____	<input type="checkbox"/> due process <input checked="" type="checkbox"/> bias <input checked="" type="checkbox"/> legal <input type="checkbox"/> criminal

EOIR FOIA Processing (EOIR)

From: Nadkarni, Deepali (EOIR)
Sent: Tuesday, August 07, 2012 10:28 AM
To: Moutinho, Deborah (EOIR)
Cc: Keller, Mary Beth (EOIR)
Subject: IJ (b) (6)
Attachments: (b) (6) dnm.02.29.12.doc

Hi Deborah. I'm doing the last 6 mo writeup for IJ (b) (6). Were there any complaints on (b) (6) other than the attached? Thanks! d

Dee Nadkarni
Assistant Chief Immigration Judge
703.305.1247

EOIR FOIA Processing (EOIR)

From: Smith, Charles (EOIR)
Sent: Wednesday, July 18, 2012 12:54 PM
To: Keller, Mary Beth (EOIR)
Cc: Rosenblum, Jeff (EOIR)
Subject: RE: IJC Memo - Matter of (b) (6) (April 11, 2012)
Attachments: FW: Need to Change Schedule

Follow Up Flag: Follow up
Flag Status: Completed

Categories: Red Category

It was a year ago that you gave (b) (6) the admonition about not wanting to know (b) (6) legal theories/remedies on the then issue de jour: (b) (6) transfer (see attached – you may have had to remind (b) (6) one more time, too).

It might be worth saying that again now – or be prepared to do so soon (that's primarily why I was interested in your substantive response). It's up to you.

From: Keller, Mary Beth (EOIR)
Sent: Wednesday, July 18, 2012 12:41 PM
To: Smith, Charles (EOIR)
Cc: Rosenblum, Jeff (EOIR)
Subject: RE: IJC Memo - Matter of (b) (6) (April 11, 2012)

I haven't responded yet. If you guys are good with not responding to the last para, then I am too.
Thanks.
mtk

From: Smith, Charles (EOIR)
Sent: Wednesday, July 18, 2012 11:35 AM
To: Keller, Mary Beth (EOIR)
Cc: Rosenblum, Jeff (EOIR)
Subject: RE: IJC Memo - Matter of (b) (6) (April 11, 2012)

(b) (5)

As far as the last paragraph goes (b) (6) theories on hostile workplace or harm to (b) (6) reputation), it's my understanding that Jeff already gave you some input (basically, we don't have to respond). I agree with that – although being generous,

you could also say (b) (6) free to pursue any remedies that might be available to (b) (6). Either option is fine.

Thanks.

From: Keller, Mary Beth (EOIR)
Sent: Tuesday, July 10, 2012 2:38 PM
To: Rosenblum, Jeff (EOIR)
Cc: Smith, Charles (EOIR); Bartolomei, Jr. Rico (EOIR)
Subject: FW: IJC Memo - Matter of (b) (6) (April 11, 2012)

Gentlemen:

(b) (5)

Thanks.
Mtk

From: (b) (6) (EOIR)
Sent: Tuesday, July 10, 2012 2:27 PM
To: Keller, Mary Beth (EOIR)
Cc: Bartolomei, Jr. Rico (EOIR)
Subject: RE: IJC Memo - Matter of (b) (6) (April 11, 2012)

ACIJ Mary Beth Keller: This was a case I handled in (b) (6) where I denied CAT relief. If you review the initial transcript, I allowed respondent's counsel to introduce evidence minutes before the initial merits hearing over the objections of the DHS, even though the evidence was untimely. If the BIA would have reviewed the transcript, it would have noticed such. Although I allowed the late filing, such evidence did not prove respondent would be tortured. There was extensive fact finding then and respondent fully and completely testified in person. If the BIA would have reviewed my initial decision, it would have clearly noticed that I applied the proper standard for torture under CAT. If it disagreed with my initial decision it had the option to grant relief.

Based upon my recollection, without reviewing the case file, I became aware of the remand while presiding in (b) (6) at the (b) (6). While at (b) (6) the (b) (6) Court Administrator asked if I could hear the case on remand. As a courtesy to the (b) (6) Court I agreed. I agreed because the CA indicated that both the DHS and respondent's counsel waived their presence, and the respondent would not provide additional testimony. All the facts were already contained in the transcript created during the initial case at (b) (6). When I reviewed the case on remand, it was clear to me that the BIA allowed the respondent's counsel, to file "NEW AND ADDITIONAL EVIDENCE ON APPEAL." These documents were not contained in the remand order. During the remand the parties did not present other evidence, and the respondent did not testify again. The evidence the BIA instructed me to review was the NEW AND ADDITIONAL DOCUMENTS FILED ON APPEAL (internet documents, I believe). The BIA did not comment on this evidence nor indicate why it was sending this case back to me without deciding whether these documents should have been presented during the initial hearing. [If you recall, I informed you of this when you visited (b) (6) last year. At that time you did not indicate you had a problem with me handling this (b) (6) case from (b) (6). Even though I reviewed the "NEW AND ADDITIONAL EVIDENCE FILED ON APPEAL," I once again denied the case. I mentioned in my oral decision that I reviewed the new evidence but was not convinced. Contrary to what the BIA stated, I applied CAT torture relief standards, as I did during the initial case. I did not use an improper standard, as the BIA erroneously indicated.

This is the second time the BIA has unnecessarily remanded one of my cases to another IJ. In the first case, the respondent clearly waived appeal on the record. When I raised the issue to the BIA, pointing to the specific page in the transcript where the respondent waived appeal, the BIA remanded to another IJ. That BIA member never did cite any statute, regulation, case law or even policy I supposedly violated but seemed determined to remand to another IJ. Now in this case, the BIA also remands to another IJ because it did not like the decision I made after reviewing the NEW AND ADDITIONAL EVIDENCE FILED ON APPEAL. I suspect that if I granted relief this case would never have been reassigned to another IJ, and I would not be responding to the matter. The BIA practice of remanding to another IJ is akin

Also, in my response of July 29, 2011 to the Ethics Opinion, I requested a clarification of the reference to the appearance of impropriety as opposed to the alleged appearance of loss of impartiality as related to my case, but no response has been forthcoming. Please provide a clarification.

Finally, I request that your direction to recuse myself from certain cases be stayed pending Ethics reconsideration and/or clarification. I do not wish to burden my colleagues by having cases needlessly reassigned. For example, I could adjourn any relevant cases to a master until the issues I raise here are addressed.

(b) (6)

From: Weisel, Robert (EOIR)

Sent: Wednesday, May 30, 2012 4:33 PM

To: (b) (6) (EOIR)

Cc: O'Leary, Brian (EOIR); McGoings, Michael (EOIR); Keller, Mary Beth (EOIR); Pacitto, Star (EOIR)

Subject: Ethics Opinion

Judge (b) (6)

As you are aware, a request was made by the Chief Immigration Judge for an ethics opinion from the office of General Counsel (OGC). OGC issued an opinion, which was provided to you by the Office of the Chief Immigration Judge, concerning your recent marriage to a (b) (6) national, (b) (6) overstayed (b) (6) visa and, thus is not a legal resident of the United States. The OGC opinion makes recommendations concerning cases in which you should recuse yourself. I discussed this opinion with you today. The opinion shall be implemented today in the following manner. I direct you recuse yourself from all cases involving marital adjustment of status as well as cases involving visa overstay. Should your spouse file an application for political asylum, you are to inform me as soon as possible and we shall conform to the opinion's recommendations in that regard.

Robert D. Weisel
Assistant Chief Immigration Judge
26 Federal Plaza- Suite 1237
NY, NY 10278

14252

EOIR FOIA Processing (EOIR)

From: Nadkarni, Deepali (EOIR)
Sent: Thursday, December 20, 2012 10:53 AM
To: Keller, Mary Beth (EOIR)
Cc: Moutinho, Deborah (EOIR)
Subject: RE: (b) (6) complaint

I discussed with/counseled (b) (6) on 11.07.12, but haven't yet issued letter to (b) (6). I should do that.

Dee Nadkarni
Assistant Chief Immigration Judge
703.305.1247

From: Keller, Mary Beth (EOIR)
Sent: Thursday, December 20, 2012 10:44 AM
To: Nadkarni, Deepali (EOIR)
Cc: Moutinho, Deborah (EOIR)
Subject: RE: (b) (6) complaint

DNM –
More missing info from my review of this FOIA...Last info I have on this is in the above from 9/06/12, it's still showing open.
Which complaints was this consolidated with and was there a resolution? We can close it as resolved per another complaint if we can connect them.
Thanks.
Mtk

From: Nadkarni, Deepali (EOIR)
Sent: Friday, July 27, 2012 11:38 AM
To: Keller, Mary Beth (EOIR)
Cc: Moutinho, Deborah (EOIR)
Subject: RE: (b) (6) complaint

I have it, and plan to take all my (b) (6) stuff down to (b) (6) to go through in down-time.

Dee Nadkarni
Assistant Chief Immigration Judge
703.305.1247

From: Keller, Mary Beth (EOIR)
Sent: Friday, July 27, 2012 11:00 AM
To: Nadkarni, Deepali (EOIR)
Cc: Moutinho, Deborah (EOIR)
Subject: (b) (6) complaint

Dee,
A complaint about Judge (b) (6) came in on July 24 from an attorney, (b) (6). I can't tell from the correspondent sheet whether you have received it yet. Would you let us know? If you don't have it, we will get it to you.
Thanks.
Mtk

14270