Case 3:09-cv-01814-B Document 11 Filed 12/21/09 Page 1 of 18 PageID 39

# IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS DALLAS DIVISION

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CIVIL NO. 3:09

814-R

NABIL MUHAMMAD RIDA SADOUN, and HANA NABIL SADOUN

Plaintiffs,

V,

# TRACY TARANGO,

Field Office Director, Dallas Field Office, United States Citizenship and Immigration Services, United States Department of Homeland Security, *et al.* 

Defendants.

## APPENDIX TO MOTION TO DISMISS COMPLAINT FOR WRIT OF MANDAMUS

•		Pages
1)	Notice to Appear, dated October 21, 2009	00001-00005
2)	Declaration of Clayton Booth, dated December 17, 2009	00006-00007
3)	Declaration of Alma L. Montellano Pertaining to Nabil	
Ξ.	Muhammad Rida Sadoun, dated December 16, 2009	0000800009
4)	Notice to Appear, dated December 17, 2009	00010-00012
5)	Decision, dated December 18, 2009	00013-00016

APPENDIX TO MOTION TO DISMISS COMPLAINT FOR WRIT OF MANDAMUS - Page 1

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Respectfully submitted,

JAMES T. JACKS UNITED STATES ATTORNEY

*Isl Angie L. Henson* ANGIE L. HENSON Assistant United States Attorney 1100 Commerce, Suite 300 Dallas, Texas 75242-1027 Texas Bar No. 09492900 Telephone: 214,659.8600 Fax: 214.767.2916

## **CERTIFICATE OF SERVICE**

I hereby certify that on December 21, 2009, I electronically filed the foregoing document with the clerk of court for the U.S. District Court, Northern District of Texas, using the electronic case filing system of the court. I also certify that a copy of this document was served upon all opposing parties, or their attorneys of record, by electronic delivery on this 21st day of December, 2009.

<u>/s/ Angie L. Henson</u> ANGIE L. HENSON Assistant United States Attorney

APPENDIX TO MOTION TO DISMISS COMPLAINT FOR WRIT OF MANDAMUS - Page 2

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**A** 

U.S. Department of Homeland Security		Notice to A	ppear
In removal propartings and	section 240 of the Immigration and	d Nationality Act:	
Subject ID : 280915750	sector 240 of the limit and an	Flic No: 2044 173 037	
	DON: 06/28/1959	Event Not XDA090800001	
		BARRE JAI RECEDUNG	
ia the Matter of: Nabil Kohammad	BADOUN		
Respondent:		currently	residing at:
1708 HONNING STAR TRAIL , RICHARDON	I THXAB 7500A	nordan. Artika di karangan artika di karangan artika.	
	(Number, street, city and ZH' code)	(Area code and phone number)	**************************************
1. You are an arriving alien.			
	e United States who has not been admitted a	•	e de la composición d
be] 3. You have been admitted to the	e United States, but are removable for the re	iasons suied below.	an an an Ariga An An An An An
		an a	
The Department of Homeland Security See Continuction Pag	alleges hat you a Made a Part Bereöf		
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On the basis of the firmaning, it is that	rged that you are subject to removal from th	the United States aursuant to the following	
provision(s) of law:		ie finnen adres beinemet (d die entrich (bB	
Bee Continuation Pag	e Made a Part Hereof		
	an an Araba an an an an an Araba an Araba. An an Araba an Araba		
			1
This notice is being issued after or torture,	r an asylum officer has found that the respon	ndent has demonstrated a credible fear of p	ersecution
	eated pursuant to: ESCFR 208.30(1)(2) E	JECFR 235,3(b)(5)(iv)	
YOU ARE ORDER ED to annear befo	re an immigration judge of the United States	S Department of Institute at	
1100 Conmerce Streat, Buite 404			•
<u></u>			
	nplace Address of Innoigration Court, Including Room	a tha she a data she a she a she a she a she a she a	
on a date to be set al , a ti	et ators with 300 month to	n be removed from the United States based	i on the
(17/14-3	(Time) Necessian Low		
charge(s) set forth above.	· · · · · · · · · · · · · · · · · · ·	ASSISTANT SPECIAL AGENT I	n Charge
Date: October 21, 2009	Signature and Trving, Boxas	Title of Issuing Officari	
Liture.	2+	(City and Stare)	<del>are</del> Arte arte arte
	• • • • • • • • • • • • • • • • • • • •		

### Notice to Respondent

Warning: Any statement you make may he used against you in removal proceedings.

Alien Registration: This copy of the Notice to Appear served upon you is evidence of your alien registration while you are under removal proceedings. You are required to carry it with you at all times.

Representation: If you so choose, you may be represented in this proceeding, at no expense to the Government, by an attorney or other individual authorized and qualified to represent persons before the Executive Office for Immigration Review, pursuant to 8 CFR 3.16. Unless you so request, no hearing will be scheduled earlier than ten days from the date of this notice, to allow you sufficient time to secure counsel. A list of qualified attorneys and organizations who may be available to represent you at no cost will be provided with this notice.

Conduct of the hearing: At the time of your hearing, you should bring with you any affidavits or other documents, which you desire to have considered in connection with your case. If you wish to have the testimeny of any witnesses considered, you should arrange to have such witnesses present at the hearing.

At your hearing you will be given the opportunity to admit or deny any or all of the allegations in the Notice to Appear and that you are inadmissible or removable on the charges contained in the Notice to Appear. You will have an opportunity to present evidence on your own behalf, to examine any evidence presented by the Government, to object, on proper legal grounds, to the receipt of evidence and to cross examine any witnesses presented by the Government. At the conclusion of your hearing, you have a right to appeal an adverse decision by the immigration judge,

You will be advised by the immigration judge before whom you appear of any relief from removal for which you may appear eligible including the privilege of departure voluntarity. You will be given a reasonable opportunity to make any such application to the immigration judge.

Failure to appear. You are required to provide the DHS, in writing, with your full mailing address and telephone number. You must notify the Immigration Court Immediately by using Form EOIR-33 whenever you change your address or telephone number during the course of this preceding. You will be provided with a copy of this form. Notices of hearing will be melled to this address. If you do not submit. Form EOIR-33 and do not otherwise provide an address at which you may be reached during proceedings, then the Government shall not be required to provide you with written notice of your hearing. If you fail to attend the hearing at the time and place designated on this notice, or any date and time later directed by the Immigration Court, a removal order may be made by the Immigration judge in your absence, and you may be prested and detained by the DHS.

Mandatory Buty to Sorrender for Removal: If you become subject to a final order of removal, you must surrender for removal to one of the offices listed in 8 CFR 241.16(a). Specific addresses on locations for surrender can be obtained from your local DHS office or over the internet at <u>http://www.ice.gov/about/dm/contact.htm</u>. You must surrender within 30 days from the date the order becomes administratively final, unless you obtain an order from a Federal court, immigration court, or the Board of Immigration Appeals staying execution of the removal order. Immigration regulations at 8 CFR 241.1 define when the removal order becomes administratively final. If you are granted voluntary departure and fail to depart the United States as required, fall to post a bond in connection with voluntary departure, or fail to comply with any other condition or term in connection with voluntary departure, you must surrender for removal on the next business day thereafter. If you do not surrender for removal as required, you will be ineligible for all forms of discretionary relief for as long as you remain in the United States and for the years after departure are removal. This means you will be ineligible for asylum, cancellation of removal, voluntary departure, adjustment of status, change of noninenigrant status, registry, and related waivers for this period. If you do not surrender for removal as required, you may also be criminally prosecuted under section 243 of the Act.

### Request for Prompt Hearing

To expedite a determination in my case, I request an immediate hearing. I waive my right to a 10-day period prior to appearing before an immigration judge.

Before:			tanan ara	(Signa	here of Respondent)	•	
			· · · · · · · · · · · · · · · · · · ·		Date:		
	(Signature and Tit	le of Immigration Officer)		•			
This Natice To Appear 239(a)(1)(F) of the Act	was served on the	Certifi respondent by me on <u>Dete</u>	cale of Service ober 21, 2009	_, in the following	munner and in comp	liance with sectio	n
<ul> <li>in person</li> <li>Attached is a cred</li> </ul>	by certi	1	en energing	🛄 by regi	Jar mell		
The alien was provided	oral notice in the	attomeys which provide fi led in section 240(b)(7) of	language ( the Act.	of the time and plac	ce of his or her hearin		n an a Na sainte Na sainte
(Signalure of	Respondent (f Personal)	Served)	CLAYT	ON BOOTH (Signa	thure and Title of officer)	AL AGENT	
		and the second second			Form	-862 Page 2 (Rev. 0	8/01/07

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U.S. Department of Homeland Security

Allen's Name	Flie Number
Nabil Mohammad SADOUN	A044 173 037 October 21, 2009
	Event Noi XDA0908000011
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THE SERVICE ALLEGES THAT YOU:	
1. You are not a citizen or national of	E the United States;
2. You are a native of JORDAN and a cit	
3. On or before July 19, 1993, you were	a member of or affiliated with the Muslim
Brotherhood;	
	im Brotherhood was affiliated with the "Islamic
Resistance Movement" (also known as HAL	
	a member of or affiliated with the Palestins
Committee	
	estine Committee was affiliated with the Fislamic
Resistance Movement" (also known as HA	
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Association (MAYA);	of the Muslim Arab Youth Association's (MAYA)
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Association (MAYA)	cont 1991! You word a reader or the Meetin Wran roach
	slim Arab Youth Association (MAYA) was affiliated with
the "Islamic Resistance Movement" (als	
	re a member of or affiliated with the United
Association for Studies and Research (	UASR) (
12. On or about 1989, you ware a membe	r of the United Association for Studies and Research's
(UASR) founding Board of Directors;	
13. On or before July 19, 1993, the Un	ited Association for Studies and Research (DASR) was
affiliated with the "Islamic Resistanc	e Movement" (also known as HAMAS);
14. In response to quastion 22 of Opti	onal Form 230, Application for Immigrant Visa and
Alien Registration, subscribed and swo	rn to July 19, 1993, you by fraud or willfully
misrepresenting a material fact failed	to list your membership in or affiliation with any
	anizations affiliated with Communist, totalitarian,
terrorist or Nazi organizations;	i de la complete de la complete de la contraction de la complete de la complete de la complete de la complete d
	ional Form 230, Application for Timmigrant Visa and
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	to list your membership in or affiliation with the
Huslim Brotherhood;	onal Form 230, Application for Immigrant Visa and
11 on Regionst to Question 22 of Opti	an to July 19, 1993, you by fraud or willfully
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18, In response to question 22 of the	Optional Form 230, Application for Immigrant Visa and
Alien Registration, subscribed and swo	rn to July 19, 1993, you by fraud or willfully
misrepresenting a material fact failed	to list your membership in or affiliation with the
United Assoication for Studies and Res	sarch (UASR);
	ates at Chicago, Illinois on or about August 12, 1993
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(CONTINUED ON NEXT PAGE)	
Signature and the second s	Title
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BEAN CARBON	ASSISTANT SPECIAL AGENT IN CHANGE

Form I-B31 Continuation Page (Rev. 08/01/07)

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11 0 ΪD.a nortment of Homeland Security

I862 **Continuation Page for Form** 

abil Mohammad SADOUN       A044 173 877		
abil Mohammad SADOUN       A044 173 877	Allen's Name	File Number Date
Event No. IXDA0908000011 O. Yon did not then posess or presents valid immigrative visa, reentry permit, border creasing identification card, or other valid entry document, and you were not exampt herefica. A. You procured your admission, visa, adjustment, or other documentation or benefit by raud or by willfully misrepresenting a material fact; N THE BASIS OF THE FOREGOING, IT IS CHARGED THAT YOU ARE SUBJECT TO REMOVAL FROM THE UNITY TATHES PREVATH TO THE FOREGOING, ST DIS CHARGED THAT YOU ARE SUBJECT TO REMOVAL FROM THE UNITY TATHES PREVATH TO THE FOREGOING, ST DIS CHARGED THAT YOU ARE SUBJECT TO REMOVAL FROM THE UNITY TATHES PREVATH TO THE FOREGOING, ST DIS CHARGED THAT, YOU ARE SUBJECT TO REMOVAL FROM THE UNITY TATHES PREVATH TO THE FOREGOING, ST DIS CHARGED THAT, YOU ARE SUBJECT TO REMOVAL FROM THE UNITY TATHES PREVATION TO THE FOREGOING, ST DIS CHARGED THAT, YOU ARE SUBJECT TO REMOVAL FROM THE UNITY TATHES PREVATION TO THE FOREGOING, ST DIS CHARGED THAT, YOU ARE SUBJECT TO REMOVAL FROM THE UNITY TATHES PREVATION TO THE FOREGOING, ST DIS CHARGED THAT, YOU ARE SUBJECT TO REMOVAL FROM THE UNITY TATHES PREVATE TO THE FOREGOING, AT DIS CHARGED THAT, YOU ARE SUBJECT TO REMOVAL FROM THE UNITY TATHES PREVATE TO THE FOREGOING PREVATION AND NATIONALITY ACT (ACT), as amended, in that you to can alien who at the time of entry or of adjustment of status was within one or more of the classes of alien indehiseion by the day weisting is such time, to wild unexpired migrant Visa, reentry permit, border crossing identification card, or other wild entry orument, required by this Act, and a valid unexpired passport, or other wild entry orument required by the Altorney General, pursuant to Section 212(a)(7)(A)(1)(1)(d)(d)(D) of the dL. Signoture Signoture Signoture Signoture	Jabil Mohammad SADOUN	이는 이상 것 같아요. 이상 모습을 가장했다. 이상 이상 이상 이상 이상 전에 가장 이상 이상 가장 이상
Signature A point of the second provided and provided by the Attorney General, or other documentation or benefit by rand or by Wilfully misrepresenting a material fact; N THE BASIS OF THE FOREGOING, IT IS CHARGED THAT YOU ARE SUBJECT TO REMOVAL FROM THE UNIT THATES PORSUANT TO THE FOLLOWING PROVIDEOR(S) OF LAW: Section 237(a) (1) (A) of the Immigration and Nationality Act (Act), as amonded, in that you re an alien who at the time of entry or of adjustment of status was within one or more of the product under this Act, product at the Charge of the Act. Section 237(a) (1) (A) of the Immigration and Nationality Act (Act), as amonded, in that you re an alien who at the time of entry or of adjustment of status was within one or more of the produced) a view, other action 213(b) (5) (C) (1) of the Act. Section 237(s) (1) (A) of the Immigration and Nationality Act (Act), as amended, in that you re an alien who at the the fing of entry or of adjustment of status was within one or more of ho classes of alien induisabile by the law existing at such time, to wit; an alien who is the the fing of antry or of adjustment of status was within one or more of ho classes of alien induisabile by the law existing at auch time, to wit; an immigration and Nationality Act (Act), as amended, in that you re an alien who at the time of entry or of adjustment of status was within one or more of ho classes of alien induitabile by the law existing at such time, to with an immigration and the status was welled on of a collection y and the alies of act, part of a disting, to with an immigration and nationality is each document is required under the area alien who at the time of entry or of adjustment of status was within one or any of an of any and the align at the time, to with an immigration at the time of application for administication and, or other wall did entry or analysis the addition of a status was well and, or other wall did entry or an alien and the the time of an any and the align at a status and the		Byent No: XDA090800D011
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BIAN CARSON	Act.	
ABSISTANT REPORTS, FORMER THE ASSISTANT REPORTS TO AND		
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Form I-831 Continuation Page (Rev. 08/01/07)

Case 3:09-cv-01814-B Document 11 Filed 12/21/09 Page 7 of 18 PageID 45

NOTICE OF HEARING IN REMOVAL PROCEEDINGS IMMIGRATION COURT 1100 COMMERCE ST., ROOM 404 DALLAS, TX 75242

RE: SADOUN, NABIL MOHAMMAD FILE: A044-173-037

TO;

DATE: Oct 27, 2009

SADOUN, NABIL MOHAMMAD 1708 MORNING STAR TRAIL RICHARDSON, TX 75081

Please take notice that the above captioned case has been scheduled for a MASTER hearing before the Immigration Court on Feb 17, 2010 at 08:30 A.M. at:

1100 COMMERCE ST., ROOM 404 DALLAS, TX 75242

You may be represented in these proceedings, at no expense to the Government, by an attorney or other individual who is authorized and gualified to represent persons before an Immigration Court. Your hearing date has not been scheduled earlier than 10 days from the date of service of the Notice to Appear in order to permit you the opportunity to obtain an attorney or representative. If you wish to be represented, your attorney or representative must appear with you at the hearing prepared to proceed. You can request an earlier hearing in writing.

Failure to appear at your hearing except for exceptional circumstances may result in one or more of the following actions: (1) You may be taken into custody by the Department of Homeland Security and held for further action. OR (2) Your hearing may be held in your absence under section 240(b)(5) of the Immigration and Nationality Act. An order of removal will be entered against you if the Department of Homeland Security established by clear, unequivocal and convincing avidence that a) you or your attorney has been provided this notice and b) you are removable.

IF YOUR ADDRESS IS NOT LISTED ON THE NOTICE TO APPEAR, OR IF IT IS NOT CORRECT, WITHIN FIVE DAYS OF THIS NOTICE YOU MUST PROVIDE TO THE IMMIGRATION COURT DALLAS, TX THE ATTACHED FORM EOIR-33 WITH YOUR ADDRESS AND/OR TELEPHONE NUMBER AT WHICH YOU CAN BE CONTACTED REGARDING THESE PROCEEDINGS. EVERYTIME YOU CHANGE YOUR ADDRESS AND/OR TELEPHONE NUMBER, YOU MUST INFORM THE COURT OF YOUR NEW ADDRESS AND/OR TELEPHONE NUMBER WITHIN 5 DAYS OF THE CHANGE ON THE ATTACHED FORM EOIR-33. ADDITIONAL FORMS EOIR-33 CAN BE OBTAINED FROM THE COURT WHERE YOU ARE SCHEDULED TO APPEAR. IN THE EVENT YOU ARE UNABLE TO OBTAIN A FORM EOIR-33, YOU MAY PROVIDE THE COURT IN WRITING WITH YOUR NEW ADDRESS AND/OR TELEPHONE NUMBER BUT YOU MUST CLEARLY MARK THE ENVELOPE "CHANGE OF ADDRESS." CORRESPONDENCE FROM THE COURT, INCLUDING HEARING NOTICES, WILL BE SENT TO THE MOST RECENT ADDRESS YOU HAVE PROVIDED, AND WILL BE CONSIDERED SUFFICIENT NOTICE TO YOU AND THESE PROCEEDINGS CAN GO FORWARD IN YOUR ABSENCE.

A list of free legal service providers has been given to you. For information regarding the status of your case, call toll free 1-800-898-7180 or 703-305-1662.

CERTIFICATE OF SERVICE THIS DOCUMENT WAS SERVED BY: MAIL (M) PERSONAL SERVICE (P) TO; [M] ALIEN [] ALIEN C/O CUSTODIAL OFFICER [] ALIEN'S ATT/REP M DHS DATE: 10/27/09 BY: COURT STAFF V3 Attachments: 1] EOIR-33 [] EOIR-28 [] Legal Services List [] Other

# UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF TEXAS DALLAS DIVISION

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NABIL MUHAMMAD RIDA SADOUN, and HANA NABIL SADOUN Plaintiffs,

CASE NO. 3:09-CV-1814-B

# TRACY TARANGO,

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Field Office Director, Dallas Field Office, United States Citizenship and Immigration Services, United States Department of Homeland Security, *et al.* 

Defendants.

## DECLARATION OF CLAYTON BOOTH

In accordance with 28 U.S.C. § 1746, I, Clayton Booth, in my official capacity, and under my authority to make representations about this case, do hereby declare under penalty of perjury that the following is true and correct to the best of my knowledge and belief:

- 1. I am presently employed as a Senior Special Agent with U.S. Immigration and Customs Enforcement (ICE). I am currently assigned to the Identity and Benefit Fraud Unit of the Dallas Office of Investigations, U.S. Immigration and Customs Enforcement, U.S. Department Homeland Security. I am also the lead ICE case agent who was responsible for the investigation of immigration-related issues concerning Nabil Sadoun, A44 173 037.
  - On October 21, 2009, I personally served Nabil Sadoun a Notice to Appear (NTA) in the presence of his attorney. On that same date, I understand that Mr. Sadoun's NTA was filed with the Executive Office of Immigration Review (EOIR), Dallas, Texas.
- 3. Upon information and belief, I discovered that upon ICE filing Nabil Sadoun's NTA, EOIR generated a master calendar hearing date for Mr. Sadoun to appear in immigration court on February 17, 2010.

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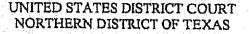
- U.S. Department of Homeland Security records show that Nabil Sadoun departed the United States on October 29, 2009 and, to date, there is no indication he has reentered the United States.
- 5. On December 17, 2009, I served Hana Sadoun, A44 173 038, and her attorney Kimberly Kinser a NTA via certified mail.

I declare under penalty of perjury that the foregoing is true and correct. Executed this 17th day of December, 2009, at Dallas, Texas.

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Clayton Booth

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Nabil Muhammad Rida Sadoun,

ν.

Plaintiff,

Civ. Act. Number: 3:09-cy-1814

Department of Homeland Security, et al.

Defendants.

## DECLARATION OF ALMA L, MONTELLANO PERTAINING TO NABIL MUHAMMAD RIDA SADOUN

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In accordance with 28 U.S.C. 1746, I, Alma L. Montellano, Immigration Service Officer, District 16, Dallas Field Office, United States Citizenship and Immigration Service in my official capacity, and under my delegated authority to make representations about this case, do hereby declare under penalty of perjury that the following is true and correct to the best of my understanding and belief:

I, Alma L. Montellano, am presently employed as an Immigration Service Officer in District 16, Dallas Field Office, United States Citizenship and Immigration Services (USCIS). In my capacity as an Immigration Service Officer, I adjudicate and process applications submitted by immigrants applying for naturalization (N-400).

USCIS maintains records on immigrant applicants applying for naturalization. All records, documents, or data compilations of acts or events made at or near the time by, or from information transmitted by, a person with knowledge is kept in the course of a regularly conducted business activity. I have reviewed the record and file of Nabil Muhammad Rida Sadoun, and other information that has become known to or supplied to me in the course of my official and delegated responsibilities concerning the processing of this application and find the following:

- Plaintiff, Nabil Muhammad Rida Sadoun, is native and citizen of Jordan whose status was adjusted to that of a Lawful Permanent Resident (LPR) of the United States on August 12, 1993. On or about August 12, 1998, the Plaintiff filed an N-400 (Application for Naturalization).
- On October 21, 2009, Immigration and Custom Enforcement (ICE) executed a Notice to Appear (NTA.) (NTA dated October 21, 2009 attached)
- 3. On October 22, 2009, the USCIS denied the Plaintiff's N-400 because ICE agents executed a Notice to Appear (NTA) which was served to the plaintiff in person by Senior Special Agent Clay Booth. Pursuant to Section 318 of the Immigration and Nationality Act (INA), "no application should be considered by the Attorney General if there is pending against the applicant a removal proceeding pursuant to a warrant of arrest issued under the provision of this or any other Act." Therefore, the Service denied the N-400 based on the grounds that ICE issued an NTA.

4. According to Section 318.1 of the 8 C.F.R, "For purposes of INA 318, A Notice to Appear issued in deportation proceedings is regarded as a warrant for arrest."

 I called the Immigration Judge case status holline, 800 898 7180, which reflects that the NTA was filed and that the next master hearing date is February 17, 2010 at 8:30 a.m. before Immigration Judge D. Anthony Rogers, 1100 Commerce Street, Dallas, Texas.

I declare under penalty of perjury that the foregoing is true and correct. Executed this  $| \underline{b}^{m} day of \underline{December}, 2009 at Dallas, Texas.$ 

Alma L. Montellano Immigration Service Officer Dallas Field Office, District 16 U.S. Citizenship and Immigration Service

# Case 3:09-cv-01814-B Document 11 Filed 12/21/09 Page 12 of 18 PageID 50

			Notice to Appear
In removal propositing and	er section 240 of the Immigration and	Nationality Act	
Subject ID : 282263223	er seenan 240 of the immediation and		173 038
	DOB: 06/11/1964	File No: A044	XDA1012000025
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The Department of Homeland Secur	ity alleges that you; a or national of the United Stat	(es)	
2. You are a native of 2	JORDAN and a citizen of JORDAN;		
3. You were admitted to	the United States at Chicago, I it, the spouse of an SD-1 immigr	llinois on or al	bout August 12,
4. You did not then post	sess or present a valid immigrat	it visa, reentry	permit, border
crossing identification	card, or other valid entry docu	ment, and you w	era not exempt
	vere not entitled to the status spouse, Nabil Sadoun, A44 173 (		
adjustment, or other do	umentation or benefit by fraud	or by willfully	misrepresenting a
material fact.			
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### Notice to Respondent

Warning; Any statement you make may be used against you in removal proceedings,

Alien Registration: This copy of the Notice to Appear served upon you is evidence of your alien registration while you are under removal proceedings. You are required to carry it with you at all times.

Representation: If you so choose, you may be represented in this proceeding, at no expense to the Government, by an attorney or other individual authorized and qualified to represent persons before the Executive Office for Immigration Review, pursuant to 8 CFR 3.16. Unless you so request, no hearing will be scheduled earlier than ten days from the date of this notice, to allow you sufficient time to secure counsel. A list of qualified attorneys and organizations who may be available to represent you at no cost will be provided with this notice.

Conduct of the hearing: At the time of your hearing, you should bring with you any affidavits or other documents, which you desire to have considered in connection with your case. If you wish to have the testimony of any witnesses considered, you should arrange to have such witnesses present at the hearing.

At your hearing you will be given the opportunity to edmit or deny any or all of the allegations in the Notice to Appear and that you are imadmissible or removable on the charges contained in the Notice to Appear. You will have an opportunity to present evidence on your own behalf, to examine any evidence presented by the Government, to object, on proper legal grounds, to the receipt of evidence and to cross examine any witnesses presented by the Government. At the conclusion of your hearing, you have a right to appeal an adverse decision by the immigration judge.

You will be advised by the immigration judge before whom you appear of any relief from removal for which you may appear eligible including the privilege of departure voluntarily. You will be given a reasonable opportunity to make any such application to the immigration judge.

Failure to appear: You are required to provide the DHS, in writing, with your full mailing address and telephone number. You must notify the Immigration Court immediately by using Form EOIR-33 whenever you change your address or telephone number during the course of this preceeding. You will be provided with a copy of this form. Notices of bearing will be mailed to this address. If you do not submit Form EOIR-33 and do not otherwise provide an address at which you may be reached during proceedings, then the Government shall not be required to provide you with written notice of your hearing. If you fail to attend the hearing at the time and place designated on this notice, or any date and time later directed by the Immigration Court, a removal order may be made by the immigration judge in your absence, and you may be arrested and detained by the DHS.

Mandatory Duty to Surrender for Removal: If you become subject to a final order of removal, you must surrender for removal to one of the offices listed in 8 CFR 241.16(a). Specific addresses on locations for surronder can be obtained from your local DHS office or over the internet at http://www.ice.gov/about/dro/contact.htm. You must surrender within 30 days from the date the order becomes administratively final, unless you obtain an order from a Federal court, immigration court, or the Board of Immigration Appeals staying execution of the removal order. Immigration regulations at 8 CFR 241.1 define when the removal order becomes administratively final. If you are granted voluntary departure and fail to depart the United States as required, fail to post a bond in connection with voluntary departure, or fail to comply with any other condition or term in connection with voluntary departure, you must surrender for removal on the next business day thereafter. If you do not surrender for removal as required, you will be incligible for all forms of discretionary relief for as long as you remain in the United States and for tan years after departure or removal. This means you will be ineligible for asylum, cancellation of removal, voluntary departure, adjustment of status, change of noninvulgrant status, registry, and related waivers for this period. If you do not surrender for removal as required, you may also be criminally prosecuted under section 243 of the Act.

### Request for Prompt Hearing

To expedite a determination in my case, I request an immediate hearing. I waive my right to a 10-day period prior to appearing before an immigration judge,

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	(Signature and Title of Immigration (	Officer)				
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	appear as provided in section 24	0(b)(7) of the Act.	guage of the time	and place of his or h	er hearing and of the SPECIAL AGENT	
(Signature of Re-	apondent if Personally Served)	•		(Signuture and Title of	afficer)	Filler (

Form I-862 Page 2 (Rev, 08/01/07)

U.S. Department of Homeland Security

Continuation Page for Form \_\_\_\_\_\_\_\_

Hana Nabil SADOUN	File Number         Date           A044 173 038         December 17, 2009           Event No; XDA1012000026         December 17, 2009
ON THE BASIS OF THE FOREGOING, IT IS CHI STATES PURSUANT TO THE FOLLOWING PROVIS	ARGED THAT YOU ARE SUBJECT TO REMOVAL FROM THE UNITE: CON(S) OF LAW:
the time of entry or of adjustment of s aliens inadmissible by the law existing in possession of a valid unexpired immi- identification card, or other valid ent- possession of a valid unexpired passport	and Nationality Act (Act), as amended, in that at satus, you were within one or more of the classes of at such time, to wit; alien immigrants who are not grant visa, reentry permit, border crossing by document required by the Act, or who are not in t, or other suitable travel document, or identity and a required by regulations issued by the Attorney (i) (I) of the Act,

Signature	ج	CANFAL RUIZ	Xz	Title	ly special agent
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Form I-831 Continuation Page (Rev. 08/01/07)

Page 15 of 18 PageID 53



U.S. Department of Homeland Security 6500 Compus Circle Drive East Irving, TX 75063

U.S. Citizenship and Immigration Services

Date: December 18, 2009

File: A44 173 038 .

Hana Nabil Sadoun 1708 Morning Star Trail Richardson, TX 75081

### DECISION

On August 21, 1998, you filed an Application for Naturalization, Form N-400, in accordance with Section 316 of the Immigration and Nationality Act, as amended.

Section 318 of the Immigration and Nationality Act, as amended, states in pertinent part:

Except as otherwise provided in this title, no person shall be naturalized unless he has been lawfully admitted to the United States for permanent residence in accordance with all applicable provisions of this Act... Notwithstanding the provisions of section 405(b), and except as provided in Sections 328 and 329, no person shall be naturalized against whom there is outstanding a final finding of deportability pursuant to a warrant of arrest issued under the provisions of this or any other Act; and no application for naturalization shall be considered by the Attorney General if there is pending against the applicant a removal proceeding pursuant to a warrant of arrest issued under the provisions of this or any other Act...

Section 318.1 of the 8 C.F.R, states in pertinent part:

For purposes of INA 318, a Notice to Appear issued in deportation proceedings is regarded as a warrant for arrest.

On December 17, 2009, a Notice to Appear (NTA attached) was served upon based on you being ineligible at the time of admission under Section 237(a) (1)(A),

Therefore, in accordance with Section 318 of the Immigration and Nationality Act you are ineligible for naturalization.

If you desire to request a review hearing on this decision pursuant to Section 336(a) of the Act, you must file a request for hearing. You must file the request within 30 days of the date of this notice. If no request for hearing is filed within the time allowed, this decision is final. A request for hearing may be made to the District Director with the United States Citizenship and Immigration Service office that made the decision. You should file the request with a fee of \$605.00 on Form N-336, Request for Hearing on a Decision in Naturalization Proceedings, under Section 336 of the Act. A brief or other written statement in support of your request may be submitted with the N-336.

Sincerely,

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Tracy Tarango Field Office Director

UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF TEXAS

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Civ. Act. Number: 3:09-cy-1814

Hana Nabil Sadoun,

Plaintiff.

Department of Homeland Security, et al.

Defendants.

## DECLARATION OF ALMA L. MONTELLANO PERTAINING TO HANA NABIL SADOUN

In accordance with 28 U.S.C. 1746, I, Alma L. Montellano, Immigration Service Officer, District 16, Dallas Field Office, United States Citizenship and Immigration Service in my official capacity, and under my delegated authority to make representations about this case, do hereby declare under penalty of perjury that the following is true and correct to the best of my understanding and belief:

I, Alma L. Montellano, am presently employed as an Immigration Service Officer in District 16, Dallas Field Office, United States Citizenship and Immigration Services (USCIS). In my capacity as an Immigration Service Officer, I adjudicate and process applications submitted by immigrants applying for naturalization (N-400).

USCIS maintains records on immigrant applicants applying for naturalization. All records, documents, or data compilations of acts or events made at or near the time by, or from information transmitted by, a person with knowledge is kept in the course of a regularly conducted business activity. I have reviewed the record and file of Hana Nabil Sadoun, and other information that has become known to or supplied to me in the course of my official and delegated responsibilities concerning the processing of this application and find the following:

- Plaintiff, Hana Nabil Sadoun, is native and citizen of Jordan whose status was adjusted to that of a Lawful Permanent Resident (LPR) of the United States on August 12, 1993. On or about August 21, 1998, the Plaintiff filed an N-400 (Application for Naturalization).
- On December 17, 2009, Immigration and Custom Enforcement (ICE) executed a Notice to Appear (NTA.) (NTA dated December 17, 2009 attached)
- 3. On December 18, 2009, the USCIS denied the Plaintiff's N-400 because ICE agents executed a Notice to Appear (NTA) which was served via certified mail. Pursuant to Section 318 of the Immigration and Nationality Act (INA), "no application should be considered by the Attorney General if there is pending against the applicant a removal proceeding pursuant to a warrant of arrest issued under the provision of this or any other Act." Therefore, the Service denied the N-400 based on the grounds that ICE issued an NTA.
- 4. According to Section 318.1 of the 8 C.F.R, "For purposes of INA 318, A Notice to Appear issued in deportation proceedings is regarded as a warrant for arrest."
- On December 17, 2009, ICE filed the NTA with the United States Department of Justice Immigration Court. Contact the Immigration Judge case status hotline, 800 898 7180, which will reflect the date and time of the first master hearing before an Immigration Judge at, 1100 Commerce Street, Dallas, Texas.

I declare under penalty of perjury that the foregoing is rue and correct. Executed this 18<sup>m</sup> day of <u>December</u>, 2009 at Dallas, Texas.

Alma L. Montellano Immigration Service Officer Dallas Field Office, District 16 U.S. Citizenship and Immigration Service

## SUBMITTING THE FORM

Although you may complete most of this fillable form on our website, the authorized credit card user must sign the form immediately above. You may either scan and email the form, or fax it to the clerk's office in the appropriate division.

## Abilene

Fax: 325-677-6334 Email: <u>abilene\_intake@txnd.uscourts.gov</u>

## Amarillo

Fax: 806-468-3862 Email: <u>amarillo\_intake@txnd.uscourts.gov</u>

## Dallas

Fax: 214-753-2266 Email: dallas\_intake@ixnd.uscourts.gov

Fort Worth Fax: 817-850-6633 Email: <u>fortworth\_intake@txnd.uscourts.gov</u> Lubbock Fax: 806-472-1960 Email: <u>lubbock\_intake@txnd.uscourts.gov</u>

San Angelo Fax: 806-658-6826 Email: <u>sanangelo 'intake@txnd.uscourts.gov</u>

Wichita Falls Fax: 940-767-2526 Email: wichitafalls\_intake@txnd.uscourts.gov