No.

IN THE

SUPREME COURT OF THE UNITED STATES

Honorable, Decorated, Disabled American Veteran

Muhammad Chaudhry · PETITIONER, *pro se*

vs.

Jeh Johnson, *et al* · RESPONDENT(S)

MOTION FOR LEAVE TO PROCEED ON VETERAN STATUS

ON PETITION FOR A WRIT OF CERTIORARI TO

NINTH CIRCUIT COURT OF APPEALS

PETITION FOR WRIT OF CERTIORARI

Muhammad Chaudhry, Honorable Disabled American Veteran

i, present myself, Muhammad Chaudhry, an aggrieved man and instructs the court to take judicial notice of this **United States Supreme Court Petition for a Writ of Certiorari to Ninth Circuit Court of Appeals and in the interest of justice**; to look to the substance and not form of this aggrieved man's proceedings; to give liberal considerations in this matter; **and in the interest of justice** to inform this aggrieved man of any deficiencies in the proceedings, and to give instructions of how proceedings are deficient and how to repair proceedings, as this aggrieved man is unskilled in the law. Notice to Principal is Notice to Agent / Notice to Agent is Notice to Principal. Applicable to all Successors and Assigns.

If there are any dispute(s) of the interpretation or definition of any word, phrase, and/or of this aggrieved man's intent herein, this aggrieved man reserves the right of the meaning and intent is determined and final say thereof is by this aggrieved man. This aggrieved man reserves the right of amending or replacement of this filing and/or any future filing at any time without leave of court. This aggrieved man reserves the right of final determination.

Honorable disabled American Veteran Muhammad Chaudhry, having served faithfully and honorably in the Armed Forces of the United States of America requests Motion for Leave to Proceed under Rule 40, Veterans, Seamen and Military Cases and Rule 33.2 on Petition for Writ Certiorari.

Also pursuant to Rule 40 and 33.2, Veteran Chaudhry, having been awarded certificates, awards and medals (among other acknowledgements and recognitions)

by the United States government itself as Testimonials of Honorable, Honest and Faithful service requests leave to proceed under provision of law exempting Veterans from the payments of fees or court costs, to proceed without prepayment of fees or costs or furnishing security therefore.

Attached please find awarded Honorable certificate with awards and medals for Honorable, Faithful, Loyal, Honest, Steadfast and Selfless service from United States Armed Forces and United States Government Official Record.

Affidavit Respectfully submitted this 14th of March, 2014.

Muhammad Chaudhry

No. 13M104

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QUESTIONS PRESENTED

What "national security concern" does USCIS (US Citizenship and Naturalization Services) speculate to Honorable, Decorated, Disabled American Veteran Muhammad Chaudhry?

Shall USCIS be required to provide competent and complete documentation to Muhammad Chaudhry, if such speculated "national security concern" exists?

With over 875,000 names on the Terrorist Watch List, a list that does not require evidence of threat, where shall it end?

Shall the illegal, immoral and unconstitutional secret policy of "CARRP" (Controlled Application Review and Resolution Program), Operation Frontline, etc. be perpetrated to circumvent statutory laws and the expedited naturalization guarantee of Presidential Executive Order # 13269 upon the honorable, selfless, altruistic, and faithful United States military service of Muhammad Chaudhry?

Chaudhry's father, grandmother and family became refugees in a different country when British empire collapsed, the same grandmother died after waiting so many burdensome years for adjudication of her son's (Chaudhry's uncle; a US citizen who was invited by US government 27 years ago as researcher and scientist) I-130 petition for her. Should this long and gruesome history of tragedy, trauma and immense suffering ever be given relief and remedy?

Shall the secret, discriminatory, biased, prejudiced, illegal, bigoted, immoral, and

unconstitutional "CARRP" policy be perpetrated to deport Muhammad Chaudhry?

Shall USCIS be allowed to dishonor not once, but twice loyal, steadfast, selfless, honest and altruistic United States military service of Honorable, decorated, disabled American Veteran Muhammad Chaudhry?

US Supreme Court must reverse an agency policy (CARRP) when it cannot discern a reason for it?

It has been reiterated immeasurable times: "we are committed to the service of those who sacrificed in our defense." What message will be sent to thousands of non US citizens serving US Government and US Military worldwide?

What impact would this very case have on recruitment and retention ability of US government, Department of Defense, and Armed Forces in times of emergencies and war?

Should the long suffering, lost opportunities, life plans, mental and emotional pain and anguish continue because of the uncertainty of Chaudhry's future status in the US?

Shall Chaudhry, with his long-standing ties and deep roots in this country, lose his right to stay home?

What kind of legacy does this court intend to leave in History?

LIST OF PARTIES

Petitioner: Muhammad Chaudhry, *pro se*, seeking naturalization.

Respondents:

Jeh Johnson (formerly Janet Napolitano), Secretary of United States Department of Homeland Security.

Alejandro Mayorkas, Director United States Citizenship and Immigration Services.

Eric Holder, Attorney General United States.

Anne Arries Corsano (formerly Patti Reynolds, Acting Director), Director USCIS Seattle Field Office.

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FEDERAL STATUTES AND REGULATIONS INVOLVED

8 U.S.C. § 1421(c) Judicial Review

A person whose application for naturalization under this subchapter is denied, after a hearing before an immigration officer under section 1447(a) of this title, may seek review of such denial before the United States district court for the district in which such person resides in accordance with chapter 7 of title 5. Such review shall be *de novo*, and the court shall make its own findings of fact and conclusions of law and shall, at the request of the petitioner, conduct a hearing *de novo* on the application.

28 U.S.C. § 1254. Courts of Appeals; certiorari; certified questions

Cases in the courts of appeals may be reviewed by the Supreme Court by the following methods:

(1) By writ of certiorari granted upon the petition of any party to any civil or criminal case, before or after rendition of judgment or decree;

(2) By certification at any time by a court of appeals of any question of law in any civil or criminal case as to which instructions are desired, and upon such certification the Supreme Court may give binding instructions or require the entire record to be sent up for decision of the entire matter in controversy.

28 U.S.C. § 1291. Final decisions of district courts

The courts of appeals (other than the United States Court of Appeals for the Federal Circuit) shall have jurisdiction of appeals from all final decisions of the district courts of the United States, the United States District Court for the District of the Canal Zone, the District Court of Guam, and the District Court of the Virgin Islands, except where a direct review may be had in the Supreme Court. The jurisdiction of the United States Court of

Appeals for the Federal Circuit shall be limited to the jurisdiction described in sections 1292(c) and (d) and 1295 of this title.

8 C.F.R. 316.2(b). Eligibility

The applicant shall bear the burden of establishing by a preponderance of the evidence that he/she meets all of the requirements for naturalization, including that the applicant was lawfully admitted as a permanent resident to the United States, in accordance with the immigration laws in effect at the time of the applicant's initial entry or any subsequent reentry.

IN THE

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PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

OPINIONS BELOW

United States Ninth Circuit Court of Appeals Memorandum - which states not appropriate for publication and is not precedent - appears at Appendix A.

Ninth Circuit Court of Appeals entered judgment on October 11, 2013. Mandated to take effect on January 7, 2014 - appears at Appendix C.

A timely petition to Ninth Circuit Court of Appeals for panel and en banc rehearing was denied October 25, 2013; a copy of the order appears at Appendix B.

JURISDICTION

The jurisdiction of this Court is invoked under 28 U.S.C. § 1254(1).

STATEMENT OF THE CASE

The secret, immoral, unethical, illegal and unconstitutional CARRP (Controlled Application Review and Resolution Program) policy was recently exposed* after many aspiring American citizens had waited unusually long periods (in some cases, up to and over 13 years) for adjudication of immigration applications and brought it to the attention of people all over the world including human right organizations and civil rights institutions. When the diabolical CARRP policy was exposed, it was discovered that USCIS officers were instructed not only to delay application adjudications indefinitely, but also to look for any reasons to deny; and then push for deportation (now, the word "deportation" is gentrified to "removal" to white-wash the act so those implementing it may feel better).

CARRP discriminately targets and impacts law-abiding immigrants from or perceived to be from Arab, Middle Eastern, Muslim and South Asian (AMEMSA) communities and countries. AMEMSA immigrants are mislabeled "national security concerns," based on a notoriously overbroad and error-ridden "Terrorist Watch List" ("Watch List") system. The Terrorist Screening Center (TSC), which operates the Watch List does not require evidence that would meet ordinary legal standards of proof before a person's name is placed on the Watch List. Rather, police/agency can "nominate" individuals based on racist or bigoted hunches.

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* *See* www.ACLU SoCal.org/CARRP

The elimination of evidentiary criteria safe-guards from watchlisting makes them highly reliant on racial and religious profiling, therefore, inherently error-prone. CARRP relies on the Watch List to identify "national security concerns" and thereby replicates the same profiling and errors inherent in the Watch List. Instead of identifying real threats to the US, USCIS officers are directed through CARRP to disregard statutory eligibility criteria. It creates secret exclusions to basic rights not authorized by law, resulting in pretextual (and often unfounded) denials. CARRP policy works to covertly exclude aspiring Americans from AMEMSA communities from due process rights.

CARRP's policy reliance on the FBI Name Check as an indicator of a "national security concern" also disproportionately impacts AMEMSA immigrants who pose no threat to the US. The mere mention of an applicant's name in FBI records/reports (even as a victim or witness) will trigger a positive response ("hit") to the FBI Name Check; which can lead USCIS to mislabel applicants as "national security concerns." The Name Check process excessively impacts Muslim immigrants because of FBI's extensive surveillance and data collection on the Muslim community through the use of questionable and coerced informants. Once on a CARRP track, adjudication is effectively turned over to FBI or OGA (other government agency), allowing them to dictate to USCIS when or whether an application should be granted, denied or held in abeyance. FBI and OGA have also been known to blackmail applicants to work for them as informants; telling

applicants their long-delayed immigration application can be adjudicated and approved if they agree to snitch on their communities.

The CARRP policy directs USCIS officers to find "national security concerns" simply because an applicant is from a given country or have certain skills like driving. Officers are directed to consider a person's profession, military training, or foreign language ability as indicators of "national security concern." This indicator could apply broadly to a large segment of skilled immigrant applicants, and ultimately, to anyone who speaks a language other than English.

CARRP explicitly directs its officers to rely on national origin as an indicator of a "national security concern," such as unusual travel patterns and travel through or prior residence in areas of known terrorist activity. The broad discriminatory reach of this instruction is readily apparent. This factor could arguably apply to virtually every applicant originally from the Middle East, North Africa, South Asia and other regions/continents.

Furthermore, CARRP demands an applicant's associations will create a "national security concern" if perhaps a family member or "close associate" might be considered to be a "national security concern," causing harmful consequences to entire extended families or whole communities. Causing serious harm if an applicant were considered "national security concern" yet the eligible spouse was not. Or, if an applicant knew a casual acquaintance who may be referenced in FBI

or OGA file (even as a witness or victim), the applicant would be listed as "national security concern."

CARRP mandates illegal, endless, unconstitutional delays in violation of immigration/naturalization laws by subjecting applicants to inordinate delays in processing and adjudication of applications. *See Ahrary v. Curda* U.S. Dist. (E.D. Cal., 2012) ("Defendants' [USCIS] failure to provide any indication of when Plaintiff can anticipate adjudication of [her] Application beyond the current [eleven] years is not reasonable.") CARRP policy expressly directs USCIS officers to delay or hold cases in abeyance for long extended periods of time, in some known cases even up to and beyond 13 years. *See* 8 U.S.C.§ 1571(b) ("It is the sense of Congress that the processing of an immigration application should be completed not later than 180 days after the initial filing of the application[.]"). CARRP expressly directs officers to flout these statutory rules by authorizing officers to delay and hold cases in abeyance without limitations and imposes no deadlines for its own illegal secret policy processes; it explicitly forbids approval even when the applicant is statutorily eligible. Naturalization is not discretionary: *see* 8 C.F.R. § 335.3 ("USCIS shall grant the application if the applicant has complied with the requirements for naturalization ..."). If applicants inquire to USCIS about the status of their application, they may be told that their application is pending administrative checks, additional security or background checks. Aspiring citizens are forced to choose between endless waiting or filing mandamus lawsuits against the very country which they wish to swear allegiance to - which many applicants have done -

at great burden, trauma, and expense. While in this over burdensome limbo, they lose job and educational opportunities, participation in the US democratic process and to vote.

Aside from these unethical, immoral and unconstitutional delays in violating laws causing an obvious injustice on applicants, it makes no sense as a strategy for protecting our national security. As a matter of policy, let alone safety, it makes little sense that if applicants are truly "national security concerns," the government should act with expediency, rather than simply delaying any action for years and years. One court has already recognized the USCIS's error in attempting to justify excessive delays by touting "national security concern." In *Singh v. Still*, Court held that USCIS's delay was in fact **unreasonable**, stating "the mere invocation of national security is not enough to render agency delay reasonable per se." *Id.* 1069. Court pointed out that the government had made "no real effort to advance the security check on [the applicant] for years until after [the mandamus litigation] was filed" and that given this inaction, "[n]othing in the government's conduct [bespoke] any urgent or serious concern with national security." *Id.* 1070. *See Singh v. Still*, 470 F.Supp. 2d 1064, 1065 (N.D. Cal. 2007).

CARRP creates illegal, secret, immoral, exclusions not authorized by Law and mandates pretextual denials when applicants are deemed to be "national security concern," even if they are statutorily eligible. CARRP instructs officers to look for a basis to deny an application of an individual deemed to be a "national security concern," and, if they cannot find a basis to do so, then to delay

adjudication indefinitely. CARRP has created unacceptable exclusions that find no support in existing law. It has effectively created its own illegal criteria for who should and who should not be approved, entrusting itself with the authority - authority it does not have - to make determinations based on its own secret, illegal policy rather than what the law requires. Applicant is severely harmed because the policy is secret: the applicant is not told he/she has been subjected to CARRP, and has no meaningful opportunity to contest the designation. In order to deny an otherwise approvable application, CARRP instructs officers to look to their own biased, racial and religious profiling policy to find basis for denial. Furthermore, in naturalization cases CARRP encourages officers to look for anything that can be construed as "false testimony" under 8 U.S.C. § 1101(f)(6) and 8 C.F.R. § 316.10(b)(2)(vi), because such testimony precludes a finding of requisite good moral character. In *Tan v. I.N.S.*, 931 F.Supp. 725, 731 (D.Haw. 1996) court held that "Good moral character ... was intended by Congress to mean a broad attachment to the principles of the Constitution of the United States, and disposition to the good order and happiness of the United States." (citing *Sugarman v. Dougall,* 413 U.S. 634, 660, 93 S.Ct. 2861, 2866, 37 L.Ed.2d 853 (1973) (citing *H.R.Rep.* No. 1365, 82d Cong.2d Sess., 78, 80 (1952)).) Also anything that can be construed as "failure to prosecute" an application, such as by failing to respond to a request for evidence under 8 C.F.R.§ 103.2(b)(13) and 8 C.F.R. § 335.7; as these are examples to deny an application. Thus, "good moral character" and "false testimony" are often used by CARRP as the policy reasons for denial. Such denials are often factually flawed,

legally erroneous, or simply illogical, which shouldn't be surprising given that they are pretexts for the secret CARRP policy decision not to approve the application, regardless of the applicant's actual eligibility.

In CARRP, USCIS often relies on the "false testimony" exception to establish lack of good moral character. A naturalization applicant can be found lacking good moral character if he/she is found to have "intentionally" provided false testimony. "False testimony" is limited to oral misrepresentations (not omissions or concealments), made under oath, with the subjective intent of obtaining immigration. *See Cacho v. Ashcroft* 325 F.Supp.2d [1145] (2005) ("The court, however, finds that Petitioner's actions fall short of giving false testimony for purposes of gaining the benefit of naturalization.")

Over and over, USCIS officers assert "false testimony" to absurdly justify denials absent any evidence that applicant has intent to falsely testify. Such decisions are particularly bizarre in the numerous cases where applicants made every effort to be as accurate, forthcoming, and truthful as possible. USCIS's exploitation of "false testimony" (and lack of good moral character) as grounds to deny naturalization applications subject to CARRP are the easiest statutory grounds to assert because they are relatively **amorphous**. Since USCIS is intent on finding any basis to deny an application, its claims of "false testimony" are wholly implausible. This deliberate distortion of an otherwise legitimate standard for establishing good moral character actually discourages honesty, as the Court in

Hajro[1] noted.

USCIS also relies on the vagueness and over-breadth of question 8(a) on the N-400 application about memberships and associations in order to claim that an applicant (subjected to CARRP) has testified falsely. In *Abusamhadaneh v. Taylor*, USCIS officer Lutostanski believed (from an inaccurate FBI report that was later discredited during trial) Mr. Abusamhadaneh was a member of the Muslim Brotherhood, and she formed the mistaken impression that Mr. Abusamhadaneh was trying to deceive her when he did not mention the Muslim Brotherhood during the interview and repeatedly denied being a member of any organization. Mr. Abusamhadaneh was never shown the FBI report, nor given opportunity to inspect or rebut the adverse information. (*Abusamhadaneh v. Taylor* 873 F. Supp. 2d 687 U.S. D. Ct. (E.D. VA 2012)). Numerous courts have noted that question 8 in the application does not define the terms "member" or "associated." USCIS officers (when asked), notoriously give a range of answers or sometimes refuse to define the terms at all. Question 8 is vague and undefined, therefore left open to interpretation by individual applicants.

[1] *Hajro v. U.S. Cit. & Imm. Servs.*, 849 F. Supp. 2d at 961 n.3 (N.D.Cal. 2011) (noting that "[a]ccepting the government's [false testimony claims] would mean that, if in response to questions that the government itself characterizes as broad and open-ended, an applicant does not include involvement with a particular entity because, as is the case here, the applicant misunderstood the question or genuinely believed that the entity did not fall within the scope of the question, and later *voluntarily discloses* involvement with that entity, the applicant's response may be a basis for the government to find that the applicant either intentionally withheld information when completing the written application or provided inconsistent testimony and therefore lacks good moral character.")(emp. added.)

CARRP directs officers to exploit this vagueness in order to assert that an applicant failed to reveal a membership or association and thereby "falsely testified." For example, USCIS may claim that applicants failed to disclose an association or membership with an Islamic organization (whether charity, organization, or mosque). Yet USCIS does not make the same claims from applicants about Christian, Jewish or secular organizations. A Muslim applicant should not be denied naturalization for failing to disclose information on or about their mosque just as a Christian applicant is not similarly rejected for failure to disclose their church or religious affiliation.

In many cases where an applicant is statutorily eligible, CARRP's secret, illegal, immoral and unconstitutional exclusions lead USCIS to simply delay adjudication for as long as possible. However, when forced to make a decision, USCIS will deny the application for pretextual reasons, including on grounds that the applicant failed to prosecute his/her application (failure to fully complete all Request for Evidence (RFE's)). USCIS issues multiple RFEs in transparent attempts to create a greater likelihood that the applicant will not fully respond to every request thereby enabling USCIS to deny the application under 8 C.F.R. § 103.2(b)(13) and 8 C.F.R. § 335.7.

USCIS fails to disclose derogatory information it relies on through CARRP to deny applications and thus may violate its obligations under 8 C.F.R. § 103.2(b)(16) (i) and (ii). USCIS must provide notice of intent to deny the application and meaningful opportunity to rebut the derogatory information. By the regulations, the

decision itself can only be made on the basis of information contained in the record of proceedings and **disclosed to the applicant.** USCIS's failure to disclose derogatory information to applicants in such cases also violates an applicant's due process rights.[2] The Adjudicator's Field Manual[3] also states that a petitioner must be afforded meaningful opportunity to inspect and rebut adverse information.

Additionally, CARRP policy **further mandates** that after delaying and denial of applications, it directs **officers to look for grounds for deportation.** This illegal, immoral, unethical and unconstitutional policy does not stop at finding grounds to

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[2] The Ninth Circuit has held that due process prohibits the government from denying an applicant adjustment of immigration status on the basis of undisclosed classified information. *See American-Arab Anti-Discrimination Comm. v. Reno*, 70 F.3d 1045, 1070 (9th Cir. 1995) Though the Ninth Circuit has since questioned the validity of ADC to the extent it implied a blanket bar on the use of classified information, it has made clear that the government must take measures to mitigate nondisclosure even where national security concerns justify the use of ex parte evidence. *Al Haramain Islamic Found. v. U.S. Dep't of Treasury*, 686 F.3d 965 (9th Cir. 2011). The Ninth Circuit has also recognized the "serious due process problem" that would arise if an immigrant were denied access to her [his] immigration file, known as an "A file," in removal proceedings, and in doing so, has employed reasoning that supports the due process right of applicants to access government information used against them in naturalization proceedings. *See Dent v. Holder*, 627 F.3d 365, 374 (9th Cir. 2010); *Hajro v. U.S. Citizenship & Immigration Servs.* 832 F. Supp. 2d 1095, 1114-15 & n.107 (N.D. Cal. 2011) (citing *Dent*, 627 F.3d at 371-72).

[3] USCIS Adjudicator's Field Manual, Preparing Denial Orders § 10.7(b)(3) ("If the applicant or petitioner] cannot reasonably be presumed to be already aware of the evidence, he or she must be given an opportunity to rebut the evidence before a decision is made.")

See also Abusamhadaneh, 873 F. Supp. 2d at 686; 8 C.F.R. § 103.2(b)(16)(i) (stating that if a decision is adverse to the applicant and "is based on derogatory information considered by the Service and of which the applicant or petitioner is unaware, he/she shall be advised of this fact and offered an opportunity to rebut the information and present information in his/her own behalf before the decision is rendered.")

deny naturalization, but goes further to encourage deportation with all the concomitant hardship, separation, burden, anxiety, stress and harm at tearing families apart; sometimes deporting immigrants to countries where they may be subject to torture, rendition, and very likely death, **especially in those cases where an aspiring American (like Chaudhry) has dutifully, faithfully, and honorably served the United States in military service.** See *Tan v. I.N.S.*, 931 F. Supp. 725, 731 (D. Haw. 1996) (... to punish Sergeant Tan for his actions in 1981 and 1983 would be tantamount to eternal damnation, and the Ninth Circuit explicitly rejected "a holding that Congress has enacted a legislative doctrine of predestination and eternal damnation." (citing *Yuen Jung,* 184 F.2d at 495.))

In this case, deportation to Pakistan, a country (where Chaudhry's father and family were refugees) some in the US consider to be in disagreement with US policy and with the continued US drone strikes in Pakistan, deporting a twice Honorably discharged, decorated, disabled American military Veteran - Chaudhry - may have dire and disastrous consequences of "predestination and eternal damnation" as noted in *Tan* and *Yuen Jung* above. It would not be improbable nor implausible that Chaudhry's life could be in imminent and extensive danger, including abduction, dismemberment, torture and death, given his twice honorable service with US military, and the wrath of extremists over continued US military presence in Afghanistan and Pakistan. In addition, should the USCIS succeed in its illogical petty selfishness to deport Chaudhry, it also directly summarily deports Mrs. Chaudhry, a natural-born US citizen, (mother of two, grandmother of four, and

huge family) who did not get married over 13 years ago to live apart from her husband. Mrs. Chaudhry would also be subjected to same/similar torture as Mr. Chaudhry, especially being American and now left to the mercies of extremists.

By USCIS giving itself the authority to deny applications based on CARRP's secret, immoral criteria that it never voluntarily discloses, USCIS denies applicants the fairness and rights they are due under the Fifth Amendment to the US Constitution and immigration laws. Only Congress can make immigration laws; the US Constitution expressly forbids USCIS from creating its own rules of naturalization. USCIS undermines and usurps the powers and authority of the whole Congress by this secret policy.

Chaudhry has always come to this country legally. Has no US criminal history; not even a misdemeanor offense; not even a traffic ticket: he has never broken any US laws. He qualifies for citizenship based on "married to a US citizen" (for over 13 years). He qualifies for citizenship via many other basis, including qualified Military service (*see* 8 U.S.C. § 1440(a) and Executive Order 13269 (2002)), under which basis he applied (in 2003 which USCIS claimed they lost but cashed the check, and again) in 2004 (again with a payment) which USCIS also cashed, which has not been returned even after multiple written requests.

For years, before his injuries in selfless service to the United States he was an avid community volunteer; serving thousands of hours with many civic organizations including the American Red Cross, both as a general volunteer and

Youth coordinator; donating many, many hours assisting building Habitat for Humanity homes; carrying a pager & responding to fire emergencies 24/7 for the Fire Department and serving with the emergency responder agencies; among numerous other worthy civic and community organizations, as he has always believed in dedication and commitment to one's community; and this dedication and commitment exemplifies what an upstanding citizen of this country should be.

He served twice Honorably in United States military (see Appendix D & G); now a disabled American Veteran with US military connected injuries which have confined him to a wheelchair, including but not limited to: extreme and intense prostrating migraines, constant debilitating back pain, Post Traumatic Stress, Brain Injuries, nightmares, and anxiety attacks.

Some pledge allegiance to the USA with the words

"I pledge allegiance to the flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all."

to show they are favorably disposed toward the good order and happiness of the United States and signify their attachment to the principles of the Constitution of the United States. Does not a member of the United States military live these laudable words and feel them as a personal directive, engraved even upon their hearts as they serve the US? Why else do they routinely put their lives in danger for safety of all the rest of America and submit themselves and their families to

many days weeks, months or years and sleepless nights of constant worry in times of war? Chaudhry was and is exactly such a soldier.

He was serving in the US Army National Guard before September, 2001. After September 11, 2001, he was called to active duty in the War on Terrorism. He served Honorably, for our American interests, more than as a citizen. He is a decorated, disabled American Veteran in wheelchair due to injuries received while serving the United States during Operation Iraqi Freedom. How many countless times do you suppose he recited that pledge and held it close to his heart while choosing to serve a nation he so strongly defended against all enemies, foreign and domestic?

Did he not do the work he was called on to do in service to the US? Did he not go above and beyond call of duty? He valiantly and honorably did so, being awarded the National Defense Service Medal, the Global War on Terrorism Service Medal, the Armed Forces Reserve with M-Device Medal, and decorated with an Army Service Ribbon, among other medals and recognitions.

Through Presidential Executive Order 13269, INA Section 328 and 329, (let alone Chaudhry's marriage to natural-born US citizen which would also qualify him for citizenship), his great citizenship and exemplary moral character, and his dedication to serving United States military would enable him to repeat the Pledge of Allegiance at his own US Citizenship ceremony, one long overdue.

President Bush signed Executive Order 13269 in July 2002, authorizing expedited citizenship for services in active duty under INA Section 328 and 329:

> By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 329 of the Immigration and Nationality Act (8 U.S.C. 1440) (the "Act"), and solely in order to provide expedited naturalization for aliens and noncitizen nationals serving in an active-duty status in the Armed Forces of the United States during the period of the war against terrorists of global reach, it is hereby ordered as follows: For the purpose of determining qualification for the exception from the usual requirements for naturalization, I designate as a period in which the Armed Forces of the United States were engaged in armed conflict with a hostile foreign force the period beginning on September 11, 2001. Such period will be deemed to terminate on a date designated by future Executive Order. Those persons serving honorably in active-duty status in the Armed Forces of the United States, during the period beginning on September 11, 2001, and terminating on the date to be so designated, are eligible for naturalization in accordance with the statutory exception to the naturalization requirements, as provided in section 329 of the Act. Nothing contained in this order is intended to affect, nor does it affect, any other power, right, or obligation of the United States, its agencies, officers, employees, or any other person under Federal law or the law of nations.
> George W. Bush
> The White House,
> July 3, 2002

Will this court prove the honor, bravery and valor of thousands of non-citizens serving now and who have already served to be in vain? Will this court sully his honorable service to this country, the United States of America, and further dishonor him by denying him what he has already earned for that service?

He has been a victim of Operation Frontline[4] (also see Appendix E), discrimination on perceived religious and ethnicity basis, witch hunt in rural Washington, and evidence shows he is also victim of secret, discriminatory, immoral, unconstitutional and illegal CARRP policy, since many previous unexplained questions are answered by that exposure. Including, but not limited to: the years-long "name check" delay; multiple FBI and other agency interrogations (lie detector tests, etc. all of which he passed); sudden application denial after filing writ of mandamus; the nomination of his name to secondary security screenings (Watch Lists) obstructing, impeding and preventing travel (see Appendix F- boarding pass samples); the multiple, lengthy interrogations by USCIS; the inexplicable district court denial of due process rights to confront his accusers (*see Pullman-Standard v. Swint,* 456 U.S. 284 (1982): "[F]actfinding is the basic responsibility of district courts, ... "). Additionally, the unusual granting of

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[4] Brief synopsis of Operation Frontline; also known as "October Plan": started in May 2004 to "detect, prevent, and disrupt terrorist activities." Through a FOIA, ICE released a random sample of Operation Frontline investigation files. The random sample established that 79% of those investigated were from Muslim-majority countries, most notably from Pakistan, Turkey, Morocco & Egypt. Lawful permanent residents were also investigated. People from the countries targeted by Operation Frontline comprise less than .003% of deportable aliens nationally. Citizens from Muslim-majority countries were 1,280 times more likely to be targeted by Operation Frontline than citizens from other countries. Questions included knowledge or possession of any skills, driving license, travel patterns, etc. Yet investigations' conclusory [sic] statements spoke volumes of NULL level of success. In some cases, there did not seem to be investigative leads. With Operation Frontline, not a single individual was charged with terrorism related crimes. (See ADC's full formal complaint and request for investigation of Operation Frontline in Appendix E.)

summary judgment in favor of the moving party (USCIS) (*see Nyari v. Napolitano*)[5], and (*see Leslie v. Grupo ICA*)[6]; placement into deportation proceedings; USCIS's fanatical repetitious "continuing violation theory" character assassinations; the manifest and notable "blindness" of the circuit court by rubber-stamping USCIS's wishes (*see United States v. DeGeorge*, 380 F.3d 1203, 1215 (9th Cir 2004) ("Courts should "not simply rubber-stamp the government's request, but hold the government to its burden.") - perhaps an "ace" card from CARRP was played.

USCIS delayed for years and years (blaming "name check"), and then eventually denied Chaudhry his life and rights via the secret and immoral

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[5] *Nyari v. Napolitano,* 562 F.3d [916, 919] (8th Cir. 2009): "We review the district court's grant of the government's motion for summary judgment de novo, viewing the facts in the light most favorable to Nyari and drawing all reasonable inferences in his favor. *McPherson v. O'Reilly Auto., Inc.,* 491 F.3d 726, 730 (8th Cir.2007) As the moving party, the government "BEARS THE BURDEN of SHOWING BOTH the absence of a genuine issue of material fact and an entitlement to judgment as a matter of law." *Singletary v. Mo. Dep't of Corr.*, 423 F.3d 886, 890 (8th Cir.2005)." and,

"But 8 U.S.C. §1421(c) requires a district court to subject a denial of a naturalization application to de novo review, to "make its own findings of fact," and to "conduct a hearing" if requested by the applicant. We are aware of no case law-and the government concedes that there is none-in which a court reviewing a denial of a naturalization application has found that the applicant was not a person of good moral character based on the outcome of a civil administrative proceeding. The district court erred ... " (emphasis added) and,

"It is well established that courts should NEITHER WEIGH EVIDENCE NOR MAKE CREDIBILITY DETERMINATIONS when ruling on a motion for summary judgment. *See, e.g., Kenney v. Swift Transp., Inc.*, 347 F.3d 1041, 1044 (8th Cir.2003). "

[6] *Leslie v. Grupo ICA.,* 198 F.3d 1152, 1159 (9th Cir. 1999) noting *Eisenberg v. Insurance Co. of N. Am.*, 815 F.2d 1285, 1289 (9th Cir. 1987) ("[W]e find that the district court's grant of *summary judgment was unwarranted* ... [The non-movant's] declaration is to be accepted as true ... [The non-movant's] evidence should not be weighed against the evidence of the [movant].").

CARRP policy by playing the "ace" card of "national security concern" and "false testimony." A suit was brought against USCIS which (after waiting years for trial) was scheduled December 13-16, 2010. However, rather than giving Chaudhry his day in court to present his testimony, and his witnesses (who, among other facts, would clearly have shown USCIS's star witness Gary Belles' self-serving, bigotry, racial and religious hatred - as confirmed by many investigations and settlements); USCIS motioned for summary judgment. *See* 8 U.S.C. § 1421(c) (Upon request, the district court must undertake a full de novo review of [USCIS's] denial. The court may not rely on [USCIS's] findings of fact or law and, on request, must hold its own hearing on the naturalization application. Accordingly, *even if [USCIS] is allowed to make the initial decision on a naturalization application, the district court has the final word* and does not defer to any of [USCIS's] findings or conclusions.)

Instead of proceeding to trial, district court granted USCIS's motion for summary judgment and on October 26, 2010 dismissed the trial. *See Nyari v. Napolitano*, 562 F.3d [916, 919] (8th Cir. 2009): "As the moving party, the government "**bears the burden of showing both the absence of a genuine issue of material fact and an entitlement to judgment as a matter of law.**" quoting *Singletary v. Mo. Dep't of Corr.*, 423 F.3d 886, 890 (8th Cir.2005). On summary judgment, a district court may not resolve factual disputes. See *Kungys v. United States*, 485 U.S. 759 (1988) ("Evidence that simply raises the possibility that a disqualifying fact might have existed **does not entitle the Government to the benefit of a presumption that the citizen was ineligible**, for as we have repeatedly

emphasized, citizenship is a most precious right, see, *e. g., Klapprott v. United States,* 335 U.S. 601, 611-612 (1949), [Kungys 485 U.S. 784A] and as such should never be forfeited on the basis of mere speculation or suspicion."); also *see Tan v. I.N.S.*, 931 F.Supp. 725, 731 (D. Haw. 1996) ("To assume that 'a witness whose testimony is not accepted by the trier of fact is a perjurer and not a person of good moral character ... is not only legally invalid, but is contrary to the basic sense of fairness upon which our legal system is founded.' " *Id.* (quoting *Acosta v. Landon,* 125 F.Supp. 434, 441 (S.D. Cal. 1954)); and *see Anderson v. Liberty Lobby*, 477 U.S. 250 (1986) ("Our prior decisions may not have uniformly recited the same language in describing genuine factual issues under Rule 56, but it is clear enough from our recent cases that at the summary judgment stage the judge's function is not himself to weigh the evidence and determine the truth of the matter but to determine whether there is a genuine issue for trial.") Again, *Anderson* [255]: ("Credibility determinations, the weighing of the evidence, and the drawing of legitimate inferences from the facts are jury functions, not those of a judge, whether he is ruling on a motion for summary judgment or for a directed verdict. The evidence of the nonmovant is to be believed, and all justifiable inferences are to be drawn in his favor." (citing *Adickes,* 398 U.S., at 158-159.))

Contrary to USCIS's speculation, Chaudhry did not give false testimony. The police in Australia equated the accusations to mere parking ticket; moreover, in that incident, Chaudhry was and is the only aggrieved party and victim and suffered greatly. Not only did the taxi passenger commit fare evasion and fraud,

Chaudhry had to pay the recorded fare in meter to taxi owner, and lost his job for going to police station to report the fraud and seek police assistance. As he had no prior incident, police coerced him to plead guilty (which he didn't understand). Yet here it is on-going long after he erroneously pled guilty to something he did not even do. As this was disclosed on Chaudhry's military N-400, USCIS cannot now say that he gave false testimony. However, the district court did not give Chaudhry a chance to present either his testimony or expert testimony witnesses, nor was he given a chance to question any of USCIS's witnesses.

And see, *Nyari v. Napolitano*, 562 F.3d [916, 919] (8th Cir. 2009): ("**It is well established that courts should neither weigh evidence nor make credibility determinations when ruling on a motion for summary judgment.**")

Chaudhry v. Napolitano, Ninth Circuit, (August 26, 2013), audio tape:

> Honorable Justice, when questioning USCIS counsel, Craig DeFoe: "All this happened before 2003 - is that correct? ... My question is, all this sounds like a general assessment of Mr. Chaudhry's credibility. But can a trier of fact make that kind of assessment on summary judgment before the, the, Mr. Chaudhry, in this case the applicant, has had opportunity to testify and try to demonstrate to the court that he's credible?" Mr. DeFoe: "Your Honor, I wouldn't characterize this as an assessment of credibility." ... Justice: "That sounds to me like a statement that says the court has decided this person's not credible; 'He's got this pattern so whatever excuse he comes up with now, I'm really not prepared to listen to, because I don't believe it.' Isn't that a credibility assessment?"

Rather than "**drawing all inferences in favor of**" **Chaudhry (the non-moving**

party) the district court erred when it made credibility assessment and determination and relied upon the government's (moving party) flawed assessments and hasty speculations to grant summary judgment.

On summary judgment, a district court is not free to disregard the petitioner's evidence merely because the court disbelieves it. *Id. Leslie v. Grupo ICA,* 198 F.3d [1159]. *See Cacho v. Ashcroft,* 325 F. Supp. 2d 1140[7], &1146 (2004)[8]

Under the guise of "lack of good moral character," USCIS placed Chaudhry in deportation proceedings, for which they had to dig decades into the past, on another continent, in a country of infamous "White Australia policy" (just like the infamous

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[7] *Cacho v. Ashcroft,* 325 F.Supp. 2d 1140 (2004) ("The court recognizes that there are particular discrepancies between Petitioner's account of the event given during his naturalization hearing and the event as described in the police report. The court, however, finds that Petitioner's actions fall short of giving false testimony for purposes of gaining the benefit of naturalization. As this court stated in *Tan,* false testimony for purposes of establishing good moral character "applies only to those misrepresentations made with the subjective intent of obtaining immigration benefits." (citing *Tan,* 931 F.Supp. at 731 (citing *Kungys v. U.S.,* 485 U.S. 759, 780, 108 S.Ct. 1537, 99 L.Ed.2d 839 (1988))).

[8] *Cacho v. Ashcroft,* 325 F.Supp. 2d 1146 (2004): ("For various reasons, the Court finds any discrepancies between the two accounts [325 F.Supp.2d 1146] were not subjectively manipulated by Petitioner to ensure obtaining immigration benefits. First, the event occurred approximately fifteen years prior to Petitioner's naturalization interviews. Without looking at any record of the event, and given it was the sort of event that Petitioner has attempted to put behind him, it is not wholly unexpected that Petitioner would forget to include some of the more painful details. Moreover, Petitioner stated in his interview that he no longer remembered the details. When Respondents continued questioning Petitioner about the details that Petitioner had already stated he had difficulty remembering, Respondents should have expected that the answers given would not be entirely consistent. Moreover, the court finds that Petitioner did not omit details with the hopes of improving his chances of gaining citizenship. After all, [petitioner] did admit to having been arrested ..., and admitted to pleading guilty... .").

South African white apartheid policy), a country where there were heinous acts of hatred and violence perpetrated against persons perceived to be from Indian sub-continent; events which were broadcast on Australian and Indian National Television, even as recent as 2011; let alone were worse off in the 1990's when Chaudhry was there.

Eighteen years have passed since the minor incident on a different continent under duress and coercive conditions, and petitioner has never been reported to have committed any crime. Petitioner has demonstrated his great moral character such that his naturalization application should have been approved. In fact, again, Chaudhry is and has been the only aggrieved party.

It appears USCIS has tried with a vengeance to apply a "clear and convincing" standard of proof to the good moral character requirement; and in *Berenyi*, the U.S. Supreme Court unequivocally held that standard applied to the United States when it seeks to strip a person of citizenship, but did not intimate it should be imposed on a naturalization applicant. (*Hamdi v. USCIS,* 27 (2012) WL 632397). A misstatement or inaccurate answer that results from faulty memory or innocent mistake does not constitute an intentionally false statement for purposes of § 1101(f)(6) (*Hovespian II,* 422 F.3d at 888.) As a result, 9th Circuit found Mr. Hamdi was statutorily eligible for naturalization and ordered USCIS to grant Mr. Hamdi's naturalization application and to prepare the appropriate documents and forward them to the Court to administer the oath of allegiance to Mr. Hamdi. (February 28, 2012) (*Hamdi v. USCIS,* 27 (2012) WL 632397).

Naturalization under 8 U.S.C. § 1440(a), an applicant's good moral character for one year prior to filing the application for naturalization. 8 C.F.R. § 329.2(d). "It is not permissible [ ] to base denial of naturalization on the commission of crimes prior to the statutory period." *Marcantonio v. United States*, 185 F.2d 934 (4th Cir. 1950). *See also In re Pruna,* 286 F.Supp. 861, 862 (D.C. Puerto Rico 1968) (writing "it is not permissible to base denials of naturalization on acts committed prior to the five year (non-military petitioner) period.") The Court's opinion, and so it concluded there, that the petitioner's arrest in [1958], did not preclude his establishing good moral character during the required period.

Though a court may look at events occurring beyond the specified period in a case, "the **only fact** to be determined, **and the only** material **one**, is his moral character **within the specified period**." *Cacho v. Ashcroft*, 325 F.Supp. 2d, 1140 1145 (D. Haw. 2004). *See also Yuen Jung v. Barber*, 184 F.2d 491, 495 (9th Cir. 1950) A court's ability to examine events that occurred prior to the statutory period was explored in *Marcantonio*, 185 F.2d 934. The Fourth Circuit determined that while the district court "could be received and considered with other evidence," the district court had failed to "distinguish [ ] between considering evidence of crimes committed prior to the five year period as bearing upon the question of character **within that period** and denying a petition for naturalization on the basis of such crimes." *Id.* at 937. To deny a petition based upon events that had occurred prior to the statutory period was "**to add to the statute a test which Congress has not seen fit to impose.**" *Id.*

In the present case, Judge Suko (who attended the same church but choose the opposite side than Chaudhrys; Chaudhry's wife, Ann, was in that church choir for 40 years; and Chaudhry's mother-in-law, who used to be treasurer of that same church, left that church because of these petty politics and she joined another church) speculated "a disturbing pattern of deceit for immigration-related purposes permeates this case." (Order Granting Defendant's Motion for Summary Judgment, page 23, lines 15-16.) However, the district court relied upon USCIS's speculations: looking beyond the statutory one year (military) period; alleging Chaudhry used false names (shorter forms of his name, cultural title of endearment, symbol of noble deeds); and not been honest about his alleged history in Australia. None of these events occurred during the statutory period. These alleged prior acts are in contrast to Chaudhry's evidence that he brought forward of his great moral character. It is undisputed that Chaudhry served with distinction in US Armed Forces active-duty until his service connected injuries prevented further military service; also the records prove he has twice served honorably in US Armed Forces in addition to and on top of his Honorable and outstanding contribution in National Guard. (See Appendix G and D) There is no doubt that Chaudhry qualified for naturalization under 8 U.S.C. § 1440(a), and furthermore satisfies requirements set forth in Executive Order 13269.

Chaudhry filed for naturalization on April 1, 2004. The relevant period of inquiry is from April 1, 2003 to April 1, 2004. In *Tan v. I.N.S.* 731(1996) court noted: "While the court is ... it is clear from the above cases (noted in *Tan*), that

court may not ignore the time period set forth in the regulations." See *Marcantonio*, 185 F.2d 937. Regulations do not require the petitioner to have impeccable character throughout his life.

This causes one to question whether there were (are) hidden/secret policies and procedures (or 'ace up the sleeve') to 'stack the deck' on USCIS's side to be played at appropriate times, such as at district and circuit court levels? Otherwise, one must question why both courts blatantly went against established law and court precedence in arriving at their decisions? CARRP was in full operation at the time of the scheduled trial (2010) and certainly, this secret, illegal, immoral, unconstitutional policy could be just such an 'ace.' It is reasonable and believable that USCIS would play CARRP's bigoted and biased 'ace' to determine on their own who should and who should not become citizens of the United States, rather than abiding by statutory constitutional guidelines.

A reasonable fact-finder would have found sufficient evidence to find that Chaudhry didn't have requisite "subjective intent to deceive." A reasonable fact-finder would find an Honorable, disabled American soldier with severe debilitating migraines, traumatic brain/head injuries, relentless and continual severe back pain, post traumatic stress, anxiety attacks and prostrating nightmares (just to mention a few) (conditions which worsen over time), taking dozens of prescribed medications for US military service related injuries, who was overwhelmed and under duress during multiple, lengthy interrogations.

In CARRP's vetting policy, USCIS obdurately relied on events outside the statutory period in an attempt to taint Chaudhry's great moral character. There has been no incident over the past thirteen-plus years (actually his whole life), and petitioner has never committed any crime, has demonstrated his eligibility for naturalization; evidence shows that from the time beginning one year before his filing of military N-400 to present day. Despite his medical conditions, failing health, duress and torturously inflicted emotional distress, medications (which Chaudhry was taking before and during multiple lengthy interviews) and confusion, he answered questions in good faith. Contrary to Judge Suko's hasty assumption, this confusion does not create "a pattern of deceit." Whereas in *Santamaria-Ames*[9], court looked for some reform of character from Santamaria-Ames' criminal behavior; in the present case there is no need to look for a reform of character or otherwise relevant to character, as the Code of Regulations would require before the

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[9] *Santamaria-Ames v. Imm. and Nat. Service,* 104 F.3d [1129] (1996); He received three Article 15 violations and was counseled on fifteen occasions for disciplinary violations while on active duty. After eight months and twenty-seven days of service, he was discharged from active service. Upon return to civilian life, Santamaria-Ames entered a life of crime. Within a period of 14 years, from discharge through 1989, he had twenty arrests, five felony convictions and twelve misdemeanor convictions. He was convicted of battery, assault with a deadly weapon, burglary, possession of a controlled substance, being under the influence of a controlled substance, and felony hit and run. His criminal history continued even after being placed in deportation proceedings. Court considered if applicant's conduct during the statutory period reflected a reform of character from an earlier period.

In the present case, there are zero military disciplinary violations (on or off active duty) and zero criminal history after military discharge; not even a traffic ticket. After years of exemplary military service, Chaudhry was HONORABLY discharged (not just once, but twice); and only his injuries on active duty derailed a plan of lifetime military career. Here, looking for a "reform of prior character" is misplaced.

events may be considered.

In re Taran, 314 F.Supp. 767 (S.D. Fla. 1970) concerned the application for naturalization of a man who was indebted to the IRS. Court did not indicate other issues that may have demonstrated the applicant's lack of good moral character and noted that the applicant has not been arrested or charged with a crime in 14 years. *Id.* at 768. However, his application was denied and he brought suit. *Id.* The applicant argued "that he did not have knowledge of the true basis for the assessment." *Id.* The district court found that this evidence was "insufficient to taint the petition" and **ordered the appellant's application for naturalization approved.** *Id.* *See Zheng v. Chertoff*, No. 08-0547 (E.D. Penn. Nov. 12, 2008) (writing "courts have often found that an alien may still possess good moral character despite misrepresentations the alien has made.") *See* also *Tan v. I.N.S.*, 931 F.Supp. 725, 731 (D.Haw. 1996) (writing that a lack of credibility "does not alone justify the conclusion that false testimony has been given.") Besides, like *In re Taran*, discrepancies (if any)in testimony are not sufficient to taint Chaudhry's petition, where in fact, there are none. What USCIS stated about Chaudhry's USCIS interview and deposition answers (when he was taking prescription narcotics and medications in presence of depositioners Craig DeFoe and Frank Wilson) were contrary to the facts, according to the transcription and audio tapes. *In re Taran*, 314 F.Supp. at 768: "To assume that 'a witness whose testimony is not accepted by the trier of fact is a perjurer and not a person of good moral character ... is not only legally invalid, but is contrary to the basic sense of fairness upon which our legal

system is founded.' " *Tan v. I.N.S*, 931 F.Supp. at 731 (quoting *Rodriquez-Gutierrez v. INS*, 59 F.3d 504, 507 (5th Cir. 1995)). As the district court rule on government's motion for summary judgment, it was not entitled to make credibility determinations, (see *Anderson*, 477 U.S. 242), it was inappropriate for Judge's speculation that Chaudhry perjured himself in light of his continued medical, social and cultural evidence that he was confused and under duress. Even willful misrepresentations made for other reasons, such as embarrassment, fear, or a desire for privacy, were not deemed sufficiently culpable to brand the applicant as someone who lacks good moral character. *Kungys*, 485 U.S. at 780 (quoting Supp. Brief for the United States).

Given that the secret, immoral, and unconstitutional policy of CARRP will not inform an applicant when he/she is subjected to CARRP track, and the applicant is neither given meaningful opportunity to confront allegations nor given opportunity to offer explanation, it is not surprising that USCIS relies on despicable pretextual policy basis and allegations that fall far outside the statutory period and Laws. In the present case, through the shameful, illegal CARRP policy, USCIS obstinately focuses on events well outside the statutory period to find any reasons to deny naturalization and eventually to deport.

Throughout the years courts have held that deportation is deplorable. In *Padilla v. Kentucky*, "Courts have consistently recognized that deportation is a 'particularly severe penalty.' " (*Padilla v. Kentucky*, 130 S.Ct. 1473, 1481 (2010) (internal quotation marks omitted). In *I.N.S. v. Cardoza-Forseca*: "Deportation is

always a harsh measure; it is all the more replete with danger when the [alien] makes a claim that he or she will be subject to death or persecution if forced to return to his or her former country." (*I.N.S. v. Cardoza-Forseca*, 480 U.S. 421, 449 (1987)) and in *Oshodi v. Holder*, ("If the court errs the consequences for the applicant could be severe persecution, torture, or even death.") (*Oshodi v. Holder*, No. 08-71478, 2013 (9th Cir. 2013) (en banc). Should Chaudhry be deported to Pakistan with his wife, Ann Chaudhry, who also gets forcefully deported to Pakistan, they both face real, serious, immediate, harsh consequences due to several, unchangeable facts: 1) Ann Chaudhry is a natural-born US citizen; 2) Chaudhry served in the US military during the War on Terrorism; 3) US has admitted its drone strikes are killing innocent Pakistanis in their homes while they sleep; 4) a (US) service member if captured, would be released/exchanged - however, if that (US) service member (particularly former) were a 'native' and was captured, it is more than probable that rendition, torture, dismemberment, being fed feet-first into a thrashing machine and other horrific abuses (as has been happening since US drone strikes) would be unleashed upon him and his loved ones.

In addition, USCIS has wasted huge amounts of generously provided taxpayer dollars on despicably high cost trial lawyers from Washington, D.C. in an attempt to further CARRP's discriminatory, immoral, unconstitutional and unlawful policy against Chaudhry.

CARRP is a very serious threat to National Security, an imminent and existential threat to the foundation of American values and virtues; its

discrimination will not stop with only those perceived to be from AMEMSA communities; if left unchecked and uncorrected, CARRP will not be content to limit this heinous policy to those applying for immigration and other rights, but could unleash this horrifying policy upon many other demographics. Coupled with other recently exposed, disgraceful developments, the CARRP policy threatens the very legitimacy of the government and poses a threat to the safety of all. CARRP is in a stage where it yet may be corrected and reined in by adherence to common sense Constitutional Laws.

This honorable court is in the position to make right what is wrong; to restore justice and hope; to be accountable to people of the United States in whose name it acts and draws its authority. The legacy of this court is now in question and is brought to bear in this matter. According to the Nuremburg Doctrine, one can not be excused by saying "I was only doing my job."

"Our lives begin to end the day we become silent about things that matter. "

Dr. Martin Luther King, Jr.

REASONS FOR GRANTING THE PETITION

Courts precedence, citations, doctrines and laws presented within, clearly show exponential reasons for granting this writ of certiorari for justice to prevail.

CARRP :

- is very serious threat to National Security;
- has used its immoral, illegal and unconstitutional policy to circumvent the expedited naturalization guarantee of Executive Order #13269;
- brings collapse of the American system of government as we know it;
- tarnishes reputation of U.S.A. worldwide;
- cannot survive scrutiny under any Constitutional standard.

Rather than honoring his oath and recusing himself, District Judge Suko drew unconstitutional and unusual inferences in favor of the moving party and granted summary judgment motion.

9th Circuit lacked quorum, as at the very least three (3) sitting judges were not present, but later rendered judgment anyway in that case.

Chaudhry and his family's long history of tragedy, trauma and immense suffering be given relief and remedy.

A meaningful decision to naturalize Chaudhry can be made by Supreme Court.

A positive decision will affirm American values and save America's reputation.

Naturalizing Chaudhry will send the positive message to the world.

CONCLUSION

Should CARRP be allowed to continue its unlawful, unconstitutional, secret discriminatory policy in delaying, denying and ultimately deporting aspiring Americans? If so, where will such secret, illegal, unethical, immoral and unconstitutional acts stop and what category of humans will it next conspire to discredit and discriminate against?

If this honorable Supreme Court does nothing to stop this unlawful, immoral, unethical unconstitutional discriminatory policy, who shall?

As Lutheran Pastor (who spent years in Nazi jail), Martin Niemoller's, poem goes:

> "First they came for the Socialists, and I did not speak out -
> because I was not a Socialist.
> Then they came for the Trade Unionists, and I did not speak out -
> because I was not a Trade Unionists.
> Then they came for the Jews, and I did not speak out - because I was not a Jew.
> Then they came for me - and there was no one left to speak for me."

In US context; Native Americans, Negros, Irish, Japanese, and Muslins can be added to Martin's poem. Now Muslim community are being persecuted in like (and worse) manner as those noted above. Who will be next? Who will be left to speak for those that come after? Who will speak for you? What legacy will this Honorable

court leave behind in the wake of sweeping repugnant, dragnet discrimination? To prevent manifest injustice this Honorable court has the timely opportunity to restore the people's trust in honoring Statutory Laws and naturalize Chaudhry.

Henceforth petition for a writ of certiorari should be granted.

M. Ch

Respectfully submitted, this 17th day of March, 2014.