

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

IRISH INTERNATIONAL)	
IMMIGRANT CENTER, INC.,)	
)	
Plaintiff,)	
)	
v.)	C.A. No. 19-CV-11880-IT
)	
KENNETH THOMAS CUCCINELLI II,)	
Acting Director, U.S. Citizenship &)	
Immigration Services,)	
LORI PIETROPAOLI,)	
Regional Director, Northeast Region)	
U.S. Citizenship & Immigration Services)	
MICHAEL J. McCLEARY,)	
Director, Boston Field Office,)	
U.S. Citizenship & Immigration Services,)	
U.S. CITIZENSHIP AND IMMIGRATION)	
SERVICES,)	
KEVIN K. McALEENAN,)	
Acting Secretary, Department of Homeland)	
Security,)	
DEPARTMENT OF HOMELAND)	
SECURITY,)	
DONALD J. TRUMP,)	
President of the United States,)	
)	
Defendants.)	

JOINT MOTION TO STAY

The parties jointly move for a stay of all proceedings in this Action to permit the parties to explore settlement or other nonjudicial resolution of this Action as set forth below.

1. This matter is in its early stages. Defendants' response to the Complaint in this Action is currently due November 5, 2019. *See* Fed. R. Civ. P. 12(a)(3) (providing 60 days from date of service on the U.S. Attorney, which occurred on September 6, 2019). A scheduling conference is also set for November 5, 2019. *See* ECF No. 11.

2. Shortly after the filing of the Complaint, on September 18, 2019, Defendant Kevin K. McAleenan, Acting Secretary of the U.S. Department of Homeland Security (DHS), directed the U.S. Citizenship and Immigration Services (USCIS) to "resume its consideration of non-military deferred action requests on a discretionary, case-by-case basis, except as otherwise required by applicable statute, regulation, or court order." *See* Exhibit A.

3. The parties are currently engaged in productive negotiations regarding settlement or other nonjudicial resolution of this Action and believe that a temporary cessation of litigation activities in this Action would permit these negotiations to continue and to potentially be concluded, while respecting the resources of all parties and of the Court.

4. Therefore, the parties respectfully request that all proceedings in the Action be stayed until January 27, 2020, to enable the parties to explore a settlement or other nonjudicial resolution of this Action.

5. The foregoing is without prejudice to either party moving to lift the stay prior to January 27, 2020 if warranted under the circumstances.

Respectfully submitted,

IRISH INTERNATIONAL
IMMIGRANT CENTER,

By its attorneys,

/s/ Robert D. Carroll
Robert D. Carroll (BBO 662736)
Goodwin Procter LLP
100 Northern Avenue
Boston, MA 02210
Tel.: 617.570.1000

Ira J. Levy (*Pro hac vice*)
Goodwin Procter LLP
The New York Times Building
620 Eight Avenue
New York, NY 10018
Tel.: 212.813.8800
ILevy@goodwinlaw.com

Rachel M. Walsh (*Pro hac vice*)
Goodwin Procter LLP
Three Embarcadero Center, 28th Floor
San Francisco, California 94111
Tel.: 415.733.6128
rwalsh@goodwinlaw.com

Matthew R. Segal (BBO 654489)
Adriana Lafaille (BBO 680210)
American Civil Liberties Union
Foundation of Massachusetts, Inc.
211 Congress Street
Boston, MA 02110
Tel.: 617.482.3170
msegal@aclum.org
alafaille@aclum.org

Oren Nimni (BBO 691821)
Lawyers for Civil Rights
61 Batterymarch Street
Boston, MA 02110
Tel.: 617.988.0606
onimni@lawyersforcivilrights.org

DEPARTMENT OF HOMELAND
SECURITY, et al.,

By its attorneys,

JOSEPH H. HUNT
Assistant Attorney General

ANDREW E. LELLING,
United States Attorney

BRIGHAM BOWEN
Assistant Branch Director

/s/ Galen N. Thorp
GALEN N. THORP (VA Bar # 75517)
Senior Counsel
U.S. Department of Justice
Civil Division, Federal Programs Branch
1100 L Street NW
Washington, DC 20530
(202) 514-4781
galen.thorp@usdoj.gov

RAYFORD A. FARQUHAR (BBO#560350)
Assistant U.S. Attorney
U.S. Attorney's Office
One Courthouse Way
Boston, MA 02210
(617) 748-3100
Rayford.farquhar@usdoj.gov

Counsel for Defendants

Anthony M. Marino (BBO 680237)
Irish International Immigrant Center
1 State Street, Suite 800
Boston, MA 02109
Tel.: 617.542.7654
amarino@iiicenter.org

*Attorneys for Plaintiff the Irish International
Immigrant Center*

Dated: October 29, 2019

CERTIFICATE OF SERVICE

I, Robert D. Carroll, hereby certify that a copy of this Joint Motion to Stay with attached Exhibit A and Proposed Order was served on all counsel of record through the ECF filing system on October 29, 2019.


/s/ Robert D. Carroll
Robert D. Carroll

Secretary

U.S. Department of Homeland Security
Washington, DC 20528**Homeland
Security**

September 18, 2019

MEMORANDUM FOR: Kenneth T. Cuccinelli II
Acting Director
U.S. Citizenship and Immigration Services

FROM: Kevin K. McAleenan 
Acting Secretary

SUBJECT: Discretionary Use of Deferred Action by USCIS

Purpose

The purpose of this memorandum is to provide direction regarding the discretionary use of deferred action by United States Citizenship and Immigration Services (USCIS).

Background

Deferred action “is a practice in which the Secretary exercise[s] enforcement discretion to notify an alien of the agency’s decision to forbear from seeking the alien’s removal for a designated period.”¹ In 2003, the Secretary of Homeland Security delegated to the Director of USCIS the authority to grant deferred action. Since then, that authority has been used on a case-by-case basis, although it has been used on a categorical basis for specific populations, as in the cases of Deferred Action for Childhood Arrivals and deferred action for certain military members and their families.²

I understand that, beginning on or about August 8, 2019, USCIS issued approximately 400 letters (“denial letters”) to aliens informing them that their requests for deferred action had been denied on the basis that USCIS “no longer consider[s] deferred action requests, except those made according to the U.S. Department of Homeland Security (DHS) policies for certain military members, enlistees, and their families.” The denial letters advised recipients that if they were in the United States contrary to law, and they did not depart the United States, a Notice to Appear may be issued.³

¹ *DHS v. Regents of the Univ. of Cal.*, No. 18-587, Br. for Pets. (Aug. 19, 2019) (citing *Reno v. Am.-Arab Anti-Discrimination Comm.*, 525 U.S. 471, 484 (1999)).

² Unlike the deferred action at issue, military deferred action was the result of several memoranda issued in 2013, 2014, and 2016, as well as a form change and Policy Memorandum cleared by the Office of Management and Budget in 2017.

³ The issuance of denial letters did not affect deferred action requests processed at USCIS service centers pursuant to an applicable statute, regulation, or court order (such as Violence Against Women Act deferred action and deferred action related to the waiting list for U nonimmigrant status). The use of deferred action in such instances shall continue to be carried out in accordance with the applicable authority.

On September 2, 2019, USCIS announced that all requests for non-military deferred action pending on August 7, 2019, would be re-opened and considered.⁴ As of September 13, 2019, letters advising that cases were reopened have been sent to all aliens who received a denial letter as described above.

I am committed to restoring integrity to the immigration system, particularly in areas of law that have been improperly interpreted in the past. However, given the complexities and wide range of circumstances to which the law must be applied, it is also necessary and proper to maintain executive branch discretion—particularly where such discretion is appropriately and fairly exercised on a case-by-case basis.

Directives

In light of the foregoing, I hereby direct the following:

1. The Acting Director of USCIS shall ensure that, effective immediately, USCIS resumes its consideration of non-military deferred action requests on a discretionary, case-by-case basis, except as otherwise required by an applicable statute, regulation, or court order.
2. When implementing the above directive, the Acting Director of USCIS shall ensure that the procedure for considering and responding to deferred action requests is consistent throughout USCIS and that discretionary, case-by-case deferred action is granted only based on compelling facts and circumstances.
3. The Acting Director of USCIS shall, 30 days after the date of this memorandum, transmit to me an update regarding the implementation of the above directives, and, 180 days after the date of this memorandum, a report containing both a further status update and recommendations for strengthening the deferred action process.

⁴ USCIS, DHS, *USCIS Re-Opens Previously Pending Deferral Requests*, Sept. 2, 2019, <https://www.uscis.gov/news/alerts/uscis-re-opens-previously-pending-deferral-requests>.

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KENNETH THOMAS CUCCINELLI II,)	
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Immigration Services, et al.,)	
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Defendants.)	
_____)	

[PROPOSED] ORDER

Upon consideration of the parties' Joint Motion to Stay, and good cause being shown, it is hereby:

ORDERED that the Joint Motion is **GRANTED**, and it is further

ORDERED that the above-captioned Action is hereby stayed until January 28, 2020, without prejudice to either party moving to lift the stay prior to that date, and it is further

ORDERED that the Scheduling Conference set for November 5, 2019, is postponed pending further order of the Court, and it is further

ORDERED that the deadline for Defendants to answer or otherwise respond to Plaintiff's Complaint is extended commensurate to the length of the stay in this matter.

SO ORDERED.

DATED: _____, 2019

UNITED STATES DISTRICT JUDGE