From: Miller, Philip T
Sent: 9 Aug 2013 18:52:54 -0400
To: (b)(6);(b)(7)(C)
Cc: Robbins, Timothy S;Homan, Thomas
Subject: FW: Credible Fear Claims at San Diego
Attachments: Withdrawl of Credible Fear Claim version 2.docx

(b)(6);(b)(7)(

Is this an option for us after a CF case has booked into ERO detention but had not yet been interviewed by CIS?

Please advise...

Phil

-----Original Message-----
From: (b)(6);(b)(7)(C)
Sent: Friday, August 09, 2013 06:42 PM Eastern Standard Time
To [redacted] (b)(6);(b)(7)(c)
Subject: Credible Fear Claims at San Diego

Sirs,

CBP intends to issue the attached guidance to the San Diego Field Office. It is a means to accept an alien's recantment of a claim to fear where they reconsider before hearing the jurat on the I-867A. I wanted to make certain you had visibility before we implement. San Ysidro had 147 claims of fear today. More than 50 indicated that they did not, in fact, have a fear before processing was complete. As no guidance exists at this time, all were processed. We have determined that a mechanism does need to be in place to consider this. Our hope is to mitigate the numbers of claims where the alien has changed their mind before processing is complete and relieve some of the burden on both ERO and CBP.

We intend to only implement at San Diego for the short term.

Please let me know what you think.

I appreciate the help, have a great weekend.

(b)(6);(b)(7)(C)
Acting Executive Director
Admissibility and Passenger Programs
Office of Field Operations
U.S. Customs and Border Protection
202-344-(b)(6);(b

BB: 202-255-(b)(6);

TO: Director, Field Operations
San Diego Field Office

FROM: Acting Executive Director
Admissibility and Passenger Programs
Office of Field Operations

SUBJECT: Interim Guidance: Permitting Withdrawal of Application for Admission Following Indication of Fear of Return during Expedited Removal Processing

This memorandum provides information and guidance to U.S. Customs and Border Protection (CBP) officers regarding applicants for admission who indicate a fear of return while being processed for expedited removal and subsequently request the ability to withdraw their application for admission. This memorandum is intended to clarify when these aliens may withdraw their application for admission, notwithstanding an indication of fear of being returned to their home country.

Expedited removal pursuant to Immigration and Nationality Act (INA) section 235(b) remains available for certain aliens who are inadmissible under INA 212(a)(6)(C) or 212(a)(7). Under INA 235(b), aliens who indicate an intention to apply for asylum or who assert a fear of persecution must be referred to an asylum officer for a credible fear interview. Those who are found to have a credible fear by the asylum officer are referred to an immigration judge for a full removal hearing on the merits of their claim or claims. Those who are found to have no credible fear may seek review of that determination by an immigration judge. 8 C.F.R. § 208.30(g).

If an alien who has claimed fear of return requests to withdraw his or her application for admission, CBP may permit the applicant to withdraw his/her application pursuant to INA 235(a)(4), rather than continue with processing for expedited removal. When determining whether to permit an alien in expedited removal processing to withdraw his/her application for admission, the Officer should consider all facts and circumstances.

To the extent that an Officer determines it is appropriate to permit an alien to withdraw his/her application for admission, CBP Officers must ensure and document that there is no misunderstanding and that the alien is willingly, affirmatively and voluntarily making the decision to withdraw that application for admission.

In order to ensure that the decision to withdraw his/her application is voluntary and without coercion and that the alien is aware of any potential consequences resulting from the voluntary withdrawal of application for admission, the narrative on the I-275 should:

- State affirmatively that the alien wishes to return to his country of origin and has the means and intent to do so immediately;
- Confirm that they have changed their mind regarding their application for admission, and no longer wish to apply for admission;
- Explain, in brief, why they wish to withdraw their application for admission;
- Confirm, that they understand that by withdrawing their application for admission that they are giving up their right to request asylum and that their case will no longer be presented to an Asylum Officer

As well, the alien should provide a written statement, in his or her own handwriting (where possible), indicating that he/she has had a change of mind and wants to withdraw his/her application for admission. The I-275 and written statement should be taken by a second Officer who was not involved in the initial processing of the case.

When processing an applicant for admission who is permitted to withdraw his/her application for admission after previously indicating a fear of return during expedited removal processing, the CBP officer should take a second sworn statement from the alien, using the Form I-867A & B. All sworn statements obtained (initial and subsequent) must be retained as part of the permanent A-file. Officers must ensure that all the facts of the case and the alien's willingness to withdraw are sworn statements to be recorded for the same person in the same event. Therefore, a new SIGMA event, to document the subsequent sworn statement, may be created and should be linked to the initial event.

Please ensure that this memorandum is disseminated to all ports of entry within your jurisdiction. Should you have any questions or require additional information, please conta[redacted] ting Director, Enforcement Programs at [redacted]

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San Diego Field Office

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Admissibility and Passenger Programs
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