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US IMMIGRATION & NATIONALITY LAW

DORCAS V. USCIS: FEDERAL COURT REAFFIRMS THAT USCIS MUST ADJUDICATE, NOT STONEWALL, IMMIGRATION BENEFITS

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In *Dorcas International Institute of Rhode Island v. USCIS*, No. 26-cv-132-JJM-PAS, Chief Judge John J. McConnell Jr. held that USCIS's Trump-era "Travel Ban Countries" policies violated both the Immigration and Nationality Act (INA) and the Administrative Procedure Act (APA). He found that the agency had thrown "the lives of countless immigrants living in the United States into indeterminate legal limbo" by placing an indefinite pause on the adjudication of immigration benefit requests for individuals from 39 African, Asian, Latin American, and Middle Eastern countries ("Travel Ban Countries") and by re-opening already approved benefits, based solely on applicants' countries of birth. Each of the four policies at issue was declared unlawful, vacated, and set aside.

The plaintiffs were a coalition of nonprofits and unions: Dorcas International Institute of Rhode Island and Refugee Dream Center in Providence, SEIU, UAW, African Communities Together, the Venezuelan Association of Massachusetts, the Partnership for the Advancement of New Americans, and American Gateways. They represent thousands of noncitizens from Afghanistan, Iran, Nigeria, Somalia, Sudan, Syria, Venezuela, and other Travel Ban Countries whose asylum, adjustment, work authorization, visa, and naturalization applications were frozen or sent into re-review solely based on nationality and date of entry. Judge McConnell noted that these immigrants followed all required legal processes - filing applications, paying fees, giving biometrics, and appearing for interviews - yet USCIS "refuses to adjudicate" their cases, and he concluded that "the rule of law has to apply to everyone equally" and that USCIS has neither "followed the law" nor "done things the right way."

The court's opinion carefully reconstructs how the policies arose. On the first day of his second term, the President issued Executive Order 14161, directing enhanced vetting and screening of "all aliens who intend to be admitted, enter, or are already inside the United States, particularly those aliens coming from regions or nations with identified security risks." The order instructed senior officials to submit a report identifying countries whose vetting and information-sharing were so deficient that entry of their nationals should be partially or fully suspended under INA § 212(f), 8 U.S.C. § 1182(f).

Based on that report, the President issued Proclamation 10949, restricting entry of nationals from 19 countries deemed "deficient with regards to screening and vetting," and later Proclamation 10998, expanding the Travel Ban list to 39 countries and certain Palestinian Authority travel documents. These presidential actions were explicitly grounded in § 212(f) and related statutes and focused on entry at the border. They did not address, much less mandate, any change to domestic processing of asylum, adjustment, work authorization, or naturalization applications for people already inside the United States.

Two high-profile security incidents involving Afghan nationals then became the catalysts for a radical shift in USCIS policy. In June 2025, Nasir Ahmad Tawhedi pled guilty to conspiring and attempting to provide material support to ISIS in connection with a 2024 Election Day attack plot. In November 2025, Rahmanullah Lakanwal allegedly shot two National Guard members in Washington, D.C., killing one and critically injuring another, which DHS publicly characterized as a terrorist attack.

Immediately after the D.C. shooting, the President and then–DHS Secretary Kristi Noem issued inflammatory public statements about immigrants. The President described the "foreign population" as "most of which are on welfare, from failed nations, or from prisons, mental institutions, gangs, or drug cartels," and blamed immigrants for "failed schools, high crime, urban decay, overcrowded hospitals, housing shortages, and large deficits." Secretary Noem declared that she had recommended "a full travel ban on every damn country that's been flooding our nation with killers, leeches, and entitlement junkies," calling immigrants "foreign invaders" who "slaughter our heroes, suck dry our hard-earned tax dollars, or snatch the benefits owed to AMERICANS," and concluding: "WE DON'T WANT THEM. NOT ONE." Days later, the President referred at a rally to a "permanent pause on Third World migration, including from hellholes like Afghanistan, Haiti, Somalia, and many other countries," and

repeated his earlier remark wondering why the U.S. admitted people from "shithole countries" instead of places like Norway and Sweden. Judge McConnell recounted these statements in detail and later found them probative of anti‑immigrant animus behind the policies.

Against this political and rhetorical backdrop, USCIS enacted the four Challenged Policies through formal memoranda and Policy Manual revisions.

First, the Global Asylum Hold Policy. In PM‑602‑0192 (the "December Memorandum"), USCIS ordered a hold on "all applications for asylum and withholding of removal, regardless of the applicant's country of nationality," pending a "comprehensive review." The memo explicitly stated that this "hold will remain in effect until lifted by the USCIS Director through a subsequent memorandum." While USCIS later announced on its website that asylum processing had resumed for "non high‑risk countries," it never issued a Director‑level memorandum lifting the global hold. The court therefore assumed that the Global Asylum Hold remained in effect and treated it as one of the policies to be reviewed and set aside.

Second, the Benefits Hold Policy. PM‑602‑0192 and PM‑602‑0194 placed a hold on "pending benefit requests for aliens from, pending a comprehensive review, regardless of entry date." The January memo clarified that a "hold" allowed cases to proceed through some processing steps but barred "any final adjudication," defined as "the issuance of a final decision on a case, such as an approval, denial, or dismissal." This Benefits Hold applied to adjustment of status, employment authorization, naturalization, and other immigration benefits for nationals of all 39 Travel Ban Countries. The hold, like the asylum hold, would "remain in effect" until lifted by a subsequent Director memorandum.

Third, the Comprehensive Re‑Review Policy. The December memorandum also directed USCIS personnel to "conduct a comprehensive re-review of approved benefit requests for aliens from countries listed in the Travel Ban who entered the United States on or after January 20, 2021." Those individuals were required to undergo a "thorough re-review process, including a potential interview and, if necessary, a re-interview, to fully assess all national security and public safety threats along with any other related grounds of inadmissibility or ineligibility." This affected prior grants of asylum, withholding, adjustment of status, EADs, and possibly naturalization, based solely on nationality and date of entry, not

on any individualized indicator of risk.

Fourth, the Country‑Specific Factors Policy. On November 27, 2025, USCIS issued Policy Alert PA‑2025‑26 (the "November Memorandum"), amending the Policy Manual. It instructed that, "effective immediately," adjudicators must consider "any relevant country-specific factors such as those specified in the Travel Ban as significant negative factors in the adjudication of discretionary benefit requests." The alert specified that "insufficient vetting and screening information" from identified countries should be treated as a significant negative factor, and it declared that the new guidance "is controlling and supersedes any related prior guidance." In effect, for discretionary benefits linked to immigrant visas, being from a Travel Ban Country became itself a negative factor adjudicators were required to weigh.

USCIS tried to anchor these policies in INA § 212(f) and the President's Proclamations 10949 and 10998, and it repeatedly invoked national security. Judge McConnell, however, emphasized that § 212(f) "addresses only the President's authority and concerns only a single aspect of federal immigration law: restrictions on entry." It empowers the President to "suspend the entry" of classes of noncitizens, but it does not govern USCIS processing of benefit applications by people already inside the United States. The travel‑ban proclamations themselves regulate "entry into the United States" and do not mention any holds on asylum, adjustment of status, work authorization, or naturalization. The court therefore held that "nothing in Section 1182(f) or the Presidential Proclamations authorize the Challenged Policies at issue here" and that USCIS could not bootstrap presidential entry powers into a broad domestic benefits freeze.

The government also argued that INA § 1252's jurisdiction‑stripping clauses barred judicial review of the policies and that, in any event, adjudicating immigration benefits is "committed to agency discretion by law." Judge McConnell rejected those arguments. He noted the "presumption favoring judicial review of administrative action" and explained that § 1252(a)(2)(B)(i)–(ii) is best read to bar review of individual discretionary denials (e.g., one person's adjustment denial), not "collateral actions challenging general policies and procedures." He distinguished the plaintiffs' broad pattern‑or‑practice challenge from direct appeals of individual outcomes and applied *Kucana v. Holder* to hold that § 1252(a)(2)(B)(ii) applies only when Congress itself, "by legislation," makes a decision discretionary. USCIS cannot insulate new powers

from review by declaring them discretionary in internal memoranda. The government's reliance on 8 U.S.C. §§ 1255(a) and 1324a as sources of discretion to adopt nationality‑based holds did not persuade the court, because those statutes focus on individual eligibility and define unauthorized work, not on any power to impose categorical, indefinite moratoria based on country of origin.

The court then examined the INA and USCIS regulations to test the government's claim that the policies were unreviewable because they were "committed to agency discretion." It found "more than enough law" across the asylum, adjustment, EAD, and naturalization frameworks to provide judicially manageable standards and to confirm that USCIS has nondiscretionary duties to adjudicate applications. For asylum, 8 U.S.C. § 1158(d)(5)(A)(iii) requires that, absent "exceptional circumstances," final adjudications "shall be completed within 180 days," and 8 C.F.R. § 208.9(a) directs that "USCIS shall adjudicate the claim of each asylum applicant whose application is complete" and that "in all cases" proceedings must be conducted in accordance with the asylum statute. For naturalization, 8 U.S.C. §§ 1446 and 1447 and 8 C.F.R. § 335.3(a) require personal investigations, examinations, and a decision ("shall grant" or deny) at or within 120 days of the exam. Adjustment and EAD regulations state that applicants "must file" and that USCIS "shall" notify them of decisions and reasons for denials. Taken together, these sources show that Congress and USCIS expected benefits to be processed and decided, not left in limbo. The policies therefore could not be shielded from APA review as matters "committed to agency discretion by law."

On finality, the court rejected USCIS's claim that its holds were interim. The memoranda were "effective immediately," bound USCIS staff, and explicitly said that holds would remain until lifted by a Director‑level memo. Later carve‑outs for narrow categories, like Operation PARRIS cases, certain family petitions, and physicians, did not undo the core policies for Travel Ban nationals. Under *Bennett v. Spear*, these memoranda marked the "consummation" of the agency's decision‑making and had clear legal consequences: they stopped cases from reaching decisions, caused individuals to lose work authorization and miss naturalization ceremonies, and increased the risk of arrest and removal. That was enough to constitute final agency action under the APA.

The court held that the claims were ripe because the policies were already in force, USCIS had already offered its national‑security rationales, and the core legal questions - whether the policies exceeded statutory authority and violated

the APA - turned on events that had already occurred. Plaintiffs were not required to wait for individual denials. Their injury stemmed from USCIS's refusal to decide at all. In terms of hardship, Judge McConnell highlighted unrebutted evidence that many individuals had lost jobs and status, that organizations like Dorcas and RDC were prevented from taking on new clients or had to reopen hundreds of closed files, and that substantial staff time was being devoted to counseling and support.

On the merits, Judge McConnell held that each policy was both "contrary to law" and "arbitrary and capricious." For the Global Asylum Hold, he stressed that Congress's repeated use of "shall" in § 1158(d)(5)(A)(iii) and the asylum regulations created a nondiscretionary duty to adjudicate asylum and withholding claims, and that withholding and CAT protections are mandatory once eligibility is established, under both statute and regulation. A blanket suspension of these adjudications, including for non–Travel Ban nationals, could not be squared with the statutory and regulatory scheme, especially because the government did not rely on the "exceptional circumstances" exception.

For the Benefits Hold Policy, he observed that naturalization law requires USCIS to investigate applicants, conduct examinations, and decide applications with reasons; regulations add that decisions must be made at or within 120 days of the interview and that applications that meet requirements "shall" be granted. Adjustment and EAD regulations impose filing obligations on applicants and notification and explanation duties on USCIS. Congress's "sense" in 8 U.S.C. § 1571(b) that benefits "should" be processed within 180 days reflects an expectation that adjudication would proceed, not that USCIS could freeze adjudications for entire nationality‑based categories indefinitely. The government's reliance on security inadmissibility provisions and information‑sharing statutes was misplaced because those provisions address entry and law‑enforcement cooperation, not domestic adjudication holds. In the court's view, the Benefits Hold Policy was "fundamentally inconsistent" with the INA and USCIS's own regulations and had to be set aside.

For the Comprehensive Re‑Review Policy, Judge McConnell pointed out that Congress has already prescribed how asylum, permanent residence, naturalization, and employment authorization may be revoked or terminated, through individualized procedures based on ineligibility, fraud, or other enumerated grounds. USCIS could not cite any statute conferring power to

order a mass re-review of all approved benefits for entire nationalities based solely on country of origin and entry date. While some courts recognize narrow inherent reconsideration power for agencies, that power does not apply "where Congress has spoken as to the proper procedure for reversing a decision." Here, Congress had spoken, so USCIS's attempt to subject all approvals for certain nationalities to a new re-review regime exceeded its authority.

The Country-Specific Factors Policy violated 8 U.S.C. § 1152(a)(1)(A). Judge McConnell described the history of that provision, enacted in 1965 to abolish national-origin quotas and to "eliminate nationality-based discrimination in the immigration system." He acknowledged that *Trump v. Hawaii* held § 1152(a)(1)(A) does not limit the President's § 212(f) entry powers but emphasized that Hawaii itself recognized that § 1152(a)(1)(A) "prohibits discrimination in the allocation of immigrant visas based on nationality." Adjustment and many employment-based benefits depend on immigrant-visa availability, so the nondiscrimination rule applies. By directing officers to treat Travel Ban country-based "factors" as "significant negative factors" in these benefits, USCIS was effectively penalizing applicants for nationality or place of birth, in direct conflict with § 1152(a)(1)(A). The court rejected the government's attempt to frame this as simple exercise of discretion, reminding USCIS that it has no discretion "to violate the binding laws, regulations, or policies that define the extent of his official powers" citing *Red Lake Band of Chippewa Indians v. United States*.

The court also found all four policies arbitrary and capricious. Two incidents involving Afghan nationals and generalized references to travel-ban proclamations did not reasonably justify indefinite holds and re-reviews for all nationals of 39 countries and a worldwide asylum freeze. Judge McConnell wrote that extrapolating "the criminal conduct of two noncitizens to thousands of other noncitizens, from dozens of countries around the world, does not rank as reasoned decisionmaking." USCIS's two-sentence acknowledgment that these policies would cause "processing delays," coupled with a bare assertion that such delays were "necessary and appropriate," fell far short of the APA's requirement that agencies weigh serious reliance interests, especially after "decades of … reliance on prior policy."

On pretext, Judge McConnell applied the APA's bad-faith exception, supplementing the record with contemporaneous statements in which the President and Secretary referred to immigrants as "killers, leeches, and

entitlement junkies" from "hellholes" and "shithole countries." He characterized these remarks as "statements of ethnic hostility and prejudice" demonstrating "bad faith and impermissible animus," and he refused the government's invitation to ignore them merely because they were not quoted in the memoranda. Courts, he wrote, "are not required to exhibit a naiveté from which ordinary citizens are free," and officials rarely admit discriminatory motives on the face of policy documents. The court also highlighted the carve‑outs for athletes and physicians as further evidence of pretext: if nationals of Travel Ban Countries as a class could not be trusted with benefits, it made little sense to exempt particular subgroups facing similar alleged vetting deficiencies. Taken together, the record revealed "a significant mismatch between the decision the agency made and the rationale it provided," confirming that the national‑security rationale was contrived.

As a remedy, Judge McConnell followed the APA's directive that courts "set aside" unlawful agency action. He vacated all four policies nationwide: the Global Asylum Hold Policy, the Benefits Hold Policy, the Comprehensive Re‑Review Policy, and the Country‑Specific Factors Policy. Vacatur renders those policies legally void and prevents USCIS from applying them going forward. The court also entered a declaratory judgment that each policy is unlawful under 5 U.S.C. § 706(2)(A) and (C). He declined to issue a permanent injunction, reasoning that vacatur and declaratory relief already provide complete relief because USCIS cannot rely on the invalidated policies, and that any future, substantively similar measures could be challenged on their own records if promulgated. Injunctions, he noted, are an "extraordinary" remedy, and here less drastic remedies sufficed. He also applied the doctrine of constitutional avoidance to decline ruling on plaintiffs' Fifth Amendment due-process and equal-protection claims, denying the government's motion to dismiss those claims without prejudice because the case was fully resolved on APA grounds.

Judge McConnell closed by stating that USCIS's policies "did not simply place a hold on adjudications. More fundamentally, the Challenged Policies placed the lives of countless individuals on hold - solely by virtue of their countries of birth." Many remained "without work, without legal status, and without any meaningful ability to plan for their futures." It is not the court's role to judge the wisdom of immigration policy, he wrote, but it is its duty to decide whether those policies comply with the law. Here, they did not - and so had to be

"vacated and set aside."

For immigrants and employers, the court's ruling - grounded in the INA and the APA as the opinion makes clear - means that USCIS may no longer rely on these four vacated policies to categorically freeze adjudications or to treat nationals of the 39 Travel Ban Countries as presumptively disfavored in immigrant‑visa–linked benefits. Going forward, USCIS must operate within the statutory and regulatory framework the court described: complete, properly filed applications must be adjudicated; nationality‑based penalties in immigrant‑visa allocation are prohibited by 8 U.S.C. § 1152(a)(1)(A); and broad, nationality‑based moratoria and mass re‑review programs exceed the authority Congress has given the agency.

The court itself spelled out the practical consequences. It held that the Global Asylum Hold, Benefits Hold, Comprehensive Re‑Review, and Country‑Specific Factors Policies are "declared unlawful and are hereby vacated and set aside". That means applications that were frozen solely because the applicant is from a Travel Ban Country must return to ordinary adjudication channels under the INA and USCIS regulations. Asylum and withholding applications for those nationals can no longer be held in indefinite limbo based on the vacated policies. Work authorization, adjustment of status, and naturalization applications filed by people from the 39 countries must be processed without categorical, nationality‑based holds or across‑the‑board negative presumptions. Previously approved benefits may not be subjected to a special, country‑based re‑review regime. If USCIS seeks to rescind or terminate benefits, it must use the individualized grounds and procedures Congress defined for asylum termination, rescission of adjustment, denaturalization, or EAD revocation. And adjudicators may not treat Travel‑Ban‑derived "country-specific factors" as automatic negative weights in immigrant‑visa–linked discretionary decisions in a way that conflicts with § 1152(a)(1)(A).

For practitioners, the opinion points to clear next steps rooted in the court's reasoning: identify clients from Travel Ban Countries whose asylum, EAD, adjustment, or naturalization cases have stalled, been reopened, or had oath ceremonies cancelled since late 2025; confirm whether those delays were attributable to the now‑vacated policies; and consider targeted agency follow‑up or, where appropriate, litigation that invokes the vacatur and declaratory relief in Dorcas. For affected communities, Judge McConnell's decision reaffirms a core principle: the federal government may not close

lawful immigration pathways or single out entire national-origin groups for adverse treatment "solely by virtue of their countries of birth," under the guise of national security, when the INA and the APA provide no such authority and the record reveals policies that placed "the lives of countless individuals on hold" for reasons the law does not permit.

The following passages from the decision are worth quoting:

"In ruling on these motions, the Court is reminded of a line often repeated in discussions around immigration policy: If people wish to immigrate to the United States, they ought to 'follow the law' and 'do things the right way.' This case serves as a perfect example of immigrants doing just that. Plaintiffs and their members have observed the legal processes that Congress enacted by statute and USCIS promulgated by regulation so that they may one day obtain immigration benefits. They have, for example, filed the appropriate paperwork, paid the required filing fees, submitted to the requested biometrics collections, and attended the necessary in-person interviews. Even so, Plaintiffs and their members are stuck waiting, for months on end, for benefit requests that USCIS refuses to adjudicate.

"But the rule of law has to apply to everyone equally and, as evident here, USCIS has neither 'followed the law' nor 'done things the right way.' Indeed, the agency has violated the very immigration laws that Congress has charged it with administering, as well as the administrative laws that govern the agency's actions. In enacting its latest immigration policies, USCIS: claims statutory and regulatory authority that it does not possess; makes decisions without the reasoned explanations that it must provide; acts without regard for the reliance interests of applicants that it must consider; and justifies its actions with pretextual concerns of 'national security' that mask anti-immigrant sentiments that it is forbidden from letting influence its decision-making. In legal terms that means USCIS's actions are contrary to law and arbitrary and capricious.

"Accordingly, as set forth below, each of the Challenged Policies that USCIS enacted—the Benefits Hold Policy, the Global Asylum Hold Policy, the Comprehensive Re-Review Policy, and the Country-Specific Factors Policy—are declared unlawful and are vacated and set aside."

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