

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

USAMA J. HAMAMA, et al.,
Petitioners and Plaintiffs,

v.

REBECCA ADDUCCI, et al.,
Respondents and Defendants.

Case No. 17-cv-11910

Hon. Mark A. Goldsmith
Mag. David R. Grand

Class Action

ORDER REGARDING WISAM IBRAHIM

At a session of the Court held on March 7, 2018, the Court considered Proponents' Motion in Support of Their Brief Proposing a Framework for a Competency Exam for Class Member Wisam Ibrahim (ECF 214), the responses of Petitioners (ECF 224) and Respondents (ECF 222) to that Motion, and Petitioners' Motion to Withdraw Stipulated Order Lifting the Preliminary Injunction (ECF 87) for Wisam Ibrahim (ECF 246). The Court's decisions on these matters are as follows:

1. The report prepared by Dr. Debra Pinals evaluating Wisam Ibrahim's mental competency shall not be disclosed, except as provided in this order. The terms of the Amended Stipulated Order for the Protection of Confidential Information (ECF 91) ("Protective Order") that governs the production of confidential information in this case are incorporated herein by reference, and shall also apply, except as specifically superseded by this order. Dr. Pinals's report shall be deemed

“confidential information” under ECF 91 and will be stamped as such. All persons other than litigation or agency counsel to whom the report is disclosed under this Order shall first review both this Order and the Protective Order, and shall sign the acknowledgment (attached as Exhibit A of the Protective Order) acknowledging that they have read and understand their compliance with the Protective Order. Copies of the executed Exhibit A will be provided to Petitioners’ counsel.

2. Petitioners shall by March 9, 2018 provide a copy of Dr. Pinal’s report to Respondents’ counsel Mr. William Silvis and Mr. Wisam Ibrahim’s immigration counsel, Mr. Bradley Maze.

3. Mr. Ibrahim’s immigration counsel may provide a copy of the report to Mr. Ibrahim and to any other individual authorized by Mr. Ibrahim.

4. Mr. Silvis may provide a copy of the report to counsel representing Respondents in this litigation. Mr. Silvis may also provide a copy of Dr. Pinal’s report to agency counsel for U.S. Immigration and Customs Enforcement (including but not limited to Detroit Chief Counsel Catherine Pincheck), the Department of Homeland Security, and the Executive Office for Immigration Review. The recipients of the report shall not further share it. The report shall not be provided to or the contents of the report disclosed to any individual who works or will work on Mr. Ibrahim’s immigration case, with the exception of Ms. Pincheck, who may receive it subject to the provisions in this order.

5. Dr. Pinals's report may be used by Respondents solely for the purpose of informing Respondents' position on whether Mr. Ibrahim's decision to waive the protection of this Court's stay of removal (ECF 87) was or is competent. The report may not be used in any way for any other purpose in this litigation or in any other legal proceedings, including Mr. Ibrahim's immigration case. If Respondents wish to conduct a psychiatric evaluation of Mr. Ibrahim, the individual engaged by Respondents to conduct such evaluation is permitted to review Dr. Pinals's report under the terms of the terms of this order and the Protective Order (ECF 91).

6. Not later than one week from the service of Dr. Pinals's report described in paragraph 2, Respondents shall notify the Court by email, with a copy to Petitioners' counsel, of the following information:

- (a) Whether Respondents wish to conduct their own psychiatric evaluation of Mr. Ibrahim and when the evaluation will take place;
- (b) Whether Respondents will seek to introduce before this Court testimony of Melanie Goldberg, the pro bono lawyer whose declaration accompanied the parties' Stipulated Order Lifting the Preliminary Injunction for Wisam Ibrahim (ECF 151); and

- (c) Whether Respondents intend to present any other witnesses regarding Mr. Ibrahim's competency to waive the stay of removal.

7. If Respondents do *not* intend to conduct their own psychiatric evaluation of Mr. Ibrahim:

- (a) The email described in paragraph 6 shall state whether they request a further hearing on the matter or whether they consider written briefing sufficient for its resolution;
- (b) Respondents shall brief their position on Petitioners' Motion to Withdraw the Stipulated Order no later than March 19, 2018; and
- (c) Petitioners' Reply, if any, shall be due March 22, 2018.

8. If Respondents *do* wish to conduct a mental health evaluation of Mr. Ibrahim, the resulting report from that evaluation shall be shared with class counsel and, Mr. Ibrahim's immigration lawyer. Mr. Ibrahim's immigration counsel may provide a copy of the evaluation to Mr. Ibrahim. In addition:

Respondents will determine an estimated time that the report will be ready and provide that information to Petitioners. The parties will then discuss a briefing schedule based on the estimated date of report completion. If no agreement is reached by the parties on a schedule by

March 19, 2018, they shall contact the Court to convene a telephonic status conference to resolve any differences.

SO ORDERED.

Dated: March 13, 2018
Detroit, Michigan

s/Mark A. Goldsmith
MARK A. GOLDSMITH
United States District Judge

CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing document was served upon counsel of record and any unrepresented parties via the Court's ECF System to their respective email or First Class U.S. mail addresses disclosed on the Notice of Electronic Filing on March 13, 2018.

s/Karri Sandusky
Case Manager