

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

USAMA JAMIL HAMAMA, et al.,

Petitioners and Plaintiffs,

v.

REBECCA ADDUCCI, et al.,

Respondents and Defendants.

Case No. 2:17-cv-11910
Hon. Mark A. Goldsmith
Mag. David R. Grand
Class Action

DECLARATION OF JOHN A. SCHULTZ Jr.

I, John A. Schultz Jr., hereby make the following declaration with respect to the above-captioned matter:

1. I am the Deputy Assistant Director for the Removal Management Division East which encompasses the Asia and Europe Removal and International Operations (RIO) unit as well as the Middle East/East Africa unit within the U.S. Department of Homeland Security (DHS), U.S. Immigration and Customs (ICE), Enforcement and Removal Operation's (ERO) Removal Management Division (RMD). The RMD is located at ICE Headquarters in Washington, D.C. RMD provides guidance and assistance to officers attempting to obtain travel documents for foreign nationals who are ordered removed. RMD collaborates with embassies and consulates, as well as with interagency and international networks to facilitate the efficient removal of aliens from the

United States. RMD provides nationwide Post-Order Custody Review (POCR) guidance, implements policy and procedures, and is responsible for providing case management support for aliens subject to a final order of removal.

2. I have been employed with ICE since April 2003, and I have worked with ERO since then. From July, 2016 to present, I have been employed as the Removal Management Division East Deputy Assistant Director in both an acting and permanent capacity.
3. This declaration is based upon my professional knowledge, information obtained from other individuals employed by ICE, and information obtained from DHS records. I am aware of the facts and circumstances of this case and the efforts to arrange for the removal of Iraqi nationals that have been ordered removed from the United States.
4. The history of removals to Iraq from fiscal year 2007 to the present, including both commercial and charter flights, is listed below. ICE data reveals continuous removals to Iraq have occurred over the past decade. These statistics include individuals who have returned to Iraq on their own volition, as well as formal removals:

FY2007- 27

FY2008- 40

FY2009- 30 (18 removed via two separate charter flights)

FY2010- 65 (nine removed via charter flight)

FY2011- 33

FY2012- 35

FY2013- 29
FY2014- 29
FY2015- 36
FY2016- 48
FY2017- 52 (eight removed via charter)

5. After the successful completion of charter flight operations to Iraq in May and December of 2009, and again in September of 2010, the government of Iraq became increasingly unwilling to facilitate the return of their nationals that have been ordered removed from the United States. However, due to renewed discussions between the United States and Iraq in recent months, Iraq has agreed, using charter flights, to the timely return of its nationals that are subject to final orders of removal. In order to facilitate charter flights to Iraq, the U.S. Department of State (DOS) and ICE have engaged in numerous diplomatic meetings with the governments of Iraq and other international partners to obtain the required landing permissions and approvals necessary for the various flights. Efforts to coordinate removals required participation from ICE and DOS both domestically and abroad and include the use of various commercial vendors to supply the aircraft, support staff and the necessary logistics. The intensive diplomatic coordination and resources that go into planning such removal missions mean there is the potential for severe harm to international relations if the United States government is unilaterally prevented from accomplishing its removal mission.

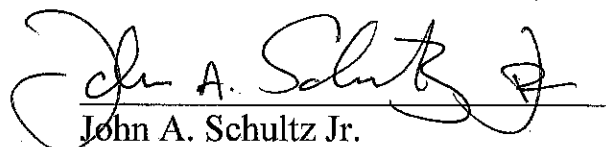
6. The newly established relationship between ICE, in coordination with DOS, and the Iraqi Ministry of Foreign Affairs (MFA), allows ICE to present travel document requests directly to the MFA to gain the approval to remove Iraqi nationals with final orders of removal. Once MFA agrees that the individuals are Iraqi, they will dispatch consular staff from the Iraqi Embassy to interview and issue travel documents for their return. For the most recent June 2017 charter flight, ICE moved individuals to Arizona for required interviews and flight staging. Previously, the Iraqi government would only accept its nationals that had unexpired passports and only those traveling via commercial flights. Now, Iraq will authorize repatriation with other indicia of nationality. These charter flights fly into Baghdad, not ISIS controlled territory. In Baghdad, the Iraqi nationals will be met by U.S. DOS officials and Iraqi officials from various government agencies.
7. In April of 2017, ICE conducted its first charter removal mission to Iraq since 2010, consisting of eight (8) Iraqi nationals. A second charter mission was scheduled for late June 2017. The manifest for the June flight included individuals who have criminal convictions for the following offenses: homicide, manslaughter, rape, sexual assault, sex offenses, aggravated assault, robbery, burglary, fraud and drug related offenses.

8. The burden on the U.S. government to return aliens back to Iraq is significant, as it is a time consuming, complicated and costly process. Unlike most removals, the process of removals to Iraq requires significant financial cost, the coordination of multiple U.S. government resources and the cooperation of at least two other foreign governments, all of which have to come together during a very limited window of time. ICE estimates that cancellation of a single flight, such as the originally-scheduled and now-cancelled June 2017 charter flight, which ICE attempted to reschedule for July, results in a total loss in excess of \$500,000.00, to include an estimated \$450,000.00 in air carrier cancellation fees alone. This figure includes multiple variables, such as, contract security services, and ICE personnel's travel, lodging, and per diem costs. ICE's current cost of detention averages \$125.56 per bed per day. The cost to detain 230 individuals during the court's temporary restraining order period of June 22, 2017 to July 24, 2017 is approximately \$1 million. ($230 \times 33 \text{ days} \times \$125.56 = \$953,000$). The estimated cost to further detain class members for an additional 90 days would be approximately \$2.6 million dollars. ($230 \times 90 \text{ days} \times \$125.56 = \$2,599,092$).
9. Iraqi nationals that ICE recently detained for removal on the agreed upon charter flights have been transferred among various detention facilities. ICE utilizes its finite resources and bed space to locate aliens as close to their initial

point of apprehension as possible. Considering logistical, medical, and personnel concerns, ICE then identifies a staging location that is available to accommodate its removal mission needs. Detainee transfers are based purely on the operational aspects of ICE's removal processes, and are not made with any intent to limit Petitioners' access to counsel, the courts, or their communities. The detention staging location serves as a central point where detainees are consolidated in preparation for imminent removal. Detainees are then staged to a final transfer facility for a limited time prior to their departure from the United States.

Pursuant to 28 U.S.C. § 1746, I declare, under penalty of perjury, that the foregoing is true and correct based upon reasonable inquiry, knowledge, information, and belief.

Executed this 20th day of July, 2017.

A handwritten signature in black ink, appearing to read "John A. Schultz Jr.", written over a horizontal line.

John A. Schultz Jr.
Deputy Assistant Director
Removal Management Division
Washington, D.C.