

**APPENDIX A**

**IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT**

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No. 17-20693

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JOHN AYANBADEJO,  
Plaintiff-Appellant

v.

MARK SIEGL, Field Office Director, United States  
Citizenship and Immigration Services Texas District  
Office; EVELYN M. UPCHURCH; SHARON A.  
HUDSON; L. FRANCIS CISSNA, Director, United  
States Citizenship and Immigration Services;  
KIRSTJEN M. NIELSEN, SECRETARY, U.S.  
DEPARTMENT OF HOMELAND SECURITY;  
JEFFERSON B. SESSIONS, III, U. S. ATTORNEY  
GENERAL; JOHN DOES; SANDY M. HEATHMAN,

Defendants-Appellees

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Appeal from the United States District Court  
for the Southern District of Texas

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(Filed Apr. 2, 2018)

Before ELROD, GRAVES, and HO, Circuit Judges.

PER CURIAM:

IT IS ORDERED that appellant's motion to recall the mandate is DENIED.

IT IS FURTHER ORDERED that appellant's motion for leave to file a response to appellees' motion to dismiss for lack of jurisdiction out of time is DENIED.

IT IS FURTHER ORDERED that this panel previously granted appellees' motion to dismiss appeal for lack of jurisdiction; denied as moot appellant's motion to remand to a different court or governmental entity with jurisdiction to admit appellant into citizenship; denied as moot appellant's alternative motion to remand to a different court with competent jurisdiction with an order that the court stay the administering of the Oath of Naturalization until May 18, 2018; denied as moot appellant's motion to place pleadings with evidence and transcript of the March 28, 2017, Initial Conference under seal; and denied as moot appellant's motion for leave to file motion to remand in excess of the word count limitation, not to exceed 6,377 words. The panel has considered appellant's Petition for Rehearing as a motion for reconsideration of all previous orders. IT IS ORDERED that the motion is DENIED.

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**APPENDIX B**

***United States Court of Appeals***  
**FIFTH CIRCUIT**  
**OFFICE OF THE CLERK**

**LYLE W. CAYCE  
CLERK**

**TEL. 504-310-7700  
600 S. MAESTRI PLACE  
NEW ORLEANS, LA 70130**

April 02, 2018

MEMORANDUM TO COUNSEL OR PARTIES LISTED  
BELOW:

No. 17-20693 John Ayanbadejo  
v. Ricky Hamilton, et al  
USDC No. 4:16-CV-1673

Enclosed is an order entered in this case.

Sincerely,

LYLE W. CAYCE, Clerk

By: /s/ Angelique B. Tardie  
Angelique B. Tardie, Deputy Clerk  
504-310-7715

Mr. John Ayanbadejo  
Ms. Eleanor Ann Robinson-Gaither

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**APPENDIX C**  
IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 17-20693

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[4:16-cv-1673]

JOHN AYANBADEJO,  
Plaintiff-Appellant

v.

MARK SIEGL, Field Office Director, United States  
Citizenship and Immigration Services Texas District  
Office; EVELYN M. UPCHURCH; SHARON A.  
HUDSON; L. FRANCIS CISSNA, Director, United  
States Citizenship and Immigration Services;  
KIRSTJEN M. NIELSEN, SECRETARY, U.S.  
DEPARTMENT OF HOMELAND SECURITY;  
JEFFERSON B. SESSIONS, III, U. S. ATTORNEY  
GENERAL; JOHN DOES; SANDY M. HEATHMAN,

Defendants-Appellees

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Appeal from the United States District Court  
for the Southern District of Texas

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(Filed Mar. 2, 2018)

Before PRADO, ELROD, GRAVES, and HO, Circuit  
Judges.

**PER CURIAM:**

**IT IS ORDERED** that appellees' opposed motion to dismiss appeal for lack of jurisdiction is **GRANTED**.

**IT IS FURTHER ORDERED** that appellant's opposed second corrected motion to remand case to a different court or governmental entity with jurisdiction to admit Mr. Ayanbedejo into citizenship, is **DENIED** as moot.

**IT IS FURTHER ORDERED** that appellant's opposed second corrected alternative motion to remand case to a different court with competent jurisdiction with an order that the Court stay the administering of the Oath of Naturalization until May 18, 2018, is **DENIED** as moot.

**IT IS FURTHER ORDERED** that appellant's opposed corrected motion to place pleadings with evidence and transcript of March 28, 2017 Initial Conference (#37) under seal is **DENIED** as moot.

**IT IS FURTHER ORDERED** that appellant's opposed motion for leave to file second corrected motion to remand case in excess of the word count limitation, not to exceed 6,377 words, is **DENIED** as moot.

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**APPENDIX D**  
***United States Court of Appeals***  
**FIFTH CIRCUIT**  
**OFFICE OF THE CLERK**

**LYLE W. CAYCE  
CLERK**

**TEL. 504-310-7700  
600 S. MAESTRI PLACE  
NEW ORLEANS, LA 70130**

March 02, 2018

Mr. David J. Bradley  
Southern District of Texas, Houston  
United States District Court  
515 Rusk Street  
Room 5300  
Houston, TX 77002

No. 17-20693 John Ayanbadejo  
v. Ricky Hamilton, et al  
USDC No. 4:16-CV-1673

Dear Mr. Bradley,

Enclosed is a copy of the judgment issued as the man-  
date.

Sincerely,

LYLE W. CAYCE, Clerk

By: /s/ Christina A. Gardner  
Christina A. Gardner, Deputy Clerk  
504-310-7684

cc w/encl:

Mr. John Ayanbadejo  
Ms. Eleanor Ann Robinson-Gaither

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## APPENDIX E

*United States Court of Appeals*  
FIFTH CIRCUIT  
OFFICE OF THE CLERK

February 27, 2018

Mr. John Ayanbadejo  
10878 Westheimer Road  
Unit 143  
Houston, TX 77042

No. 17-20693 John Ayanbadejo  
v. Ricky Hamilton, et al  
USDC No. 4:16-CV-1673

Dear Mr. Ayanbadejo,

We received your motion for extension of time, however any request for an extension of time is also out of time, therefore we are taking no action on this motion.

If you meant to ask leave to file your response out of time, a motion for leave to file your response out of time is required.

Sincerely,

LYLE W. CAYCE, Clerk

By: /s/ Christina A. Gardner

Christina A. Gardner, Deputy Clerk  
504-310-7684

cc: Ms. Eleanor Ann Robinson-Gaither

**APPENDIX F**  
**UNITED STATES DISTRICT COURT**  
**FOR THE SOUTHERN DISTRICT OF TEXAS**  
**HOUSTON DIVISION**  
**FILE NUMBER 4: 16-CV-01673**

VAWA Self-Petitioner or Appellant,	§
v.	§
MARK T. SIEGL, Acting Field Office	§ NOTICE
Director, USCIS Texas District Office,	§ OF
TONY R. BRYSON, District Director,	§ APPEAL
U.S. Citizenship and Immigration Services	§
L. FRANCIS CISSNA, Director	§
U.S. Citizenship and Immigration Services	§
ELAINE C. DUKE, Acting Secretary	§
U.S. Department of Homeland Security	§
JEFF SESSIONS, Attorney General	§
U.S. Department of Justice	§
Respondents or Appellees.	§

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**NOTICE OF APPEAL**

Notice is hereby given that Appellant in the above named case, hereby respectfully appeals to the United States Court of Appeals for the Federal Circuit, Fifth Circuit Court of Appeals, from:

1. The Order on Stay of Appellant's Discovery Request entered in this action on the 16th day of March 2017, in favor of Respondents and

against Appellant, and from the whole of the Order (Doc # 23),

2. The Order on Discovery of Appellant entered in this action on the 29th day of March 2017, in favor of Respondents and against Appellant, and from the whole of the Order (Doc # 28),
3. The Opinion on Dismissal of Appellant's Applications entered in this action on the 4th day of April 2017, in favor of Respondents and against Appellant, and from the whole of the Opinion (Doc # 29),
4. The Final Dismissal of Appellant's Applications entered in this action on the 4th day of April 2017, in favor of Respondents and against Appellant, and from the whole of the judgment (Doc # 30); and
5. Such further or other orders as Court may issue.

Dated: 30th Day of October 2017

Respectfully submitted,

**APPELLANT**

/s/ John Ayanbadejo  
Appellant, Pro Se

**APPELLANT**

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## APPENDIX G

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UNITED STATES DISTRICT COURT	SOUTHERN DISTRICT OF TEXAS
John Ayandabejo, Petitioner, §	
versus §	Civil Action
Jeff Sessions, <i>et al.</i> , §	H-16-1673
Respondents. §	

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## Opinion on Dismissal

(Entered April 05, 2017)

Citizenship and Immigration Services exercised its discretion within constitutional limits when it declined to adjust John Ayanbadejo's status and denied his naturalization application. The court does not have jurisdiction to change those decisions.

Because Ayanbadejo did not exhaust the administrative remedies for his request under the Freedom of Information Act, the court does not have jurisdiction over his claims.

This case will be dismissed for want of jurisdiction. Even if the court did have jurisdiction, Ayanbadejo has not stated a claim on which relief may be granted.

Signed on April 4, 2017, at Houston, Texas.

/s/ Lynn N. Hughes  
Lynn N. Hughes  
United States District Judge

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UNITED STATES  
DISTRICT COURT

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SOUTHERN DISTRICT  
OF TEXAS

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John Ayandabejo, §  
Petitioner, §  
versus § Civil Action  
Jeff Sessions, *et al.*, § H-16-1673  
Respondents. §

Final Dismissal

(Entered April 05, 2017)

This case is dismissed for want of jurisdiction. In  
the alternative, it is dismissed with prejudice.

Signed on April 4, 2017, at Houston, Texas.

/s/ Lynn N. Hughes  
Lynn N. Hughes  
United States District Judge

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**APPENDIX H**

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UNITED STATES  
DISTRICT COURT

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SOUTHERN DISTRICT  
OF TEXAS

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John Ayandabejo, §  
Petitioner, §  
*versus* § Civil Action  
Ricky Hamilton, *et al.*, § H-16-1673  
Respondents. §

Order on Discovery

Discovery is stayed. (21)

Signed on March 16, 2017, at Houston, Texas.

/s/ Lynn N. Hughes  
Lynn N. Hughes  
United States District Judge

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## APPENDIX I

Falls Church, Virginia 22041

File: A076 828 558 – Houston, TX Date: MAY 13 2016

In re: JOHN HENRY AYANBADEJO, Beneficiary  
of a visa petition filed by FELICIA  
AYANBADEJO, Petitioner

## IN VISA PETITION PROCEEDINGS

## MOTION

ON BEHALF

OF BENEFICIARY: Pro se

ON BEHALF OF DHS: Erica J. McGuirk  
Associate Counsel

**APPLICATION:** Petition to classify status of alien relative for issuance of immigrant visa

This case was last before us on June 16, 2005, when we dismissed the petitioner's appeal from the Director's denial of the I-130 that she had filed on his behalf. The beneficiary has now filed a motion to reopen. The United States Citizenship and Immigration Services (USCIS) office has filed an opposition to the motion to reopen. The motion will be denied.

Only the party affected by a decision is entitled to appeal to the Board. 8 C.F.R. § 1003.3(a)(2); *See Matter of Sano*, 19 I&N Dec. 299 (BIA 1985); *Matter of DaBaase*, 16 I&N Dec. 720 (BIA 1979); *Matter of Kurys*,

11 I&N Dec. 315 (BIA 1965). In this case, it is clear from the record that the motion was initiated by the beneficiary, rather than the beneficiary's spouse (the petitioner) or her authorized representative, the only party that has standing to appeal the denial of the I-130 petition. 8 C.F.R. § 1292.4.

We recognize that the beneficiary argues that he is the recipient of an I-360 petition filed pursuant to the Violence Against Women Act (VAWA). To the extent that the beneficiary seeks to reopen or appeal the denial of such an application or his naturalization application, we do not have jurisdiction over such proceedings. Further, to the extent that the beneficiary requests a continuance to pursue his naturalization application, such a request is appropriately filed in removal proceedings, not in visa petition proceedings.

Accordingly, the motion is denied for lack of jurisdiction.

/s/ [Illegible]  
FOR THE BOARD

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**APPENDIX J**

**U.S. Department of  
Homeland Security**  
U.S. Citizenship and  
Immigration Services  
Houston District Office  
P.O. Box 670289  
Houston, TX 27067

[SEAL] U.S. Citizenship  
and Immigration  
Services

John-Henry Adedayo Ayanbadejo A 076 828 558  
10878 Westheimer Rd., Apt. #143 NBC1490030573  
Houston, TX 77042

**DECISION**

Dear John-Henry Adedayo Ayandabejo:

Thank you for submitting Form N-336, Request for a Hearing on a Decision in Naturalization Proceedings, to U.S. Citizenship and Immigration Services (USCIS) on February 25, 2014. After a thorough review of the record, USCIS reaffirms the decision to deny your Form N-400 for the following reason(s).

**Statement of Facts and Analysis  
Including Ground(s) for Reaffirming Denial**

On February 5, 2014, USCIS denied your Form N-400, Application for Naturalization, based on a Service finding that you have not been accorded lawful permanent resident status in the United States.

The Service record reflects that on March 3, 1997 a Form I-130, Petition for Alien Relative was filed by your United States citizen spouse on your behalf. A subsequent Form I-130 was filed by your United States citizen spouse on April 17, 2001; however, both applications were denied by the Service on October 3, 2002. Along with your spouse's I-130s, you filed concurrent applications to register permanent residence or adjust status (Form I-485) on both March 3, 1997 and on April 17, 2001. However, both of these applications were denied by the Service on October 3, 2002 (after our United States citizen spouse's Form I-130s were denied). On June 16, 2005, the Board of Immigration Appeals affirmed, without opinion, the Service's denial as a beneficiary of a visa petition filed by Felicia Ayanbadejo, your United States citizen spouse.

Service records show that you are currently the beneficiary of an approved Form I-360, Petition for Amerasian, Widow(er), or Special Immigrant under provisions of the Violence Against Women Act (VAWA), on February 19, 2013. However, the Service has been provided no evidence that you have been accorded lawful permanent resident status.

Under the Immigration and Nationality Act (INA) Section 318 to be eligible to naturalize, you must have been lawfully admitted to the United States for permanent residence and carry your burden to demonstrate that you entered the United States lawfully, and the time, place, and manner of such entry. This burden of proof has been further explained in Title 8 Code of Federal Regulations (CFR) 316.2(b) to mean that the

applicant must have “been lawfully admitted as a permanent resident of the United States”, in accordance with the immigration laws in effect at the time of your initial entry or any subsequent reentry.

INA Section 101(a)(20) states: “The term ‘lawfully admitted for permanent residence’ means the status of having been lawfully accorded the privilege of residing permanently in the United States as an immigrant in accordance with the immigration laws, such status not having changed.”

In order to qualify for naturalization, you must demonstrate you meet all the requirements for naturalization including the requirement of having been lawfully admitted for permanent residence. You have not demonstrated that you have been lawfully admitted for permanent residence; therefore, you are ineligible for naturalization. See INA Section 318.

After a complete review of the information provided on your Form N-400, Application for Naturalization, the documents submitted in support of your application and request for hearing, and the testimony you provided during your naturalization interview, USCIS reaffirms the decision to deny your Form N-400.

This decision constitutes a final administrative denial of your naturalization application. You may request judicial review of this final determination by filing a petition for review in the United States District Court having jurisdiction over your place of residence. You must file a petition within 120 days of the date of

this notice. See INA Section 310(c) and 8 CFR, Section 336.9(b).

If you need additional information, please visit the USCIS Web site at [www.uscis.gov](http://www.uscis.gov) or call our National Customer Service Center toll-free at 1-800-375-5283. You may also make an appointment to speak to a USCIS staff member in person at the USCIS office having jurisdiction over your current place of residence. To schedule an appointment, go to [www.uscis.gov](http://www.uscis.gov) and select INFOPASS.

Sincerely,

/s/ Ricky Hamilton  
Ricky Hamilton  
Field Office Director

Cc: 9900 Richman Ave., Apt. #1413  
Houston, TX 77042

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## APPENDIX K

Falls Church, Virginia 22041

File: A076-828-558 – Houston Date: JUN 16 2005

In re: John Ayanbadejo, Beneficiary of a visa petition filed by Felicia Ayanbadejo, Petitioner

IN VISA PETITION PROCEEDINGS

## APPEAL

ON BEHALF

OF PETITIONER: Prappas, Elaine F.

ON BEHALF OF DHS: Pauline A. Appelbaum

## ORDER

PER CURIAM. The Board affirms, without opinion, the results of the decision below. The decision below is, therefore, the final agency determination. See 8 C.F.R. § 1003.1(e)(4).

/s/ [Illegible]  
FOR THE BOARD

## APPENDIX L

**U.S. Department of Justice**  
Immigration and Naturalization Service  
[SEAL] 126 Northpoint Dr.  
Houston, Texas 77060

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OCT 09 2002

A 76 828 558

Felicia Dyrnall Malveaux  
C/O Ike N.A. Waobikeze  
10101 Harwin Ste. 322  
Houston, TX 77036

### NOTICE OF DENIAL

Dear Ms. Malveaux:

Reference is made to the Petitions for Alien Relative (Form I-130) filed on behalf John Henry Adedayo Ayanbadejo on March 3, 1997 and April 17, 2001.

*Matter of Brantigan*, 11 I&N Dec. 493 (BIA 1966), states that the burden of proof to establish eligibility for the benefit sought lies with the petitioner.

*In Matter of M*, 8 I&N Dec. 217, it was determined that where no bona fide husband-wife relationship was intended, the marriage is deemed invalid for immigration purposes regardless of whether it would be considered invalid under domestic law of the jurisdiction where performed.

On January 29, 2002, you were issued a "Notice of Intent to Deny Visa Petition" (intent). The Service

received your response to that intent. The information that you submitted included photographs, income tax information, one "letter" and your affidavit. You failed to submit sufficient documentary evidence to overcome the intent to deny.

At the time of interview, you acknowledge that you reside in Beaumont, Texas and that your husband has been living in the New York/New Jersey area since October 2000. You acknowledged that you have never visited your husband in New York or New Jersey since he moved there almost two years ago. Although your husband has made trips to Houston, you have failed to provide evidence of any contact with your husband during those visits. You stated that your husband's family lives in Houston and that he frequently stayed there (not with you in Beaumont) prior to his move out of state. You provided no evidence of telephonic communication with your spouse, such as long distance telephone bills. Your "letters" to your spouse consisted of one three-sentence note stating you were forwarding income tax papers to his New York address. That letter was postmarked AFTER the interview. The evidence you have submitted fails to establish eligibility for the benefit sought. You have provided insufficient evidence that a bona fide husband-wife relationship was intended.

Therefore it is the decision of the Service to deny the petition. Based on the aforementioned, it is the decision of the Service that the beneficiary entered into a marriage with you for the purposes of circumventing immigration law. Section 204(c) of the Immigration

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and Nationality Act precludes the approval of a petition when the alien enters into a marriage for the purpose of circumventing immigration law.

You may appeal this decision. You must submit an appeal to this office, with a filing fee of \$110.00. If you do not file an appeal within the time allowed, this decision is final. It must reach this office within thirty days from the date this notice is served. Do not send your appeal directly to the Board of Immigration Appeals. If you have any questions concerning this matter, please feel free to contact this office.

Sincerely,

/s/ Hipolito M. Acosta

Hipolito M. Acosta  
Acting District Director

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