

NEW YORK, NY (July 25, 2023) – Legal Services NYC and Wilmer Hale announce two new lawsuits against the United States Citizenship & Immigration Services (USCIS) on behalf of two LGBTQ asylum seekers, one from Russia and another from Ukraine, for failing to schedule their asylum hearings. Both plaintiffs, Denys Nikonov and Vadim (Nate) Esin were severely persecuted, beaten, and sexually assaulted in their home countries for being LGBTQ and both have been waiting more than six years for an asylum interview due to the USCIS’s policy of “Last In, First Out” (LIFO). The LIFO policy, which was implemented by the Trump Administration and preserved by the Biden Administration as a way to deter asylum-seekers, leaves asylum seekers like Mr. Nikonov and Esin unable to create stable lives and fills them with fear and anxiety of being sent back to their now war-torn nations. With more than [700,000 asylum applications](#) backlogged at USCIS, it is clear that neither will get a hearing, leaving them in a state of permanent limbo.

“When I left Ukraine, I had to give up everything I had” communication with friends, relatives, people close to me, my successful career” because of the physical threats to my life and psychological bullying, which became unbearable,” said **Denys Nikonov, a plaintiff in the case**. “I came to the U.S. with dreams and hopes that the rule of law might actually work here, which would give me the chance to be myself, openly gay, without being afraid of being killed for it. But waiting for an interview has turned my life into constant stress and turmoil. Today, civilians die every day in Ukraine due to rocket and bomb attacks. I speak to my friends and they ask me to take their children for safety, but I cannot legally do this because I still don’t have a green card.”

Read the complaints [here](#) and [here](#).

Under the Immigration and Nationality Act, USCIS is required to hold an asylum hearing within 45 days of an application and adjudicate a claim within 180 days. Due to the LIFO policy, however, applicants who have been waiting the longest, like Mr. Nikonov and Mr. Esin, will likely never get an interview due to the growing 700,000 application backlog. In their complaints, the plaintiffs allege that the LIFO policy runs counter to USCIS’ statutory obligations and therefore ask the court to force USCIS to schedule their asylum interviews so they can move on with their lives.

Both Mr. Nikonov and Mr. Esin fled their home countries in 2017 due to severe persecution, beatings, and even rape because of their sexual orientation. Both have been waiting more than six years for an asylum interview and are unable to create permanent or stable lives for themselves because they do not have lawful immigration status. Nor can they travel to see loved ones while they wait in permanent limbo. Mr. Esin’s mother recently passed away and he was unable to attend her funeral or grieve with loved ones as a result of USCIS’s failure to follow the law. Both Mr. Nikonov and Mr. Esin are extremely fearful of being forced back to their war-torn home countries where their lives are at risk on multiple fronts. They are also being denied other benefits that becoming asylees would afford them, including the ability to lawfully work, own property, receive financial assistance for college, and eventually apply for citizenship. Their current status is one of legal limbo where they have no such rights and protections.

“This Trump-era policy is inhumane and has no place in our immigration system,” said **Roopal Patel, an attorney at Legal Services NYC working on the case**. “Mr. Nikonov, Mr. Esin, and asylum seekers like them, have waited long enough. They each deserve a fair and timely hearing so they can plead their cases and hopefully start the stable lives they came here to find. It is not only the humane thing to do, it is also required by law.”

WilmerHale’s suit for Mr. Esin was filed in the US District Court for the Eastern District of New York, while LSNYC’s suit for Mr. Nikonov was filed in the US District Court for the Southern District of New York. Both suits name as defendants USCIS, the US Secretary of Homeland Security, the Secretary of the Director of USCIS, and others.

The team representing the asylum seekers include WilmerHale attorneys Serena Li, Jeremy Alder, James Fawcett, Ying Song and Renoj Zachariah, and LSNYC attorneys Roopal Patel, Rex Chen, Stephanie Cordero, Luis Henriquez, and Sara Manaugh. WilmerHale is representing its client pro bono. The firm maintains a steadfast commitment to pro bono representation and public service, and believes in an inherent obligation to ensure equal access to justice for underserved communities around the world.

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