



September 14, 2005

Eduardo Aguirre, Jr., Director  
United States Citizenship and Immigration Services  
425 I Street, N.W.  
Washington, D.C. 20529

*Via overnight mail*

Carolyn Muzika, Regional Director  
Western Regional Office  
Bureau of Citizenship and Immigration Services  
24000 Avila Road, 6th Floor  
P.O. Box 30080  
Laguna Niguel, CA 92607-0080

*Via overnight mail*

Debra A. Rogers, Director  
San Diego District Office  
U.S. Citizenship and Immigration Services  
U.S. Federal Building  
880 Front Street, Suite 1234  
San Diego, CA 92101  
(619) 557-5550 Fax

*Via facsimile*

Director, Office of Internal Audit  
425 I Street, N.W., Room 3260  
Washington, D.C. 20536

Prakash Khatri, Ombudsman  
Citizenship and Immigration Services  
United States Department of Homeland Security  
Mail Stop 1225  
Washington, D.C. 20528-1225

Daniel W. Sutherland, Officer for Civil Rights & Civil Liberties  
United States Department of Homeland Security  
Mail Stop 0800  
Washington, D.C. 20528-1225

**Re: Religious Nature of Oath of Allegiance**

Dear Directors, Ombudsman Khatri, and Officer Sutherland:

We received a complaint from Ingo Gerhard Pakleppa (Alien No. XXX-XXX-XXX; legal name after naturalization: Kevin Matthew Keane), a legal resident who applied for citizenship at the San Diego regional office of USCIS. As part of

518 C St., N.E.

Washington, D.C. 20002

(202) 466-3234

(202) 466-2587 fax

americansunited@au.org

www.au.org

his application for naturalization, Mr. Pakleppa was required to fill out Form N-400. During his interview, he objected to Parts 10(H) and 14 of the form, which together require a prospective citizen to swear an oath of allegiance to the United States that concludes “so help me God.” See Form N-400, available at <http://uscis.gov/graphics/formsfee/forms/files/N-400-non.pdf>. Mr. Pakleppa explained to USCIS Interviewer Reinfrido A. Ayson that he objected to this oath on religious grounds, and he requested a modified oath omitting the phrase “so help me God.” Mr. Pakleppa repeated his request for this modified oath on page 9, question 36, of the Form N-400 that he completed.

According to Mr. Pakleppa, Mr. Ayson refused the request, informing Mr. Pakleppa that if he did not want to swear the religious oath, then he could choose not to become a U.S. citizen. Mr. Ayson also told Mr. Pakleppa that he could waive the religious-oath requirement only if Mr. Pakleppa presented a letter from his religious congregation. Because Mr. Pakleppa is not a member of a religious congregation, he is unable to produce such a letter. In order to avoid delay in his naturalization proceedings, Mr. Pakleppa agreed to fill out a new page 9 of Form N-400, which Mr. Ayson provided.

Mr. Pakleppa’s naturalization ceremony — at which he believes he will be required to take the full oath of citizenship, including a religious invocation — is scheduled for Friday, September 16, 2005. Accordingly, we are writing to inform you that Mr. Pakleppa must be given the opportunity to swear an alternative oath at this proceeding.

As you are no doubt aware, federal regulations require that those who object to the religious nature of the oath of allegiance be allowed to affirm an alternative oath without the religious component:

When a petitioner for naturalization, by reason of religious training and belief (or individual interpretation thereof), or for other reasons of good conscience, cannot take the oath prescribed \* \* \* with the words “on oath” and “so help me God” included, the words “and solemnly affirm” shall be substituted for the words “on oath,” the words “so help me God” shall be deleted, and the oath shall be taken in such modified form.

8 C.F.R. § 337.1(b) (2005). This alternative implements the constitutional principle that objectors cannot be coerced into swearing parts of the naturalization oath that violate their religious principles by the threat of losing their prospective citizenship. See *Girouard v. United States*, 328 U.S. 61, 64 (1946) (holding that Constitution required that applicant for citizenship with religious objections be exempted from part of loyalty oath requiring applicants to promise that they would take up arms for defense of United States).

Of particular concern to us is the fact that on July 1, 2004 — more than a year ago — we sent a letter to Mr. Aguirre; the director of the Office of Internal Audit; and Jack Bulger, director of the USCIS for the State of Florida, with a complaint very similar to Mr. Pakleppa’s regarding a USCIS interviewer in the Miami Citizenship Office who rejected a petitioner’s request for a modified oath.

We received a letter dated July 13, 2004, from Elaine D. Watson, section chief of the Miami Citizenship Office, informing us that the USCIS conducted an investigation into the matter and, as a result, invited the petitioner to return to the office to complete processing with a modified oath. Copies of both letters are attached for your convenience. We were extremely disappointed to learn that, despite our previous letter reminding USCIS of federal regulations requiring government officials to allow petitioners for citizenship to take a modified oath, USCIS personnel still are not complying with their legal obligations under both the Constitution and federal regulations to provide petitioners with the opportunity to take such a modified oath.

We therefore ask that you take immediate action to ensure that Mr. Pakleppa will be given the opportunity to take a modified oath at his naturalization ceremony on September 16. As Mr. Pakleppa plans to vote in the upcoming November elections, any delay in processing his naturalization because of his need to take a non-religious oath would have the effect of depriving him of the right to vote, thus raising serious additional constitutional concerns.

In light of the fact that this is a repeated violation, we also request that you take steps to ensure that your staff is fully informed of their legal obligation to allow objecting persons to swear a modified oath without either penalty or delay. Finally, we ask that you modify the Form N-400 to reflect the availability of a secular alternative to the religious oath, in order to ensure that USCIS personnel do not violate the rights of future petitioners for citizenship. Due to the serious nature of this matter, we ask that you respond before Mr. Pakleppa's naturalization ceremony — which is scheduled for Friday, September 16 at 8:30 a.m. PDT — takes place. I will be out of the office on September 15 and 16, so please direct your response to my colleague, Sara Rose, who can be reached at (202) 466-3234 ext. XXX.

Very truly yours,

Richard B. Katskee  
Assistant Legal Director