



February 27, 2014

U.S. Department of Homeland Security  
U.S. Citizenship and Immigration Services (USCIS)  
San Diego Field Office  
880 Front Suite # 1234  
San Diego, CA 92101  
Attention: Dolores Uribe, Field Office Director, Susan Curda, District Director

**Re: Unconstitutional Denial of U.S. Citizenship**

This letter is written on behalf of Adriana Ramirez (Alien ID [REDACTED]), who recently applied for U.S. citizenship at USCIS San Diego, California. Ms. Ramirez stated that she objects to the pledge to bear arms on the basis of her sincerely held moral convictions. Because her conscientious objector claim is based on secular rather than theistic moral views, her application was denied. This denial is unconstitutional.

The American Humanist Association (AHA) is a national nonprofit organization with over 24,800 members, over 170 local chapters and affiliates, and over 190,000 online supporters across the country. The Appignani Humanist Legal Center, the AHA's legal arm, includes a network of cooperating attorneys from around the country, and has litigated cases involving the rights of Humanists and other non-theists in state and federal courts from coast to coast.

The Religion Clauses of the First Amendment provide: "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof." The first of the two Clauses, "commonly called the Establishment Clause, commands a separation of church and state." *Cutter v. Wilkinson*, 544 U.S. 709, 719 (2005). The Establishment Clause requires the "government [to] remain secular, rather than affiliate itself with religious beliefs or institutions." *County of Allegheny v. ACLU*, 492 U.S. 573, 610 (1989). Not only may the government not advance, promote, affiliate with, or favor any particular religion, it "may not favor religious belief over disbelief." *Id.* at 593 (citation omitted). See *Bd. of Educ. v. Grumet*, 512 U.S. 687, 716 (1994) (O'Connor J., concurring) ("A draft law may exempt conscientious objectors, but it may not exempt conscientious objectors whose objections are based on theistic belief (such as Quakers) as opposed to nontheistic belief (such as Buddhists) or atheistic belief"). Ms. Ramirez has asked us to represent her in defending her constitutional rights in this matter.

On March 24, 2008, Ms. Ramirez obtained permanent resident status [REDACTED]. USCIS received her Form N-400 on October 21, 2013, and on January 15, 2014, she appeared for an interview to determine her eligibility for naturalization. On January 29, 2014, her application for citizenship was denied

based solely on her objection to bear arms. In the denial decision, USCIS wrote: “you submitted a notarized statement, citing deep moral convictions as the basis for your unwillingness to take the full oath of alligence [sic]. Applicants for naturalization seeking an exemption from parts of the oath of alligence [sic] must be based on religious training and belief: as defined by Section 337 of the INA. . . . [Y]our unwillingness is not based on religious training and belief.”

In a notarized statement in support of her application, Ms. Ramirez declared: “As a woman in my mid-30’s, I understand that it is unlikely that I will ever be asked to take up arms to defend this country. I could have easily checked ‘yes’, sealed the envelope, and sent it out. But checking ‘yes’ on Q36-38 would be a betrayal of everything I have stood for from a very early age. I have strong and sincere moral convictions against arms and killing people.”

She added, “I co-founded a journal focusing on non-violence, and have worked ever since to build the foundations of peace. If I were to sign the oath as it is, I would be withholding important information about who I am, only for the benefits of citizenship. . . . Therefore, I prefer to truthfully present my moral objection to this portion of the oath (Q37-38)—as we as to the phrase ‘so help me God’ [8 C.F.R. 337.1 provides that this phrase is optional and that the words ‘on oath’ can be substituted with ‘and solemnly affirm], since I don’t hold such religious beliefs—while solemnly affirming my commitment to this country and the enduring principles that it was founded upon, including justice, equality, freedom of speech, and freedom of religion.” Furthermore, Ms. Ramirez averred:

My moral conviction towards peace and against violence, which contradicts these questions in the oath for citizenship, has been mirrored by many great thinkers and leaders throughout history, from *Martin Luther King*, to *Einstein*, to *Gandhi* and many others. Without their strong convictions and unwavering position on them, the world today would be a very different place. And I think that not compromising my convictions of non-combatancy is equally important. The renowned spiritual teacher and author *Jiddu Krishnamurti* once wrote: “*To bring about peace in the world, to stop all wars, there must be a revolution in the individual, in you and me...To put an end to sorry, to hunger, to war, there must be a psychological revolution and few of us are willing to face that...Peace will come only when you yourself are peaceful.*”

She concluded, “My commitment to non-combatancy is based on deep moral conviction. Accordingly, I respectfully request that the U.S. government honor its statutory exemption and allow me to take an alternate affirmation.”

Based on this testimony, Ms. Ramirez meets the standard for conscientious objector status. As you know, 8 U.S.C. § 1448 (a) provides that a conscientious objector “who shows by clear and convincing evidence . . . that [s]he is opposed to the bearing of arms . . . by reason of religious . . . belief” may omit the pledge from her oath. In order to comply with the Constitution’s guarantee of freedom of conscience, this reference to “religious” belief has been interpreted by the Supreme Court to include secular moral beliefs. *See United States v. Seeger*, 380 U.S. 163, 165-66 (1965), and *Welsh v. United States*, 398 U.S. 333, 339-40 (1970) (stating that what “is necessary . . . for a registrant’s conscientious objection to all war” to be

“‘religious’ . . . is that this opposition to war stem from the registrant’s *moral, ethical, or religious beliefs* about what is right and wrong and that these beliefs be held with the strength of traditional religious convictions”) (emphasis added). *See also Gillette v. U.S.*, 401 U.S. 437, 439, 461-62 (1971) (entertaining free exercise claim “based on a humanist approach to religion”); *Grumet*, 512 U.S. at 716 (O’Connor J., concurring) (“A draft law may exempt conscientious objectors, but it may not exempt conscientious objectors whose objections are based on theistic belief (such as Quakers) as opposed to nontheistic belief (such as Buddhists) or atheistic belief”).<sup>1</sup> Although these cases involved objections to the draft, the same rules apply in the context of naturalization. *See e.g. Rafferty v. United States*, 477 F.2d 531, 533-34 (5th Cir. 1973).

In order to qualify for the exception, UCSIS provides that a person must show that: (1) he or she is “opposed to any type of service”; (2) the objection is grounded in his or her religious principles; and (3) his or her beliefs are sincere, meaningful, and deeply held.<sup>2</sup> As noted above “religious” principles include secular moral principles. It is undisputed that Ms. Ramirez satisfies the first and third criteria. Indeed, USCIS accepted the fact that Ms. Ramirez has “deep moral convictions as the basis for [her] unwillingness to take the full oath of alligence [sic].” The sole basis for denying her application was on the second factor.

Given the Supreme Court’s unequivocal instruction that, to be consistent with the Constitution, the government must interpret a statute permitting conscientious objection on the basis of “religious” belief to include comparable secular moral views, denying Ms. Ramirez’s citizenship on the grounds that her secular moral beliefs are not “religious” is unconstitutional.

It is well settled that the government cannot constitutionally “impose requirements which aid all religions as against non-believers” or which “aid those religions based on a belief in the existence of God as against those religions founded on different beliefs.” *Torcaso v. Watkins*, 367 U.S. 488, 495 (1961). It is equally well settled that “religious beliefs protected by the Free Exercise and Establishment Clauses need not involve worship of a supreme being.” *Kaufman v. Pugh*, 733 F.3d 692, 696 (7th Cir. 2013). As correctly noted by Judge Posner, Establishment Clause jurisprudence treats “the nonreligious as a sect, the sect of nonbelievers.” *ACLU v. St. Charles*, 794 F.2d 265, 270 (7th Cir. 1986). Therefore, secular moral beliefs, such as those espoused by Ms. Ramirez, are treated as “religious beliefs.” *See County of Allegheny v. ACLU*, 492 U.S. 573, 590 (1989) (the First Amendment guarantees “religious liberty and equality to the infidel [and] the atheist.”); *Wallace v. Jaffree*, 472 U.S. 38, 53 (1985); *TWA v. Hardison*, 432 U.S. 63, 91 (1977) (“The exemption here, like those we have upheld, can be claimed by any religious practitioner, a term that the EEOC has sensibly defined to include atheists”); *Reed v. Great Lakes Cos.*, 330 F.3d 931, 934 (7th Cir. 2003); *ACLU v. City of Plattsburgh*, 358 F.3d 1020, 1041 (8th Cir. 2004); *State v. Powers*, 51 N.J.L. 432, 434-35 (N.J. Sup. Ct. 1889).

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<sup>1</sup> See also *In re Weitzman*, 426 F.2d 439, 440 (8th Cir. 1970) (a woman who belonged to no religious group but possessed a “personal moral conviction” that prevented her from bearing arms satisfied the requirements of the religious beliefs exception and should be naturalized); *In re Thompson*, 324 F. Supp. 1205, 1211 (N.D. Ga. 1971).

<sup>2</sup> USCIS Policy Manual, Volume 12, Chapter 3. Available at <http://www.uscis.gov/policymanual/HTML/PolicyManual-Volume12-PartJ-Chapter3.html>

In view of the above, it is clear that USCIS unconstitutionally denied Ms. Ramirez's application for citizenship. In order to avoid litigation, I ask that you immediately reverse course and grant Ms. Ramirez's application. Please notify me within two weeks of receipt of this letter of your decision on this matter.

Sincerely,

Monica Miller, Esq.

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