

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA

v.

ATICHA JITTAPHOL

Defendant

CRIMINAL No. 21-cr-10270-MLW

RESPONSE TO THE COURT'S REQUEST FOR INFORMATION REGARDING THE
DEFENDANT'S IMMIGRATION STATUS AND AUTHORIZATION TO WORK IN THE
UNITED STATES

On February 10, 2022, the Court asked probation and the government to attempt to obtain copies of the defendant's applications for extension of her F1 student visa, and any documents concerning whether her reported application for asylum authorizes her to remain in the United States and work. (ECF No. 39.) In particular, the Court was interested in whether the defendant is in the United States based on possible misrepresentations about being a student since 2016, and whether she is working unlawfully.

I. EXTENSIONS OF THE DEFENDANT'S F-1 VISA

Probation previously reported that the defendant first entered the United States in 2012 via an F1 student visa. ECF No. 33. Probation also reported that in 2015, the defendant applied for, and was granted a work authorization allowing her to be employed in the United States under her student visa, and the defendant's F1 student visa will expire on July 2013. *Id.*

Following probation's submission of ECF No. 33, probation and the government received more accurate information about the defendant's F1 student visa. It appears that the defendant first entered the United States on May 2, 2012 on an F1 visa, but did not renew her F1 visa after

entry. Thus, Jittaphol's F1 visa became invalid as soon as she stopped attending classes as a course of study. Also, as discussed in further detail below, Jittaphol applied for and was granted work authorization under her *asylum application*—not her F1 visa.

II. DEFENDANT'S WORK AUTHORIZATION

The defendant has a pending asylum application, as the defendant disclosed in ECF No. 34. An applicant for asylum who is in the United States may apply for employment authorization pursuant to 8 CFR 208.7, 274a.12(c)(8) and 274a.13(a)(2).

Here, the defendant has applied for and received work authorization five times, as listed in attached Exhibit A. So far, the government has located the first two work authorization applications, [REDACTED] and [REDACTED], which are attached as Exhibits B and C, respectively. Both of those work authorization applications were based on Jittaphol's asylum application. *See* Exs. B and C, no. 16. The government is attempting to, but has not yet located Jittaphol's other work authorization applications.

In summary, the defendant originally entered the United States on an F1 student visa in 2012. The defendant failed to renew her F1 student visa, and it lapsed as soon as she stopped attending classes as a course of study. The defendant subsequently made an asylum application. On at least two occasions, she applied for work authorization under her asylum application. Thus, it appears that the defendant is currently in the country lawfully, without status because she has a pending asylum case with USCIS. Her current work authorization allows her to remain in the U.S. and work until July 13, 2022. Further the defendant may remain in the U.S. without status until USCIS makes a decision on her pending asylum case.

Respectfully submitted,

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By: /s/ Elysa Q. Wan
ELYSA Q. WAN
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CERTIFICATE OF SERVICE

I, Elysa Wan, Assistant U.S. Attorney, hereby certify that the foregoing was sent to counsel of record through email on February 17, 2022.

/s/ Elysa Q. Wan

Elysa Q. Wan

Assistant United States Attorney