

No. 07-2977

**UNITED STATES COURT OF APPEALS  
FOR THE THIRD CIRCUIT**

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Osserritta Robinson,  
Plaintiff-Appellee,

v.

Janet Napolitano, Secretary,  
U.S. Department of Homeland Security, et al.,  
Defendants-Appellants.

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On Appeal from the United States District Court  
For the District of New Jersey  
(D.C. No. 06-cv-05702)  
District Judge: Honorable Stanley R. Chesler

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**MOTION OF AMICUS CURIAE SSAD FOR LEAVE TO FILE  
A BRIEF IN SUPPORT OF PLAINTIFF-APPELLEE'S  
PETITION FOR REHEARING EN BANC**

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## **CORPORATE DISCLOSURE STATEMENT**

Surviving Spouses Against Deportation (SSAD) is a 501(c)(4) non-profit association with headquarters in Lake Oswego, Oregon. No person or corporation owns any percentage of SSAD, nor is the organization publicly held.

## STATEMENT OF INTEREST BY AMICUS CURIAE

### Surviving Spouses Against Deportation

Surviving Spouses Against Deportation (SSAD) is a non-profit organization composed of surviving spouses of American citizens, their immediate family members, and legal counsel. SSAD was established in February 2007 to provide a resource to surviving spouses, their children and families, and attorneys seeking to assist clients whose petitions are subject to the government's automatic termination practices. SSAD maintains a website ([www.ssad.org](http://www.ssad.org)) that contains current information about developments relating to surviving spouses of American citizens, including ongoing litigation efforts.

SSAD has a compelling interest in this case, because the issues decided directly affect SSAD members and their American children and families in the jurisdiction of the Third Circuit, and indirectly affect SSAD members across the nation. Specifically, a number of known surviving spouses whose petitions and applications were denied in Delaware, Pennsylvania, New Jersey, and an unknown number in the U.S. Virgin Islands will now have no relief from summary denial, deportation and separation from their families.

The matters asserted are relevant to the disposition of the case, because a fundamental error of law was made by the majority and the matter in this case is identical factually to a number of other cases nationally. One of the named

plaintiffs in the *Hootkins v. Chertoff* class action litigation, Mrs. Stella Standifer, will be directly impacted by the decision in this case because she resides in Philadelphia, Pennsylvania. *See Hootkins v. Chertoff*, No. 07-05696 (CAS) (C.D. Cal., filed August 30, 2007), first amended complaint, p. 30. According to Mrs. Standifer's declaration in support of the motion for class certification filed in *Hootkins*,

"I was born in Kenya in 1974 and I live in Philadelphia, PA. I entered this country lawfully in 1999 on a non-immigrant F-1 visa. I am currently in H-1B nonimmigrant work status.

On October 11, 2004, I married my husband Glenn Collin Standifer, a United States citizen. I met Glenn in 2000 in Philadelphia and we became friends but did not start dating right away. He had come back to Philadelphia to work for the Delaware Regional Planning Commission as a transportation engineer after attending grad school at the University of Texas at Austin.

He asked me to date him in 2001 but I did not know him very well and so I refused. He asked me again in 2002 and I said yes, I definitely knew him much better and liked him a lot! We both came from single family backgrounds and wanted to be careful that we were making a good decision. Our deep friendship which grew into a deep love and commitment definitely proved that.

We traveled to Kenya in early 2003 so that he could ask for my family's permission to marry me. We stayed for 2 weeks and after the formalities were over, we got engaged at the coastal town of Mombasa, Kenya very early one morning, just as the sun was rising. It was the most beautiful place to be and I will never forget it. My Mom and two sisters traveled to the US for our wedding on October 11<sup>th</sup> 2003. We had approximately two-hundred and fifty friends and family in attendance and it was a wonderful, beautiful wedding. On March 31<sup>st</sup>, 2004 my husband Glenn Collin Standifer filed a Form I-130 on my behalf, and executed an I-864 affidavit of support. On

the same day, I filed a Form I-485, Application to Register Permanent Residence or to Adjust Status, seeking permanent resident status. I was assigned an Alien Number, A98-085-420. Because I was on a valid H1B visa, I did not require a work permit and travel documents at the time.

On December 7<sup>th</sup> 2004 at 3AM, my husband, Glenn Collin Standifer suffered a massive heart attack and died. He was 28 years old. We had spent the previous day at work and then shopping and getting ready for a trip to England to attend my best friend's graduation from Manchester University. That evening Glenn has also put together a long overdue packet of wedding photographs to send to his grandparents.

At about 11 PM we went to bed. I was woken up by his heavy breathing and at first I thought he was having a nightmare and tried to wake him up. When he did not respond, I quickly called 911 and my neighbors. Though the paramedics did resuscitate him once at the house, he was pronounced dead at the hospital. The days that followed are still hazy to me but I remember receiving a lot of help and support from friends and family, and my mom traveled from Kenya and stayed for two months which was very helpful. A couple of weeks after the funeral, I felt as though I was losing my mind with grief and through the encouragement of a friend, I attended a thirteen week grief share group at a church close-by. This really gave me tools for dealing with grief and I appreciate that to this day.

We had an adjustment interview scheduled for January 2005 and after Glenn's death I contacted my lawyer, Jay Bagia. He immediately contacted the immigration department with my case. As we waited for their decision, he filed for an extension of my H-1B so that I would continue to be in status. On June 8<sup>th</sup>, 2005, my petition was denied solely on the basis that I was no longer the spouse of a U.S. citizen.

On July 5<sup>th</sup> 2007, through my lawyer Jay Bagia, I filed a motion to reopen. I received a denial of that motion dated February 11<sup>th</sup> 2008. I am currently on a H-1B visa that expires January 22<sup>nd</sup> 2009. It cannot be extended, as I have reached the limit of time in that visa. I work as an accountant in Philadelphia, PA and I had to change jobs

after Glenn passed away. My new employer informed me that they would not be filing an employer based green card for me which has added to the anguish that I have experienced.

At first when I learned that I had been denied following Glenn's death, I was completely stumped. How could I no longer be a spouse? How could such a law exist? I explained this reasoning to so many people and no one could believe that such a law exists. Anyone who knew both Glenn and I knew of the love that we had for each other and the commitments that we had made, not just to each other but to our families as well.

One the one hand, I had this law telling me that I was not a spouse and on the other I was the only one who could get his retirement benefits, his life insurance, the house that we both lived in and where I live to date. I was the only one who could sort out his student loans, resolve out-standing credit cards and taxes, pay for the funeral and do everything else that a spouse does.

Because I am his spouse, his family has respected and supported every decision that I have made. One of the proudest ones was donating a van that Glenn had bought when he was still single to be used by the inner city youth ministry that he had been involved with. After his death, many people told me to sell it and pay for the many expenses I had but I could not do that. I felt that the church should have it since that is what he intended it for. Seeing how it has blessed so many lives, I do not regret making that decision.”

Declaration of Stella Standifer in support of motion to certify class, Dkt. # 75, *Hootkins v. Chertoff*, No. 07-05696 (CAS) (C.D. Cal., filed August 30, 2007). The majority decision directly affects SSAD members including Mrs. Standifer and scores of others like her. Following the decision in this case, Defendants-Appellants have filed notices of the decision in other cases around the country,

seeking to influence other courts. The decision in this case, therefore, impacts the interests of all SSAD members.

Pro bono counsel Brent W. Renison is a founding member of SSAD, and has extensive knowledge and experience with the statutes and cases involved in this case. Mr. Renison was lead counsel on the *Freeman v. Gonzales* case, has assisted in the briefing in all the cases currently pending in federal courts around the country, and has been appointed class counsel in the *Hootkins v. Chertoff* class action. See *Hootkins v. Chertoff*, 2009 U.S. Dist. LEXIS 3243 (C.D. Cal. 2009), Order granting motion for class certification, \*7.

An amicus brief is desirable in this case because the interests of other similarly situated surviving spouses, children and families hang in the balance following the majority's misguided decision. The Amicus Curiae have a wealth of information, research, analysis and data available to provide to the Court, and have a compelling interest to do so.

### **CONCLUSION**

For the foregoing reasons, the Amicus Curiae respectfully request that this Court grant the motion for leave to file a brief in support of Plaintiff-Appellee's petition for rehearing. The proposed brief accompanies this motion as an attachment.

Respectfully Submitted,

/s/ Brent W. Renison  
Brent W. Renison  
Attorney for Amicus Curiae

Date: February 17, 2009

## CERTIFICATIONS

1. **Certification of Bar Membership**

I hereby certify that I, Brent W. Renison, am a member in good standing of the bar of the United States Court of Appeals for the Third Circuit.

2. **Certification of Service**

I hereby certify that electronic copies of the foregoing *Motion of Amicus Curiae SSAD for Leave to File a Brief of in Support of Plaintiff-Appellee's Petition for Rehearing En Banc*, were sent to all CM/ECF Filing Users through the CM/ECF system, and that no parties are Non-Filing Users.

3. **Certification of Virus Check**

I hereby certify that a virus check of the electronic .PDF version of the foregoing Brief was performed using AVG Antivirus Network Edition, and the .PDF file was found to be virus free.

/s/ Brent W. Renison  
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Date: February 17, 2009