

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

MARIA AND PAUL VOLYN SKY : CIVIL ACTION
: :
v. : :
: :
HILLARY CLINTON, ET AL. : NO. 10-4695

ORDER

AND NOW, this 31st day of January, 2011, upon consideration of Defendants' Motion to Dismiss (Docket No. 6), Plaintiffs' response thereto, and Defendants' reply thereto, and for the reasons stated in the accompanying Memorandum, **IT IS HEREBY ORDERED** that the Motion is **GRANTED IN PART** and **DENIED IN PART** as follows:

1. Defendants' Motion to Dismiss Plaintiffs' APA claims is **DENIED**.
2. Defendants' Motion to Dismiss Plaintiffs' Mandamus Act claims is **DENIED** insofar as Plaintiffs seek a writ of mandamus compelling the State Department to review the factors listed in 22 C.F.R. § 41.63(b)(2)(ii).
3. Defendants' Motion to Dismiss Plaintiffs' Mandamus Act claims is **GRANTED** insofar as Plaintiffs seek a writ of mandamus compelling the State Department to issue a favorable recommendation on Maria Volynsky's Waiver Application or to explain its decision, and those claims are **DISMISSED**.

4. Defendants' Motion to Dismiss Plaintiffs' Due Process claims is **GRANTED** and those claims are **DISMISSED**.

BY THE COURT:

/s/ John R. Padova

John R. Padova, J.