May 1, 2018

VIA HAND DELIVERY

Hon. Scott S. Harris
Clerk of the Court
Supreme Court of the United States
One First Street NE
Washington, DC 20543

Re: Trump v. Hawaii, No. 17-965 (oral argument held April 25, 2018)

On behalf of amici curiae PARS Equality Center et al., I write in regard to statements by counsel and the Court at oral argument in this case concerning the case of Mr. Nageeb Alomari, a U.S. citizen whose family, including his 10-year-old daughter with cerebral palsy in Yemen, was denied a waiver by the United States Department of State in January 2018 under the Proclamation. See Br. of Amici Curiae PARS Equality Center et al. at 14; Oral Argument Tr. 51-52, 72, 76.

As background, in January 2018, Mr. Alomari took his 10-year-old daughter to the U.S. consulate in Djibouti, where a U.S. consular officer interviewed him in connection with his family’s request for a waiver under the Proclamation. The consular officer denied the family’s waiver request at the interview and gave Mr. Alomari a refusal letter checking a box accompanied by the following language: “Taking into account the provisions of the Proclamation, a waiver will not be granted in your case.” This correspondence is enclosed.

Following the oral argument, undersigned counsel learned that on April 24, 2018, the day before the oral argument, the same U.S. consular officer emailed Mr. Alomari, stating that the officer had determined back in January that the family’s case met the standard for a waiver but that she could not inform Mr. Alomari “at the time of the interview because under Department rules, the waiver still required review from my supervisor.” The email continues that “[t]he waiver was approved and as of today, 24-APR-2018, your family’s case is still in administrative processing.” The email further directs Mr. Alomari to “see attached, revised refusal letter indicating the approval of the waiver.” The attachment to the email does not expressly state that the waiver has been approved. It scratches out the prior refusal language and checks a different box accompanied by the following language: “The consular officer is reviewing your eligibility for a waiver under the Proclamation. ... This can be a lengthy process, and until the consular officer can make an individualized determination of [the relevant] factors, your visa application will remain refused under Section 212(f) [of the Proclamation].” This correspondence, too, is enclosed.
May 1, 2018  
Page 2  

Mr. Alomari, who has been in Yemen attending to his family’s situation and remains there now, did not learn of the email from the consulate until April 29. Mr. Alomari’s family has not been granted visas, and, because of the Proclamation, they are not presently able to travel to the United States to obtain medical treatment for their daughter.

Sincerely,

Lisa S. Blatt

Enclosures
Embassy of the United States of America
Immigrant Visa Unit
Diplomats

Visa Applicant:

This is to inform you that a consular officer found you ineligible for a visa under Section 212(d) of the Immigration and Nationality Act, pursuant to Presidential Proclamation 9645. Today’s decision cannot be appealed.

Taking into account the provisions of the Proclamation, a waiver will not be granted in your case.

The consular officer is reviewing your eligibility for a waiver under the Proclamation. To approve a waiver, the consular officer must determine that denying your entry would cause undue hardship, that your entry would not pose a threat to the national security or public safety of the United States, and that your entry would be in the national interest of the United States. This can be a lengthy process, and until the consular officer can make an individualized determination on these three factors, your visa application will remain refused under Section 212(f).
Dear Sir/Madam,

During your family’s immigrant visa interview at the U.S. Embassy in Dilijan on 19 January 2016, the severity of the medical condition you suffered during your interview was independently verified by a competent physician, but also appeared to me, a consular officer, to be the type of condition that every member of your family would be able to handle and manage. I determined this way, and they are not severely ill and would not require medical or social assistance under the Immigration Nationality Act or the visa process.

However, I could not inform you of this at the time of your interview because under Department rules, the visa officer must report this matter to my superiors. This is as of today, 26 March 2016, your family’s case is still in administrative processing. We cannot say how much longer this processing will last, but we will advise you to continue to check your immigration status online. Please see attached, initial refusal letter indicating the approval of the interview.

Vice Consul, U.S. Embassy Dilijan

Official - Privacy/PI

[Embassy of the United States of America]

[Date: 26/03/2016]

[Name: Almona]

[Case Number:]

Dear Visa Applicant:

This is to inform you that a consular officer found you ineligible for a visa under Section 212(f) of the Immigration and Nationality Act, pursuant to Presidential Proclamation 9645. Today’s decision cannot be appealed.
Dear Visa Applicant:

This is to inform you that a consular officer found you ineligible for a visa under Section 212(f) of the Immigration and Nationality Act, pursuant to Presidential Proclamation 9645. Today’s decision cannot be appealed.

☐ Taking into account the provisions of the Proclamation, a waiver will not be granted in your case.

☐ The consular officer is reviewing your eligibility for a waiver under the Proclamation. To approve a waiver, the consular officer must determine that denying your entry would cause undue hardship, that your entry would not pose a threat to the national security or public safety of the United States, and that your entry would be in the national interest of the United States. This can be a lengthy process, and until the consular officer can make an individualized determination on these three factors, your visa application will remain refused under Section 212(f).

You may check the status of your case online:

[Hyperlink] https://ceac.state.gov/ceastatetracker/status.aspx

[Hyperlink] https://ceac.state.gov/ceastatetracker/status.aspx

يرجى متابعة حالة المعاملة عبر الموقع التالي:  

https://ceac.state.gov/ceastatetracker/status.aspx