

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.

Arnold & Porter

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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,

A handwritten signature in blue ink that reads "Lisa S. Blatt". The signature is written in a cursive style with a horizontal line extending from the end.

Lisa S. Blatt

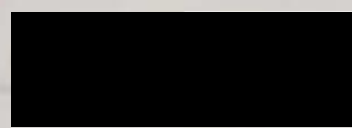
Enclosures

Touch to return to call 07:06

24 Jan 18

Embassy of the United States of America
Immigrant Visa Unit
Dhahran

Name:



Case Number:

PTI 2016777 030

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.

هذا ويحبذ إعلامك بعدم أهليتك للحصول على تأشيرة من قبل القنصل تحت مادة (f)212 (مصلحة الجمهور والمصلحة العليا للإعلان الترتيب رقم 9645 مع العلم ان القرار اليوم غير قابل للاستئناف.

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

مراعاة للأحكام المنصوص عليها في الإعلان، لن يتم منح إعفاء في حالتكم.

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).

القنصل في مراجعة أهليتك من قبل القنصل حول أهليتها للإعفاء من الإعلان. الموافقة الإعفاء يجب على القنصل تحديد لو منح دخولك فهي مبنية على ثلاثة أسباب: ألا تشكل لدخولك تهديدا للأمن القومي أو الأمن العام للولايات المتحدة الأمريكية، وأن دخولك سيكون في المصلحة الوطنية للولايات المتحدة الأمريكية. هذا ويشمل فترة المعاملة، حتى يتم تقييم المتقدمين للتمديدات الثلاثة السابقة من قبل القنصل. تبقى أهليتك خاضعة للرفض تحت مادة (f)212.

From: Consular Djibouti Mailbox <ConsularDjibouti@state.gov>
Date: April 24, 2018 at 6:08:38 AM EDT
To: "NAGEEBAALOMARI@GMAIL.COM" <NAGEEBAALOMARI@GMAIL.COM>
Subject: WAIVER REQUEST, ALOMARI, DJI201677028


Dear Mr. Al Omari,

During your family's immigrant visa interview at U.S. Embassy Dji on 29-Jan-2018, the severity of [REDACTED] cerebral palsy had not only been independently verified by our panel physician, but also very apparent to me. Equally apparent was the level of care and assistance that every member of your family readily provided to [REDACTED] to ensure her health and well-being. I determined the very same day that your family's case clearly met the standard of hardship and necessity specified under Presidential Proclamation 9645 and I therefore recommended your family for a waiver.

However, I could not inform you of this at the time of the interview because under Department rules, the waiver still required review from my supervisor. The waiver was approved and as of today, 24-APR-2018, your family's case is still in administrative processing. We cannot say how much longer this processing will take, but we would advise you to continue to check your CEAC case status online. Please see attached revised refusal letter indicating the approval of the waiver.

Vice Consul, U.S. Embassy Djibouti

Official - Privacy/PII
UNCLASSIFIED

	Embassy of the United States of America Immigrant Visa Unit Djibouti	DSE 2016 777028 DSE 2016 777029 DSE 2016 777030
Date: 24-Apr-18	Name: Alomari [REDACTED]	Case Number/رقم العمالة: _____
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.		



Embassy of the United States of America
Immigrant Visa Unit
Djibouti

DSE 2016 777028
DSE 2016 777029
DSE 2016 777030

Date: 29-07-18 Name: Alomari Case Number/الرقم المعاملة: _____

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.

- هذا ويجب إبلاغك لعدم أهليتك للتأشيرة من قبل القنصل تحت مادة (f)212 لمصلحة الهجرة والجنسية طبقاً للإعلان الرئاسي رقم 9645 مع العلم أن القرار اليوم غير قابل للإستئناف.

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

مراجعة لأحكام الإعلان فإنه لا مجال للإستئناف للمعاملة.

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).

يتم مراجعة معاملتك من قبل القنصل حول قابليتها للإعفاء من الإعلان. لموافقة الإعفاء، يجب على القنصل تحديد أن منع دخولك ليس سوى مشقة لا ذاعي لها. وأن دخولك لا يشير إلى تهديد للأمن القومي أو الأمن العام للولايات المتحدة الأمريكية. وأن دخولك سيكون في المصلحة الوطنية للولايات المتحدة الأمريكية، هذا وتطول فترة المعاملة، حتى يتم تشخيص المُحددات الثلاثة السابقة من قبل القنصل، تبقى معاملتك خاضعة للرفض تحت مادة (f)212 .

You may check the status of your case online:



<https://ceac.state.gov/ceacstatracker/status.aspx>

يرجى متابعة حالة المعاملة عبر الموقع التالي :

<https://ceac.state.gov/ceacstatracker/status.aspx>

