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April 4, 2008

BY FASCIMILE TRANSMISSION AND BY MAIL

The Honorable Michael Chertoff
Secretary
U.S. Department of Homeland Security
Washington, D.C. 20528

Dear Secretary Chertoff:

We write regarding the March 27, 2008, memorandum issued by U.S. Citizenship and Immigration Services (USCIS) concerning the impact of certain security-related bars to admission of refugees, asylees, special immigrants and other non-citizens. While we applaud the steps taken in this guidance, we continue to be concerned at the continuing failure of the Department to implement its statutory authority to exempt deserving individuals from such bars to admission. This failure must be corrected immediately.

On December 26, 2007, the President signed into law the Consolidated Appropriations Act of 2008 ("CAA"), which provided you with increased discretionary authority to exempt individuals from certain security-related bars to admission. While waiting for the Department to issue guidance regarding this new statutory exemption authority, USCIS held in abeyance all cases that could reasonably benefit from the authority. Inexplicably, however, the Department changed this policy early in 2008 and forced the adjudication of cases prior to the effective availability of the exemption authority. The result was the regrettable denial of "green card" applications of many deserving petitioners.

One such individual was Saman Kareem Ahmad, an Iraqi translator whose story was highlighted by the Washington Post on March 23, 2008. Mr. Ahmad served our Armed Forces in Iraq for almost four years, and obtained legal status in the U.S. through a special immigrant visa application personally supported by the Secretary of the Navy and General David H. Petraeus. Nevertheless, USCIS denied his application for permanent residency, based on a security-related bar to admission that could have been exempted under the new authority.

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Commendably, USCIS last week reversed the decision to adjudicate and deny such cases prior to the issuance of guidance on the new exemption authority. In the memorandum mentioned above, USCIS instructed officials to withhold adjudication on all cases that could reasonably benefit from such exemptions. This guidance would appear to prevent the denial of immigration benefits to deserving individuals such as Mr. Ahmad. We have also just learned that on April 1, 2008, the Department finally exercised its exemption authority for the first time—on behalf of Mr. Ahmad.

While we approve of these decisions, they are not nearly enough. More than three months have passed since the President signed the CAA into law, yet you did not exercise the statutory exemption authority provided in that Act to a single case until this last Tuesday. Coupled with the lack of effective implementation of waiver authority delegated to you nearly three years ago, this failure to act is simply inexcusable. Vulnerable refugees, asylees, and special immigrants—many of which fought alongside U.S. forces or provided invaluable service to the U.S. Government—should not have to pay the price for the Department's inability to implement statutory provisions within a reasonable amount of time.

We strongly urge you to finalize guidance on the exemption authority provided by Congress in the CAA. Please inform us expeditiously how the interim guidance set forth in the March 27 memorandum is being implemented. We are particularly interested in learning how that interim guidance has affected individuals similar to Mr. Ahmad, who deserve not our censure for their activities against despotic regimes, but our thanks.

It is our shared duty to resolve the cases of deserving individuals, so that they can reunite with their families and move on with their lives. It is the least we can do for those who have risked their lives for freedom.

Sincerely,


The Honorable John Conyers, Jr.
Chairman


The Honorable Zoe Lofgren
Chairwoman, Subcommittee on
Immigration, Citizenship, Refugees, Border
Security, and International Law

cc: The Honorable Lamar S. Smith
The Honorable Jeffrey Sural
The Honorable Emilio T. Gonzalez
Ms. Sarah Taylor