



HOUSE OF REPRESENTATIVES
WASHINGTON, D. C. 20515

September 19, 2017

The Honorable Rex Tillerson
Secretary of State
U.S. Department of State
2201 C St. NW
Washington, DC 20520

Dear Secretary Tillerson:

In just a few days, the Department of State will engage in the mass denial of visa issuance to hundreds of diversity immigrant visa lottery winners based solely on their national origin. This will occur as the Department of State attempts to comply with Executive Order 13780, Protecting the Nation from Foreign Terrorist Entry Into the United States. Yet, this executive order only pertains to entry into the country. Refusing to process and issue visas goes further than is mandated by the Executive Order and deprives such applicants of a key interest without due process. For this reason, we urge you, U.S. Department of State employees, and U.S. embassies and consulates throughout the world to process all diversity immigrant visa lottery winner applications before the September 30, 2017 fiscal year deadline in order to avoid irreparable injury to those who have already completed the lengthy application process.

The diversity visa program was established in 1990 to encourage legal immigration from countries other than the major sending countries of current immigrants to the U.S. Every year, the State Department randomly selects 84,000 applications from a pool of approximately 19.3 million.¹ From this narrowed-down pool, only 50,000 applicants are granted a visa to immigrate to the country. These winners must then go through extensive document verification processes before they can travel to the United States. If these processes are not completed by September 30th, they forfeit the opportunity to obtain a visa and must re-attempt the lottery process if they wish to be considered again for a diversity visa.

On June 28, 2017, the U.S. Department of State issued a cable on implementing Executive Order 13780 that set in place a policy for processing and reviewing diversity visa lottery winner applications.² The Department of State cable orders U.S. consulates and embassies across the world to deny diversity visa winners who are otherwise eligible for the visa if they are a national from one of six countries: Iran, Libya, Somalia, Sudan, Syria, and Yemen. As a result of this

¹ State Department Visa Bulletin for July 2016, <https://travel.state.gov/content/visas/en/law-and-policy/bulletin/2016/visa-bulletin-for-july-2016.html>.

² State Department Cable on Implementing Travel Ban Executive Order, <https://www.lawfareblog.com/state-department-cable-implementing-travel-ban-executive-order>; *see also* Executive Order on Visas, <https://travel.state.gov/content/travel/en/news/important-announcement.html>.

Department of State cable, hundreds of diversity visa lottery winners have effectively been denied the processing of their applications for visa issuance based on their nationality.³ While Executive Order 13780 does not speak to visa issuance or diversity visas, this discriminatory practice and/or policy by the Department of State and its constituent parts operates as an extension of the Administration's unconstitutional travel ban.

We are disheartened by this blatant discrimination on the basis of national origin. We find that these actions directly contradict the Immigration & Nationality Act's explicit prohibition against discrimination in visa issuance based on nationality, as enshrined in 8 U.S.C. § 1152(a)(1)(A), and Congressional intent in enacting this prohibition. The only conditions for a diversity visa lottery winner to qualify for a visa under the INA are: 1) the winner must be a national of one of the beneficiary countries, and 2) the winner must have the requisite educational level (at least a high school education) or work experience (at least two years in an occupation which requires at least two years of training or experience).⁴ We know as members of Congress that any additional requirements, including a bona fide relationship to the United States, are not authorized by Congress.

Many of these individuals have sold their houses and cars, left their jobs, and even relocated to other countries in anticipation of their immigration to the United States. Many come from backgrounds where conditions are difficult and sometimes life-threatening. For example, the International Red Cross has stated that it is "extremely alarmed" by the airstrikes in Yemen that have placed over 900,000 Yemenis already internally displaced in direct danger.⁵ Failing to fully process these applications at such a late juncture would amount to turning our backs on individuals who have relied on our promises in making key life decisions. This would be particularly harmful to Yemeni applicants who are experiencing the worst cholera outbreak in the world, civil unrest, and mass migration that threatens to further weaken state institutions. We must not abandon such trust, especially at this crucial juncture.

The State Department's failure to honor the fact that these individuals won the visa lottery, and decision to instead pursue a discriminatory policy to exclude individuals based on their national origin is wrong. As Stephen Pattison, a former State Department official has stated, "taking this away from people who won it is the cruelest possible thing this administration could do. It makes us look petty and cruel as a society."⁶ While we recognize that the Department of State is bound by the Executive Order for the time being, it is not required—nor is it permitted—to deny the issuance of visas.⁷

³ Riham Alkousaa and Yeganeh Torbati, *Stranded Yemenis, thousands of others stand to lose 'golden ticket' to U.S.*, REUTERS, July 31, 2017, <https://www.reuters.com/article/us-usa-immigration-diversity-idUSKBN1AG0EJ>.

⁴ 8 U.S.C. § 1153 (c)(2) and 9 FAM 502.6-2.

⁵ Yemen: Airstrikes against civilians are an alarming trend, INTERNATIONAL RED CROSS, Aug. 8, 2017, <https://www.icrc.org/en/document/yemen-airstrikes-against-civilians-are-alarming-trend>.

⁶ Stephen Pattison, Interview, *Yemeni Student is Among Thousands to Win U.S. Visa, Only to Have It Effectively Denied by Travel Ban*, DEMOCRACY NOW, Aug. 11, 2017,

https://www.democracynow.org/2017/8/11/yemeni_student_is_among_thousands_to.

⁷ See 8 U.S.C. §1153 (c)(1); 20 C.F.R. §40.6; and 22 C.F.R. §42.81(a).

We strongly urge you to examine this issue without delay and to take full action to prevent potential immigrants from these six countries from being unjustly denied access to the promises that the United States has for them.

Please feel free to contact Harry Baumgarten in the Office of Congresswoman Yvette D. Clarke at Harry.Baumgarten@mail.house.gov with any questions or to follow up on this request.

Sincerely,


YVETTE D. CLARKE
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HAKEEM JEFFRIES
Member of Congress



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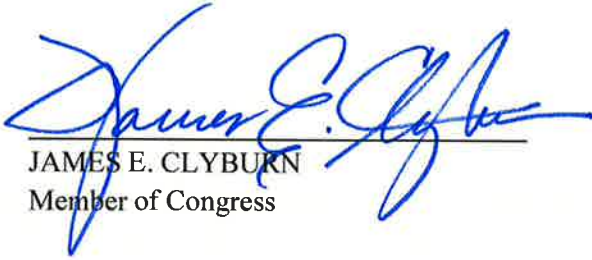

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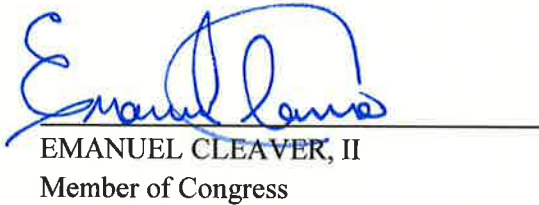
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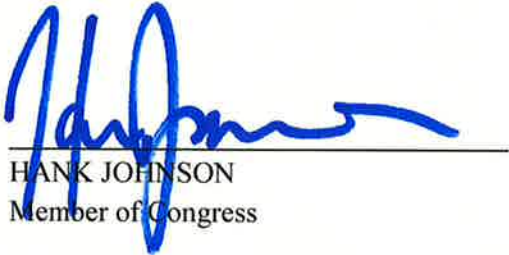
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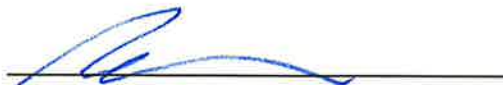
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CC:

The Honorable Kamala Lakhdir, U.S. Ambassador to Malaysia

The Honorable Charles Bennett, U.S. Consul General to Guangzhou, China

The Honorable J. Alexander Hamilton, Chargé d'Affaires Ad Interim, U.S. Embassy in Djibouti