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U.S. Citizenship
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Services

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APR 13 2007

FILE:

MSC 05 082 10868

Dear

On December 21, 2004, you filed an application for temporary resident status pursuant to the terms of the CSS/Newman Settlement Agreements. On March 5, 2007, the District Director, Kansas City, Missouri, denied your application. You have appealed that decision, and the appeal is now before the Administrative Appeals Office (AAO).

During the adjudication of your appeal, information has come to light that seriously compromises the credibility of your claims. Based upon this information, the AAO intends to dismiss your appeal. Pursuant to Citizenship and Immigration Services (CIS) regulations at 8 C.F.R. § 103.2(b)(16)(i), we hereby notify you of this derogatory information and provide you with an opportunity to respond before we render our final decision.

The record of proceeding indicates that you were last admitted to the United States at New York, New York, on January 27, 1994, as a nonimmigrant visitor. On October 14, 1994, you filed a Form I-589, Request for Asylum in the United States. You indicated on your asylum application that you last left Senegal on January 14, 1994, and that you traveled to Germany, France, and Canada on business. You stated on your asylum application at #18, where aliens are asked why they are seeking asylum, that you were seeking "economical asylum." You explained that you had traveled to Germany in June 1993 and purchased "a lot of merchandise" for resale in Senegal. You further stated that when you returned to Senegal in December 1983 with the merchandise you had purchased in Germany, you learned that the currency of Senegal had been devalued and you were not able to make any money on the merchandise.

You indicated during your asylum interview on June 8, 1995, that you were a member of the "The Priest Movement", a group whose aim was to liberate Cassamance from Senegal, that the government of Senegal was fighting this group. You claimed that all of your family members were arrested and jailed. You further stated that your textile business failed because of your group's fight with the government, and you had to escape to the United States to avoid being arrested and jailed yourself. This statement contradicts your statement under penalty of perjury on the asylum application that your business failed

because the currency of Senegal had been devalued and you were not able to make a profit on the merchandise you purchased on your business trip to Germany.

Additionally, you stated under penalty of perjury at #16, "Information About Your Family: List your spouse and all your unmarried children under the age of 21," that you had a wife living in Senegal, but you did not list any children. During your asylum interview, however, you told the interviewing officer that you had three children ages 3, 6, and 8 and that they were living with their mother in Mauritania. Your statement to the interviewing asylum officer that you had three children living with their mother in Mauritania contradicts your statement on the asylum application that you had a wife living in Senegal, but no children.

On your Biographic Information Form (Form G-325A), filed in connection with your asylum application, you stated that you had lived in Senegal "since birth" and did not list any residences in the United States prior to January 27, 1994. You stated on your asylum application that you had lived in the United States since January 27, 1994. However, you claim on the Form I-687 that you have lived in the United States since 1981 and that you returned to Senegal for "a family visit and emergency" from November 1993 to January 1994. Your claim on the Form I-687 that you have lived in the United States since 1981 contradicts your previous statements on your asylum application and your G-325A biographic information form that you had lived in Senegal "since birth" until your arrival in the United States on January 27, 1994.

You indicated at #31 of the Form I-687, "Affiliations or Associations," that you were affiliated with Masjid [REDACTED] in New York, New York, from November 1981 to April 1999, but you submitted in support of your application a letter dated July 24, 2006, from Imam [REDACTED] Pan African Islamic Society, New York, New York, stating that you had attended services at his mosque since 1984. This letter contradicts your statement under penalty of perjury on the Form I-687 that you were affiliated with Masjid [REDACTED] from November 1981 to April 1999.

The contradictions discussed above raise questions regarding the credibility of your claim that you have resided continuously in the United States since 1981.

These contradictions in your claimed dates of entry and residence in the United States undermine the credibility of your claim of continuous residence in this country from prior to January 1, 1982 through May 4, 1988, as required by section 245a of the Act, U.S.C. § 1255a.

Doubt cast on any aspect of the applicant's proof may lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the visa petition. It is incumbent upon the applicant to resolve any inconsistencies in the record by independent objective evidence, and attempts to explain or reconcile such inconsistencies, absent competent objective evidence pointing to where the truth, in fact, lies, will not suffice. *Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988). The above derogatory information indicates that you have misrepresented the date that you first arrived in the United States and thus casts doubt on your eligibility for this visa classification.

Section 212(a)(6)(C) of the Immigration and Nationality Act (Act) provides:

Misrepresentation. – (i) In general. – Any alien who, by fraud or willfully misrepresenting a material fact, seeks to procure (or has sought to procure or has procured) a visa, other documentation, or admission into the United States or other benefit provided under this Act is inadmissible.

By filing the instant application, making false statements, and submitting the fraudulent evidence described above, you appear to have sought to procure a benefit provided under the Act through fraud and willful misrepresentation of a material fact. Unless you are able to provide independent and objective evidence to overcome, fully and persuasively, our above findings, the AAO will dismiss your appeal and enter a formal finding of fraud into the record. This finding of fraud will be considered in any future proceeding where admissibility is an issue. While you may choose to withdraw your appeal, this will not prevent a finding that you have sought to procure immigration benefits through fraud and willful misrepresentation of a material fact.

If you choose to contest the AAO's findings, you must offer substantial evidence from credible sources addressing, explaining, and rebutting the discrepancy described above. The regulation at 8 C.F.R. § 103.2(b)(16)(i) does not specify the amount of time afforded to an applicant or petitioner to respond to derogatory evidence. We consider fifteen (15) days to be ample time for this purpose. Therefore, you are hereby afforded 15 days from the date of this letter in which to respond to this notice. If you do not submit such evidence within the allotted 15-day period, the AAO will dismiss your appeal. If you choose to respond, please submit your response to the address shown on the first page of this letter. Also, please reference your file number, [REDACTED], in your response.

We will not accept any photocopied documentation as evidence to overcome the above derogatory information. We reiterate that, pursuant to *Matter of Ho, supra*, you cannot overcome the above findings simply by offering a self-written explanation.

Additionally, we note that you were arrested in White Plains, New York, on August 21, 1997, and charged with petit larceny. You are also afforded fifteen (15) days to provide the final court disposition of this and any other arrest since your arrival in the United States.


Robert P. Wiemann, Chief
Administrative Appeals Office