

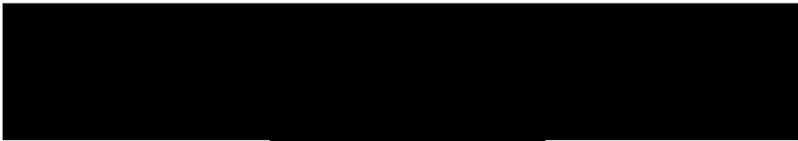
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**U.S. Citizenship
and Immigration
Services**

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FILE:

Office: CALIFORNIA SERVICE CENTER

Date:

JUL 31 2007

IN RE:



APPLICATION:

Application for Waiver of of the Foreign Residence Requirement under Section 212(e) of the Immigration and Nationality Act, 8 U.S.C. § 1182(e).

ON BEHALF OF APPLICANT:

SELF-REPRESENTED

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

A handwritten signature in black ink, appearing to read "Robert P. Wiemann".

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The waiver application was denied by the Director, California Service Center, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The record reflects that the applicant is a native and citizen of Ethiopia who is subject to the two-year foreign residence requirement under section 212(e) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(e). The applicant was last admitted to the United States in J-1 nonimmigrant exchange status on December 24, 2006. The applicant seeks a waiver of the two-year foreign residence requirement based on his claim that he would be persecuted on account of political opinion if he returns to Ethiopia.

The director determined that the applicant had failed to establish that he would be subject to persecution if he complied with the foreign residency requirement of section 212(e) of the Act. *Director's Decision*, dated March 6, 2007. He denied the application accordingly.

On appeal, the applicant submits new evidence that he contends establishes his claim of persecution. *Form I-290B, Notice of Appeal to the Administrative Appeals Office; Statement in Support of the Appeal*, dated March 30, 2007.

The record includes, but is not limited to: reports in *The Addis Fortune, The Daily Monitor and The Ethiopian Herald* concerning the events surrounding the termination of the applicant's employment at the Ethiopian Telecommunications Corporation (ETC); correspondence between the ETC and the Ethiopian Institution of the Ombudsman (Ombudsman), the applicant and the Ombudsman, and the applicant and the ETC; the letter terminating the applicant's employment; statements from the applicant, dated January 24 and March 30, 2007; an arrest warrant for the applicant issued on February 28, 2006 by a judge of the Federal First Instance Court in Ethiopia; a statement from one of the individuals who was fired with the applicant; and a statement from the applicant's wife. The entire record was considered in rendering this decision.

Section 212(e) of the Act states in pertinent part that:

- (e) No person admitted under section 101(a)(15)(J) or acquiring such status after admission
 - (i) whose participation in the program for which he came to the United States was financed in whole or in part, directly or indirectly, by an agency of the Government of the United States or by the government of the country of his nationality or his last residence,
 - (ii) who at the time of admission or acquisition of status under section 101(a)(15)(J) was a national or resident of a country which the Director of the United States Information Agency [now the Director, U.S. Department of State, Waiver Review Division (WRD), "Director"] pursuant to regulations prescribed by him, had designated as clearly requiring the services of persons engaged in the field of specialized knowledge or skill in which the alien was engaged, or
 - (iii) who came to the United States or acquired such status in order to receive graduate medical education or training, shall be eligible to apply for an immigrant visa, or for permanent residence, or for a nonimmigrant visa under section 101(a)(15)(H) or section 101(a)(15)(L) until it is established that such person has resided and been

physically present in the country of his nationality or his last residence for an aggregate of a least two years following departure from the United States: Provided, That upon the favorable recommendation of the Director, pursuant to the request of an interested United States Government agency (or, in the case of an alien described in clause (iii), pursuant to the request of a State Department of Public Health, or its equivalent), or of the Commissioner of Immigration and Naturalization [now, Citizenship and Immigration Services, CIS] after he has determined that departure from the United States would impose exceptional hardship upon the alien's spouse or child (if such spouse or child is a citizen of the United States or a lawfully resident alien), or that the alien cannot return to the country of his nationality or last residence because he would be subject to persecution on account of race, religion, or political opinion, the Attorney General [now the Secretary, Homeland Security, "Secretary"] may waive the requirement of such two-year foreign residence abroad in the case of any alien whose admission to the United States is found by the Attorney General [Secretary] to be in the public interest except that in the case of a waiver requested by a State Department of Public Health, or its equivalent, or in the case of a waiver requested by an interested United States government agency on behalf of an alien described in clause (iii), the waiver shall be subject to the requirements of section 214(l): And provided further, That, except in the case of an alien described in clause (iii), the Attorney General [Secretary] may, upon the favorable recommendation of the Director, waive such two-year foreign residence requirement in any case in which the foreign country of the alien's nationality or last residence has furnished the Director a statement in writing that it has no objection to such waiver in the case of such alien.

As noted above, to be eligible for a waiver of the foreign residence requirement of section 212(e) of the Act, an applicant must first demonstrate that a return to his or her country of nationality or last residence would result in exceptional hardship to a qualifying relative or that he or she would be subject to persecution on account of race, religion or political opinion. In the present case, the applicant contends that, if he returns to Ethiopia, he would face persecution on account of the political opinion imputed to him by his former employer, the ETC. In the January 24, 2007 statement he submitted in support of the Form I-612, Application for Waiver of the Foreign Residence Requirement, the applicant stated that although he did not support any political party he suspected that his "tacit approval of the opposition party was known." He asserted that the ETC Board Chairman's lack of interest in giving him a fair hearing is proof of a hidden agenda against him and that this same lack of interest on the part of the ETC Executive Board or Ministry office reveals that "the government itself is working against us for undisclosed, but politically biased reasons." The political biases, the applicant asserted, were expressed to him in various forms by the board chairman "warning [him] to be either on the side of the governing party or the opposition party." On appeal, the applicant reiterates his claim, stating that "the fact that [he] did not yield to any kinds [sic] of pressure to subscribe to the ruling party had me identified as a threat. This has been clearly affirmed by the Board Chairman giving us verbal warnings to choose sides."

The media reports in the record establish that the applicant and four other individuals were removed from ETC management positions following the failure of a new telephone billing system that publicly embarrassed the ETC. These reports identify the dismissed employees as those who had direct involvement with the procurement and installment of the system and indicate that the case was referred to the Federal Ethics and Anti-Corruption Commission for investigation.

The record also contains a series of letters related to the applicant's dismissal: a September 28, 2006 employment termination letter from the Chief Executive Officer of the ETC indicating that an internal investigation into the billing system project had found the applicant guilty; the applicant's October 2, 2006 appeal to the ETC Executive Board stating that his termination was contrary to procedures, not based on any evidence, and that all decisions regarding the billing project were made with the knowledge and directives of top management; a response from the ETC Executive Board supporting the applicant's termination and providing him with a memorandum explaining the process through which the decision to remove him had been reached and the administrative charges on which he had been dismissed – consciously damaging and causing to malfunction communication liens, consciously damaging the properties and documents of the corporation and using his given authority improperly; a November 22, 2006 letter from three of the dismissed employees, including the applicant, to the [REDACTED], asserting that their termination was unlawful and asking for due process; and letters to the ETC from the [REDACTED] which find the ETC to have violated its own directives in removing the applicant and his colleagues, and to have suppressed their basic rights. The Ombudsman notes that the issues it has raised regarding the disciplinary actions taken against the applicant and his colleagues are unrelated to any criminal charges that could be filed against the applicant by the police or the Federal Ethics and Anti-Corruption Commission.

As previously noted, the applicant contends that the above evidence establishing his removal from his ETC position also demonstrates that his firing is the result of the political opinion imputed to him by ETC management. As proof that he would face persecution if he returned to Ethiopia, the applicant has submitted a warrant issued to the Yeka Sub-City Police Department on February 28, 2006 by the Federal First Instance Court ordering his arrest and an affidavit sworn by another of the individuals dismissed along with the applicant, [REDACTED] who states that the charges leveled against him and the applicant were the result of a "politically orchestrated conspiracy" involving the ETC Executive Board Chairman and the newly installed politically appointed management." [REDACTED] states that he has been confidentially informed that in February 2007 senior government officials instructed the [REDACTED]'s office to stop its defense of his and the applicant's case and that he has gone into hiding to avoid the police. [REDACTED] asserts that the applicant would face imprisonment without due process of law should he return to Ethiopia.

The applicant's spouse, [REDACTED], also attests to the risks facing the applicant upon return to Ethiopia. In a March 24, 2007 affidavit, she states that on March 3, 2007, the police searched her home looking for the applicant and returned on March 9, 2007, verbally warning her about the serious consequences of her failure to produce the applicant. Like [REDACTED], she asserts that she has received confidential information that top Ethiopian government officials have instructed the [REDACTED] office to suspend its representation of the applicant's interests. The applicant's wife also contends that the allegations against the applicant in the press are unfounded and put him in danger of imprisonment without due process.

While the AAO notes the applicant's documentation of his removal by CTC management, the arrest warrant that was issued for him on February 28, 2007 the affidavits submitted by his former colleague and his wife, and his own statements regarding his concerns about returning to Ethiopia, it does not find the submitted evidence to establish that he would be subjected to persecution on account of the political opinion imputed to him by the newly-installed ETC management. The applicant asserts that he would be at risk because his tacit approval of the opposition party was known and that his refusal to yield to any kind of pressure to "subscribe to the ruling party" identified him as a threat. The applicant's statements are not, however, supported by any country conditions information that would establish the political agenda of the new ETC managers or their

efforts to require political support from ETC employees. Neither does the applicant provide any country conditions information establishing that workers in the telecommunications industry in Ethiopia are subject to the type of political pressure described by the applicant. The AAO also finds that the applicant's statements do not offer the level of detail necessary to support his claim in the absence of documentation. The AAO notes that the applicant's assertions fail to identify the name of the opposition party to which he is thought to be affiliated, to indicate the ways in which he believes he was pressured to support the ruling party, to provide an account of his response(s) to that pressure or to offer a description of the verbal warnings issued by the Board Chairman.

The affidavits sworn by the [REDACTED] and the applicant's wife also fail to establish the applicant's claim that he would face persecution upon return to Ethiopia. In the absence of any evidence that demonstrates that the ETC's removal of the applicant and [REDACTED] was politically motivated, these affidavits, alone, are insufficient to establish that the applicant's firing, the police visits to the applicant's house and the arrest warrant issued for him on February 28, 2007 are proof that he would be persecuted on account of his political opinion if he returned to Ethiopia. While the AAO notes that both affidavits state that a confidential source has indicated that the [REDACTED] office has been instructed to cease its representation of the applicant's interests before the ETC, there, again, is no credible evidence in the record that indicates this action stems from an attempt to punish the applicant's suspected political affiliation. The AAO finds that the letters sent by the [REDACTED] office to the ETC, while they establish that the process used to dismiss the applicant failed to follow ETC guidelines, indicate that the interest of the [REDACTED] office is limited to the procedural flaws in the applicant's removal. They do not represent a determination by the [REDACTED] office that the applicant should not have been the subject of ETC charges or that his removal was politically motivated. The AAO also finds no reason to conclude that the purpose of the arrest warrant issued for the applicant is to punish the applicant for his political opinion, real or imputed. It notes that although there are reference numbers on the arrest warrant, there is no way to determine the case in which the arrest warrant was issued.

The record establishes that the applicant was summarily dismissed from his ETC management position on charges of consciously damaging ETC communication lines, properties and document, consciously causing the malfunctioning of communications lines and misusing his authority. Although the applicant has established that his dismissal on these charges was procedurally flawed, he has failed to prove that the charges and his subsequent removal from his position were politically motivated or that the police visits to his home and the warrant issued for his arrest on February 28, 2007 are evidence of an intent to punish him for his political opinion, real or imputed, should he return to Ethiopia. Accordingly, the applicant has failed to establish that if he complied with the foreign residence requirement of section 212(e) of the Act he would be subject to persecution on account of race, religion or political opinion. Therefore, the appeal will be dismissed.

Section 291 of the Act, 8 U.S.C. § 1361. The AAO finds that in the present case, the applicant has not met his burden.

ORDER: The appeal is dismissed.