



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

(b)(6)



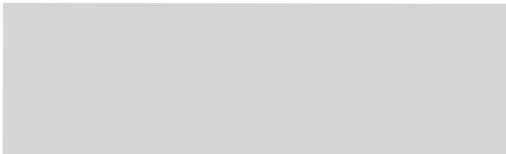
DATE: **AUG 14 2015**

FILE: [REDACTED]
APPLICATION RECEIPT #: [REDACTED]

IN RE: Applicant: [REDACTED]

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

ON BEHALF OF APPLICANT:



Enclosed is the non-precedent decision of the Administrative Appeals Office (AAO) for your case.

If you believe we incorrectly decided your case, you may file a motion requesting us to reconsider our decision and/or reopen the proceeding. The requirements for motions are located at 8 C.F.R. § 103.5. Motions must be filed on a Notice of Appeal or Motion (Form I-290B) **within 33 days of the date of this decision**. The Form I-290B web page (www.uscis.gov/i-290b) contains the latest information on fee, filing location, and other requirements. **Please do not mail any motions directly to the AAO.**

Thank you,

for A handwritten signature in black ink, appearing to read "Ron Rosenberg".

Ron Rosenberg
Chief, Administrative Appeals Office

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

The applicant is a native and citizen of Egypt who obtained J-1 nonimmigrant exchange visitor status in August 2009. The applicant 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) based on U.S. government financing. The applicant presently seeks a waiver of his two-year foreign residence requirement, based on the claim that he will be persecuted on account of political opinion if he returns to Egypt.

The director concluded that the applicant failed to establish that he would be persecuted on account of political opinion were he to return to Egypt for a two-year period. The application was denied accordingly.

In support of the appeal, the applicant submits documentation regarding country conditions in Egypt. The entire record was reviewed and considered in rendering this decision.

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

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, 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(I): 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.

Persecution has been defined as "...a threat to the life or freedom of, or the infliction of suffering or harm upon, those who differ in a way regarded as offensive." *Matter of Acosta*, 19 I&N Dec. 211 (BIA 1985). Unlike applicants for refugee or asylee status, who may establish a well-founded fear of persecution on account of five separate grounds including race, religion, nationality, membership in a particular social group, or political opinion, an applicant for a waiver under section 212(e) of the Act must establish that he or she **would be** persecuted on account of one of three grounds: race, religion or political opinion. In this case, the applicant contends that she qualifies for a waiver based on persecution on account of political opinion.

To support the assertion that the applicant would be persecuted on account of his political opinion if he returns to Egypt, the applicant submitted a statement with the waiver application. In his statement the applicant contends that he is Shia Muslim and was active in voting and electing the ex-President, Mohamed Morsi. He notes that he is not a member of the Muslim Brotherhood but did participate in many demonstrations against the army and for the president. He maintains that were he to return to Egypt, he would be tortured, incarcerated and maybe even killed because of his many demonstrations against the army.

On appeal, the applicant maintains that after his J-1 visa expiration, he returned to Egypt but was unable to complete his two-year home residency requirement due to the persecution he was facing in Egypt due to his political opinion. As a result, he applied for, and obtained, a B2 tourist visa and returned to the United States. He maintains that since his return to the United States, he has been

communicating his opinion on social media, including [REDACTED] and as a result, his home in Egypt was visited by the Egyptian Intelligence Group because they thought he was posting his comments while he was home in Egypt.

The applicant concludes that the persecution of Muslim Brotherhood, declared a terrorist group in Egypt, is widely performed by the Egyptian government, and any supporter of the previous government is now being persecuted and thus, he will be interrogated and incarcerated once he returns to Egypt.

To begin, the applicant has not submitted any documentation in support of his contention that he was persecuted when he returned to Egypt after his J-1 visa expiration. The record establishes that despite the applicant's assertion that he was persecuted in Egypt for his political opinion, he was able to depart Egypt without incident to study in the United States on a J-1 Visa in August 2009 and then to visit the United States on a B-2 Visa in January 2012. Nor has he submitted any documentation to establish that his home in Egypt was visited by the Egyptian Intelligence Group and that such a visit was directly connected to his political opinion. Going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. *Matter of Soffici*, 22 I&N Dec. 158, 165 (Comm'r 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm'r 1972)). While the record contains a January 2014 report that references the Muslim Brotherhood, such documentation is not probative as the applicant states that he is not a member of this organization.

As noted by the director, the applicant has failed to provide any documentation which outlines the applicant's specific political involvement—past and/or present—with respect to his home country. Moreover, no evidence has been provided to indicate that Egyptians in general would be aware of the applicant and his alleged political involvement, let alone that the Egyptian government would demonstrate hostility towards the applicant if it was. The applicant has failed to establish his past persecution in Egypt, his current political involvement in relation to Egypt while residing in the United States, or that upon his return to Egypt, he will be persecuted.

Section 212(e) of the Act requires that the applicant establish that she would be subject to persecution upon return to her country of nationality or last residence. The director noted correctly in her decision denying the request for a waiver based on persecution that no evidence had been submitted establishing past persecution or good reason to fear persecution from the government in power. On appeal, the issues raised by the director, based on an independent analysis of the evidence provided by the applicant, have not been satisfactorily addressed. As such, we concur with the director that the applicant has failed to establish that he would be persecuted in Egypt on account of his political opinion.

In application proceedings, it is the applicant's burden to establish eligibility for the immigration benefit sought. Section 291 of the Act, 8 U.S.C. § 1361. Here, that burden has not been met.

ORDER: The appeal is dismissed.