

9 FAM APPENDIX E, EXHIBIT I EXAMPLE OF TELEGRAM TO MEMBER OF CONGRESS

(CT:VISA-1299; 09-15-2009)

SECSTATE WASH DC

E.O. 12356: N/A

TAGS: CVIS *(DOE, JANE)*

SUBJECT: NIV CASE

REF: STATE 01234

TO: THE HONORABLE JAMES JOYCE

HOUSE OF REPRESENTATIVES

WASHINGTON, D.C. 20515

ATTN: MARY SIMMONS

DEAR MR. JOYCE

1. THANK YOU FOR YOUR LETTER OF JANUARY 5, *2009* REQUESTING INFORMATION ABOUT THE NONIMMIGRANT VISA APPLICATION OF MISS JANE DOE, COUSIN OF YOUR CONSTITUENT JOHN DOE, OF 123 MAIN STREET, CENTERVILLE.
2. OUR RECORDS INDICATE THAT MISS DOE APPLIED FOR A VISITOR VISA ON DECEMBER 18, *2008*. SHE FAILED TO QUALIFY FOR THAT VISA UNDER SECTION 214(B) OF THE IMMIGRATION AND NATIONALITY ACT OF 1952, AS AMENDED, WHICH CONTAINS A STATUTORY PRESUMPTION THAT NONIMMIGRANT VISA APPLICANTS ARE ACTUALLY INTENDING IMMIGRANTS. SUCH VISA APPLICANTS CAN OVERCOME THIS PRESUMPTION BY PROVING THEY HAVE A PERMANENT RESIDENCE ABROAD WHICH THEY HAVE NO INTENTION OF ABANDONING. THIS IS GENERALLY ESTABLISHED BY THE DOCUMENTATION OF FAMILY, SOCIAL, EMPLOYMENT, ECONOMIC OR OTHER TIES IN ANOTHER COUNTRY WHICH WILL COMPEL THEM TO RETURN THERE AFTER A TEMPORARY STAY IN THE UNITED STATES. SINCE VISITORS TO

THE UNITED STATES DO NOT HAVE THE RIGHT TO EMPLOYMENT WHILE THERE, AN APPLICANT'S ECONOMIC POSITION IN ANOTHER COUNTRY AND HIS OR HER PERSONAL FINANCIAL RESOURCES ARE ADDITIONAL FACTORS IN DETERMINING WHETHER THE APPLICANT HAS THE NEED OR DESIRE TO WORK WHILE IN THE UNITED STATES.

3. CONSULAR OFFICERS WISH TO FACILITATE TRAVEL TO THE UNITED STATES. THEY ARE OBLIGED, HOWEVER, TO EVALUATE OBJECTIVELY THE FACTS AND CIRCUMSTANCES SURROUNDING EACH VISA APPLICATION AND TO JUDGE WHETHER THE APPLICANT HAS MET THE BURDEN OF PROOF REQUIRED BY LAW FOR ISSUANCE OF A VISA. DURING HER INTERVIEW MISS *DOE* STATED SHE WAS EMPLOYED PART TIME AND HAD AN ANNUAL INCOME OF FORTY-FIVE HUNDRED DOLLARS. SHE ALSO SAID SHE HAD LEFT SCHOOL TWO YEARS AGO AND HAD NO FUTURE PLANS AT THIS TIME OTHER THAN TO SPEND SIX MONTHS TRAVELING ALONE IN THE UNITED STATES. GIVEN THESE FACTS, THE INTERVIEWING OFFICER HAD TO CONCLUDE THAT MISS *DOE'S* TIES TO PENNSYLVANIA ARE NOT SUFFICIENT TO INDICATE A COMPELLING NEED TO DEPART FROM THE UNITED STATES AFTER A TEMPORARY VISIT AND TO RETURN THERE.
4. IN ADDITION, MISS *DOE'S* INTENDED ACTIVITIES IN THE UNITED STATES ARE UNCLEAR. ACCORDING TO YOUR LETTER, YOUR CONSTITUENT, WHO HAS NEVER MET MISS *DOE*, SAID HE EXPECTED HIS COUSIN TO REMAIN WITH HIS FAMILY DURING HER SIX MONTH STAY. THIS DISCREPANCY WITH MISS *DOE'S* OWN STATED INTENTIONS RAISES QUESTIONS ABOUT WHAT HER INTENTIONS ACTUALLY ARE. UNDER THESE CIRCUMSTANCES, THE CONSULAR OFFICER COULD ONLY DETERMINE THAT THE ADDITIONAL FACTS DID NOT ENABLE MISS *DOE* TO OVERCOME THE LEGAL PRESUMPTION THAT SHE IS AN INTENDING IMMIGRANT AND THAT SHE IS THUS INELIGIBLE FOR A NONIMMIGRANT VISA.
5. VISA INELIGIBILITY UNDER SECTION 214(B) IS NOT PERMANENT AND MAY BE OVERCOME BY SUBMISSION OF ADDITIONAL EVIDENCE OR CHANGED CIRCUMSTANCES. MISS *DOE* IS WELCOME TO REAPPLY AT ANY TIME. GIVEN THE FACTS OF THIS CASE, HOWEVER, I CANNOT GUARANTEE THAT RECONSIDERATION WILL RESULT IN THE ISSUANCE OF A VISA.
6. *PLEASE NOTE THAT THE INFORMATION REGARDING THIS VISA APPLICATION IS PROTECTED FROM DISCLOSURE UNDER SECTION 222(F) OF THE IMMIGRATION AND NATIONALITY ACT (INA), 8*

U.S.C. 1202 (F), AND, IN ACCORDANCE WITH THE LAW, MAY ONLY BE USED FOR THE "FORMULATION, AMENDMENT, ADMINISTRATION OR ENFORCEMENT OF THE IMMIGRATION, NATIONALITY, OR OTHER LAWS OF THE UNITED STATES." SINCE YOU HAVE INQUIRED ON BEHALF OF THE APPLICANT, OUR DISCLOSURE TO YOU OF INFORMATION IN HIS/HER VISA RECORD IS CONSISTENT WITH INA SECTION 222(F), 8 U.S.C. 1202(F), AND YOU MAY SHARE THIS INFORMATION WITH YOUR CONSTITUENT, WHO WROTE TO YOU ON BEHALF OF THE APPLICANT.

7. I REGRET NOT BEING ABLE TO PROVIDE A MORE FAVORABLE REPLY TO YOUR INQUIRY. IF I CAN BE OF FURTHER ASSISTANCE TO YOU, PLEASE DO NOT HESITATE TO LET ME KNOW.

SINCERELY YOURS,

JOHN P. SMITH

AMERICAN CONSUL
AMERICAN CONSULATE
PENNSYLVANIA

JONES