

MICHAEL J. GARCIA  
United States Attorney for the  
Southern District of New York  
Attorney for Defendant  
By: DAVID S. JONES

KRISTIN L. VASSALLO  
Assistant United States Attorneys  
86 Chambers Street, 3rd Floor  
New York, New York 10007  
Tel.: (212) 637-2739/2822  
Fax: (212) 637-2730

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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AMERICAN ACADEMY OF RELIGION, :  
AMERICAN ASSOCIATION OF UNIVERSITY :  
PROFESSORS, PEN AMERICAN CENTER, :  
and TARIQ RAMADAN, :  
: :  
Plaintiffs, :  
: 06 Civ. 588 (PAC)  
- v.- :  
: :  
MICHAEL CHERTOFF, in his official capacity :  
as Secretary of the Department of Homeland :  
Security; CONDOLEEZZA RICE, in her official :  
capacity as Secretary of State, :  
: :  
Defendants. :  
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**DECLARATION OF JOHN O. KINDER**

1. I currently am a Citizen Services Specialist in the American Citizens Services Office of the United States Department of State's Bureau of Consular Affairs. My responsibilities include supporting the American Citizen Services sections of European countries. I have been employed by the Department of State since July 2000 and have held my current position since May 2007.

2. Prior to my current position, I was employed as the Consul at the United States Embassy in Bern, Switzerland. I held that position from August 2005 to April 2007. In that capacity, my responsibilities included adjudication of visa applications.

3. The information contained in this declaration is based on firsthand knowledge or information obtained in my official capacity.

4. On May 5, 2004, Tariq Ramadan was issued an H-1B non-immigrant visa to work as a professor at the University of Notre Dame. Following the issuance of that visa, the State Department received information, in the ordinary course of business, that might have led to a determination that Ramadan was inadmissible to the United States, and therefore, not entitled to a visa.

5. Under State Department procedures, when derogatory information about an individual comes to light after a visa is issued, consideration is given to whether it would be prudent to revoke the visa, pursuant to 8 U.S.C. § 1201(i). The purpose of a prudential revocation is to allow a consular officer to see the applicant again and elicit further information that either confirms the basis for inadmissibility and leads to a firm visa refusal, or discounts the basis for inadmissibility and clears the applicant for a solid issuance. Prudential revocations are precautionary actions taken with a relatively low threshold of information when the alien's admissibility is deemed to raise national security concerns, and are issued to ensure that all relevant or potentially relevant facts about the applicant are thoroughly explored before the alien is admitted to the United States.

6. In accordance with the Immigration and Nationality Act (the "INA") and State Department procedures and practice, a prudential visa revocation under 8 U.S.C. § 1201(i) is not a finding of inadmissibility. Rather, it is an opportunity to evaluate derogatory information in the context of a new visa application. As such, the threshold of proof necessary to issue a prudential revocation is significantly lower than it is for establishing an alien's inadmissibility. If there is *prima facie* evidence of a potential inadmissibility on national security grounds, a prudential revocation is considered warranted, in accordance with 8 U.S.C. §§ 1182(a)(3) and 1201(i).

7. On July 28, 2004, the State Department prudentially revoked Ramadan's H-1B visa, under the authority of 8 U.S.C. § 1201(i), based upon the information it had received. No determination was made as to Ramadan's actual inadmissibility under any provision of 8 U.S.C. § 1182(a)(3).

8. On October 4, 2004, Ramadan reapplied for an H-1B visa. The visa was refused on the same date pursuant to 8 U.S.C. § 1201(g), which is an administrative refusal used to close a case pending the receipt of further information.

9. In December 2004, before the consulate could complete a review of Ramadan's application, Ramadan withdrew his acceptance of Notre Dame's job offer. Accordingly, the Department of Homeland Security revoked the validity of the petition for non-immigrant worker Notre Dame had filed on Ramadan's behalf. Because there was no longer a valid petition on which to base Ramadan's visa application, the application was rendered moot.

10. On September 16, 2005, Ramadan submitted an application for a B-1/B-2 non-immigrant visa at the United States Embassy in Bern, Switzerland. Ramadan was

interviewed in September 2005 and a follow-up interview was conducted in December 2005.

11. During these interviews, Ramadan stated that he had made donations to the Comité de Bienfaisance et de Secours aux Palestiniens (ACBSP@) and the Association de Secours Palestinien (AASP@) and provided other information.

12. Based on these statements and other available information, including a Security Advisory Opinion provided by the Department of State in accordance with applicable law and standard State Department procedures, Aaron Martz, a Consular Officer working in the Consular Section of the U.S. Embassy, Bern, Switzerland, exercised his authority under 8 U.S.C. § 1201(g), on September 19, 2006, and denied Ramadan's application for a visa on the basis of 8 U.S.C. § § 1182(a)(3)(B)(i)(I) and 1182(a)(3)(B)(i)(iv)(VI), concerning Ramadan's provision of material support to undesignated terrorist organizations, ASP and CBSP.

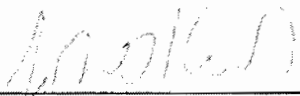
13. The determination of Ramadan's ineligibility under 8 U.S.C. § § 1182(a)(3)(B)(i)(I) and 1182(a)(3)(B)(i)(iv)(VI) was based on findings that Ramadan in fact satisfied each of the statutory requirements establishing inadmissibility under those provisions.

14. On September 19, 2006, Ramadan was notified by telephone that his application had been refused and I followed up with a letter of that same date. A true and accurate copy of that letter is attached as Exhibit A.

15. Ramadan has never been found inadmissible on the basis of the "endorse or spouse" provision currently set forth in 8 U.S.C. § 1182(a)(3)(B)(i)(VII), or its predecessor.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed on May 21, 2007, Washington, D.C.

  
\_\_\_\_\_  
John O. Kinder

# Exhibit A



*Embassy of the United States of America*

September 19, 2006

Dr. Tariq Ramadan  
St. Anthony's College at the University of Oxford  
62 Woodstock Road  
Oxford, UK OX2 6JF

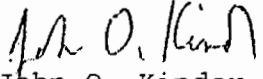
Dear Dr. Ramadan,

Your application for a B1/B2 non-immigrant visa has been refused. You have been found inadmissible to the United States for engaging in terrorist activity by providing material support to a terrorist organization. Please see sections 212(a)(3)(B)(i)(I) and 212(a)(3)(B)(iv)(VI) of the Immigration and Nationality Act (INA) (attached).

The basis for this determination includes the fact that during your two interviews with consular officials, you stated that you had made donations to the Comité de Bienfaisance et de Secours aux Palestiniens and the Association de Secours Palestinien. Donations to these organizations, which you knew, or reasonably should have known, provided funds to Hamas, a designated Foreign Terrorist Organization, made you inadmissible under INA § 212(a)(3)(B)(i)(I).

Under U.S. law, this ineligibility is permanent and you will be unable to enter the United States in the future unless the ineligibility is waived in accordance with INA Sec. 212(d)(3).

Yours sincerely,

  
John O. Kinder  
Consul  
US Embassy Bern