

Center for Constitutional Rights

Discrimination, Detention, and Deportation: Immigration & Refugees

<https://ccrjustice.org/home/get-involved/tools-resources/fact-sheets-and-faqs/view-ground-stories-families-separated>

Policy Issue Resources

On February 20, 2018, CCR and partner organizations Asian Law Caucus, Muslim Advocates, and the Center for Immigrants' Rights Clinic at Pennsylvania State Law School released a resource providing examples of how the Presidential Proclamation (or Muslim Ban 3.0) has impacted families since it went into effect in December 2017. These stories highlight the implementation of the Proclamations waiver provisions and raise serious concerns about the process for obtaining a waiver.

Published February 20, 2018

On December 4, 2017 the U.S. Supreme Court issued two [orders](#) allowing the [Presidential Proclamation](#) to go into full effect, pending a decision by the Supreme Court. The Proclamation suspends entry for most nationals from the following eight countries: Chad, Iran, Libya, North Korea, Somalia, Syria, Yemen, and Venezuela; however, in Section 3(c), the Proclamation also provides that a consular officer may, on a case-by-case basis and within their discretion, [grant a waiver](#) to affected applicants if they meet certain criteria. This fact sheet provides an overview from the ground, based on the experiences of individuals impacted by the Proclamation who are attempting to reunite with their family members in the United States but have had their waivers denied or are pending approval. These cases raise serious concerns about the waiver process and mean that some families are in limbo until the U.S. Supreme Court issues a final decision, which we anticipate in June 2018.

The Proclamation states that to obtain a waiver, the person seeking entry must demonstrate that: 1) denying entry would cause the noncitizen undue hardship; 2) entry would not pose a threat to the national security or public safety of the United States; and 3) entry would be in the national interest. By the terms of the Proclamation, a waiver will be granted only where the individual demonstrates eligibility to a consular officer or to the Customs and Border Protection officer.

The Proclamation lists ten examples where a person might qualify for a waiver, including but not limited to those in a close family relationship and those seeking urgent medical care in the United States. The [Department of State](#) posted guidance that defined close family relationship as those in relationships with LPRs [i.e. lawful permanent residents or green card holders] and aliens lawfully admitted on a valid nonimmigrant visa in addition to U.S. citizens, and further confirmed that waivers may be considered for applicants who are otherwise qualified and seeking urgent medical care in the United States. Neither the Department of State nor Department of Homeland Security have issued any guidance to individuals or attorneys seeking to obtain a waiver, nor has any agency expanded upon the limited language and examples listed in the Proclamation.

Since the Proclamation went into full effect in December 2017, we have documented reports from individuals who have been denied a visa under the Presidential Proclamation but without consideration under the waiver scheme; denied a visa and a waiver without explanation; and/or denied a visa with instructions that a waiver will be considered. In many cases, denials were made without consideration for the individuals family ties or medical needs in the United States. The human impact is significant, keeping families separated and individuals stranded despite established and compelling circumstances. Below are several stories to highlight the impact:

* Institutional affiliation for faculty and students in the Penn State Law Center for Immigrants Rights Clinic is provided for identification purposes only and does not represent the views of the university.

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