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ZIMBABWEAN STUDENT DENIED POLITICAL ASYLUM BY U.S. IMMIGRATION SERVICE.

TEMPORARY STAY OF DEPORTATION ACHIEVED AT LAST MINUTE.

Morgan Lameck Pondayi, a black refugee from the racist Ian Smith regime which rules Zimbabwe (Rhodesia), was saved - temporarily - from deportation by last minute legal efforts and concern by public officials.

The 32-year-old university student had been denied asylum and had been ordered excluded from the USA by an immigration judge. A 16 January letter from New York Assistant Director for Deportation Harold J. Grace had ordered Mr. Pondayi to report for deportation to England at 9 a.m., Wednesday, 28 January 1976.

The Immigration and Naturalization Service office in New York contended that Mr. Pondayi was not being sent back to the oppressive Rhodesian regime, but only to the United Kingdom.

However, a 4 February 1975 letter to the refugee's attorney, Michael I. Davis, from the British Consulate-General's office in New York stated that Mr. Pondayi, although a Commonwealth citizen, had no "unrestricted right of entry into the United Kingdom", and therefore could not claim a right to return there. That letter was duly filed at the time with the INS office in New York.

On Tuesday, 27 January - the eve of his threatened deportation - Mr. Pondayi was told directly by the Consulate-General's office in New York that he would not be permitted into England.

Mr. Pondayi received his deportation order and two other notices from the INS in rapid succession:

A letter of 14 January signed by New York District Director Maurice F. Kiley ordered him "excluded and deported from the United States". The Director noted that the U.S. Department of State had been consulted and that the student "would not be subject to persecution....if you return to the United Kingdom".

A letter dated the following day and signed by Mr. Grace warned Mr. Pondayi not to return to this country for a year.

Mr. Davis, a New York lawyer who has been representing Mr. Pondayi because of the human rights issues involved, had exhausted all appeal procedures. On Monday afternoon, 26 January, he and his client went to INS headquarters in lower Manhattan where counsel submitted an urgent motion to stay execution of the deportation order and its eventual withdrawal. Among the grounds cited was the failure of INS to provide Mr. Pondayi with an opportunity to review and answer the statement furnished the INS by the State Department, as required by the regulations governing asylum procedures.

Mr. Pondayi had fled his homeland in 1965 after the Smith regime's Unilateral Declaration of Independence against the lawful authority, the British crown. He had taken part in a student demonstration and along with others was being sought by the Rhodesian police.

He reached the United Kingdom in 1971, after moving through several African and European countries. Following a year's precarious work and study in London, Mr. Pondayi came to the United States in October 1972 in possession of a valid transit visa. He began efforts to obtain political asylum in this country, meanwhile supporting himself and continuing his schooling.

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(Morgan Pondayi - continued)

In August 1974, after trying repeatedly and unsuccessfully to obtain permission and clarification from the INS, Mr. Pondayi went to London to attend a conference of Zimbabwean students to which he had been invited. He was granted temporary entry into the United Kingdom after satisfying officials that he would return shortly to the USA.

Upon his arrival back in New York later that month, he was allowed to enter the United States, but was told to report to INS headquarters. Mr. Pondayi did so, and, after several postponements, hearing procedures were held in December 1974. He had no attorney at that point. At the conclusion of the hearing, the immigration judge ordered Mr. Pondayi excluded and deported.

Mr. Pondayi then retained Mr. Davis in an appeal to the Board of Immigration Appeals. In March 1975, his appeal was denied but he was allowed to file a formal asylum application under new procedures, and submitted the application and various supporting documents, including many on the Smith regime and its racist and illegal nature.

When, on 27 January of this year, Mr. Pondayi was told by an official of the British Consulate-General that he would not be allowed into the United Kingdom, apparently the INS officer handling his case was told the same thing when he visited the Consulate-General's office that day.

Furthermore, on that same day, his attorney called and was told by a consular official that British authorities would check with Rhodesian officers to see if Mr. Pondayi would be accepted in that African country. Counsel pointed out that Mr. Pondayi was in jeopardy of arrest for his political activities.

Episcopal Churchmen for South Africa, an independent organization of laypeople, has helped Mr. Pondayi for the past three years. Along with last minute legal moves, efforts were made by US political and government officials. The offices of Senator Edward Kennedy (D-Mass) and Congressman Donald Fraser (D-Minn) expressed their concern as did some officers in the State Department.

Late on Tuesday afternoon, 27 January, with 16 hours to go, word came that a stay of the deportation had been granted - after the case had been brought to the attention of the office of Immigration and Naturalization Commissioner Leonard F. Chapman in Washington.

The status of the stay of deportation is still uncertain. In a letter to the New York INS office, his attorney has outlined the difficulty that was encountered in having Mr. Pondayi's motion considered and in obtaining attention from responsible INS officials.

Mr. Pondayi is enrolled at the City University of New York, pursuing studies toward a B.Sc. degree in engineering. He attained a United Nations scholarship in September 1975.

Mr. Pondayi intends to complete graduate work and to become a teacher.

The importance of Mr. Pondayi's case extends far beyond his personal predicament. His experience emphasizes the plight of refugees who come to the United States fleeing from racist and right-wing regimes, particularly in Africa, Asia and Latin America. Special provisions allow permanent residence to refugees from communist countries. But people like Mr. Pondayi face a climate of growing hostility which belies our nation's historic compassion for the oppressed.

The difficulties met by Mr. Pondayi and his lawyer in lodging his last minute urgent appeal spotlights a serious failing by the Immigration and Naturalization Service. So grave a matter deserves adherence to due process and provision for positive assistance to a refugee petitioner.