

Appendix A

DOIA 2324-0703– Wendy Yang

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Request number: [Application Number]

Section 61 record of decision

Legal Framework

Manage immigration in a way that balances the national interest as determined by the Crown, and the rights of individuals

- A person unlawfully in New Zealand has a statutory obligation to depart and has no right to request a visa under section 61
- A refugee claimant or a person who ceases to be a claimant because the claim has been declined and who was the holder of a temporary visa, may not request a visa under s61
- A person who held a limited visa before their visa expired may not request a visa under s61
- A person who has been served a deportation order may not be granted a visa under s61
- No visa may be granted under s61 to a person who comes within s15 or s16 unless in accordance with a special direction
- Under s11, there is no obligation on the decision maker to consider a request for a visa under section 61
- Under s11, there is no obligation on the decision maker to make inquiries about the circumstances of the person requesting a visa or any other person, or any of the information provided by or about that person or any other person.
- Under s11, the decision maker is not obliged to give reasons for any decision relating to a purported application, other than that s61(2) applies; and s27 of the Immigration Act and section 23 of the Official Information Act do not apply.

Request details

Date request received: [Date Tendered]

People included in request:

[Client Name]

[Secondary Applicant 1]

[Secondary Applicant 2]

[Secondary Applicant 3]

[Secondary Applicant 4]

Date of birth:

[Date of Birth]

[SecondaryApplicant1DateOfBirth]

[SecondaryApplicant2DateOfBirth]

[SecondaryApplicant3DateOfBirth]

[SecondaryApplicant4DateOfBirth]

Is the request being considered?

Yes/No [delete as applicable, if no do not continue]

Consideration of request

In relation to the request from [Client Name] for a visa under section 61 of the Immigration Act 2009, I have considered all the information and evidence provided with the request, and all the information available to me about the requester on the Ministry's electronic records.

DO NOT RELEASE – s11 Immigration Act applies

Decision

For release?

No—section 11 (c)(i) applies

International Obligations

I have had regard to New Zealand's international obligations as part of my decision on this request

Yes, the reason I have done so is because I have identified that specific obligations are engaged (because xxxx). The relevant obligation is: [enter obligation]

I have not had regard to New Zealand's international obligations as part of my decision on this because I am not aware of any obligations that apply in this case and that requestor has not brought any to my attention.

Factors most relevant to my decision making:

-
-
-

Conclusion

Having considered this request in the whole, my decision is to grant/not grant [delete as applicable] a visa to because [briefly summarise reason here].

Type and duration of visa, if granted: [specify type and duration if granted, if not delete this sentence]

Decided by:

[Case Officer]

Released under the Official Information Act 1982

Record of Refuse to Consider Decision for use by the section 61 team

Name of requester _____

On balance I have decided to **refuse to consider the section 61 request** because:

(More than one may be chosen – delete those that do not apply):

- A person who is outside of New Zealand is not able to request a visa under s61;
- A refugee claimant or a person who ceases to be a claimant because the claim has been declined and who was the holder of a temporary visa, may not request a visa under s61;
- A person who held a limited visa before their visa expired may not request a visa under s61;
- A person who has been served a deportation order may not be granted a visa under s61;
- No visa may be granted under s61 to a person who comes within s15 or s16 unless in accordance with a special direction;
- A section 61 request was made on [Date Tendered] and no substantive new information has been provided;
- A request for ministerial intervention was declined within the last 12 months;
- An appeal against deportation with the Immigration and Protection Tribunal is pending;
- This section 61 request appears to follow the decline of a temporary visa application [**number**] on [**date**] and the applicant has not exercised their right of a reconsideration;
- A reconsideration of a visa [**number**] was undertaken on [**date**] and the reconsideration was declined;
- The section 61 request appears to be a complaint that has not been lodged with the Central Feedback Team.

Other: _____

Additional comment (if any): _____

For release

Yes

No—section 11 (c)(i) applies –

Section 61 of the Immigration Act 2009 provides that no reasons are necessary because the decision is at the absolute discretion of the decision maker.

Under s11, the decision maker is not obliged to give reasons for any decision relating to a purported application, other than that s61(2) applies; and s27 of the Immigration Act and section 23 of the Official Information Act do not apply.

Senior Immigration Officer: [Case Officer]

Signature: _____ Date: _____

International Obligations

ICCPR	Family international covenant on civil and political rights
ICESCR	International Covenant on Economic Social and Cultural rights
CERD	On the elimination of all forms of racial discrimination
CEDAW	(Domestic violence) Convention on the elimination of all forms of discrimination against women
UNCROC	Convention on the rights of the child
CAT	Convention against torture and other cruel, inhuman or degrading treatment or punishment
UNCRPD	Convention on the right of persons with disabilities
CRSR	Convention Relating to the Status of Refugees

