U.S. Department of Homeland Security
1200 Wall St West
Fourth Floor
Lyndhurst, NJ 07071-0000

U.S. Citizenship and Immigration Services

[redacted]

[redacted]

Bronx, NY 10456

RE: [redacted], A[redacted]

Notice of Intent to Deny

Dear Mrs. [redacted]

The purpose of this letter is to notify you of the intent to deny your request for asylum. U.S. Citizenship and Immigration Services ("USCIS") has carefully considered your written application and accompanying documents, available country conditions materials, and your oral testimony to reach this determination for the reasons given below.

I. BIOGRAPHIC/ENTRY INFORMATION

In presenting your request for asylum, you indicated that you are a [redacted] year-old female native and citizen of Mali, and you stated that you entered the United States at JFK Airport, New York on [redacted] and were admitted in B-2 status until [redacted]

II. BASIS OF CLAIM

You were forced to undergo female genital mutilation on account of your membership in the particular social group of Malian females of Bambara ethnicity who have not undergone FGM as it is practiced in that culture. You fear that you will be physically harmed by your father-in-law or other members of your husband's family on account of your membership in the particular social group of Malian parents of Bambaran ethnicity who oppose FGM for their female children.

III. SUMMARY OF TESTIMONY

You testified that you underwent FGM when you were less than a year old. Because of the experience, you suffer severe pain during menstruation and you lack feeling during sexual intercourse. You also experienced significant pain during childbirth in [redacted] Because of your FGM, there were complications in your pregnancy that resulted in your being unable to conceive a second child as of yet. You had treatment to aid in conception, but it did not succeed.

Your husband's parents want your daughter to undergo FGM. You had planned to take your daughter with you when traveling to the U.S. and you had purchased an airline ticket for her. However, when you departed the family compound to go to the airport, your father-in-law said that your daughter could not go on the trip. Relatives thereupon took the girl. You did not resist for fear that they would use force against her if she did. You opted to come to the U.S. without your daughter rather than stay behind with her because you planned to receive treatment for the consequences of the FGM you suffered, obtain asylum, and then bring her here.

Your father-in-law has insulted you verbally before. He has a daughter that is slightly older than your daughter and he insists that anything you do for your daughter, you do for his daughter as well. Your husband is opposed to FGM for your daughter and helped her obtain a visa to come to the U.S. Your husband told you in a phone call a week before your asylum interview that your daughter has not undergone FGM yet. However, he told you that your father-in-law has not allowed your mother to see your daughter.

You testified that your father-in-law's decisions and wishes were required to be followed and respected in the household. You also testified that he was aware that you were traveling to the U.S. with your daughter. You testified that your husband did not ask your father-in-law for permission for your daughter's travel because he was afraid of your father-in-law. You then testified that you were not sure if your husband asked your father-in-law for permission for your daughter's travel, but that he had told your father-in-law about the trip.

You are afraid that your husband's family will harm you for opposing FGM for your daughter if you return to Mali. You do not believe that you could avoid your husband's relatives by relocating within Mali because they will eventually be able to find you. Also, present unrest in Mali would make relocation difficult.

IV. CREDIBILITY

Your testimony about your FGM was found to be credible as it was internally consistent and corroborated by a letter from Dr[redacted].

Your testimony is not found to be sufficiently persuasive to establish that your father-in-law or any other member of your husband's family has ever resorted to physical violence. You testified that your father-in-law is prone to fighting. When asked how you knew this, you testified that it was because of your past experiences with him. However, when asked if he had ever used physical force on you, you responded that he insulted you verbally.

Your testimony that your father-in-law prevented your daughter from leaving Mali is not found to be sufficiently persuasive to establish that fact without corroborative evidence. You testified that your father-in-law's decisions were required to be implemented in the household and that everyone in the household was required to respect his wishes. However, you testified that your husband had informed him of your plans to travel to the U.S. with your daughter, and you did not indicate that he told your husband the trip was forbidden. It therefore appears unclear whether your father-in-law opposed your daughter's travel or whether he consented to it. Because your testimony is not found to establish by itself that your father-in-law opposed your daughter's travel, it is not found to establish that he is inclined to have FGM performed on your daughter or that he is inclined to harm you for opposing FGM for your daughter.

VI. FOCUSED ANALYSIS COMPONENT

The FGM you underwent is objectively serious harm and amounts to past persecution. Moreover, it occurred on account of your membership in the particular social group consisting of uncircumcised female Malians of Bambara ethnicity. This social group comprises people who share certain immutable or fundamental characteristics (the female sex, intact genitalia, Bambara ethnicity, and Malian nationality) and it is distinct in Mali (your society distinguishes females who have not undergone FGM from females who have).

However, although you have established past persecution, a preponderance of the evidence establishes that there has been a fundamental change in your personal circumstances to such an extent that you no longer have a well-founded fear of persecution in Mali on the basis discussed above. As you have already been circumcised, and as you have not indicated that you fear further circumcision, you are no longer a member of the particular social group on account of which you underwent FGM. For this reason, it is found that you no longer have a well founded fear of persecution on that basis.

Furthermore, while you testified to having severe pain during menstruation and during childbirth because of your FGM, and also testified that you are having problems conceiving a second child because of your FGM, none of the medical documents you submitted establishes the extent of any medical problems you have or their cause. Furthermore, although you testified that you came here without your daughter to seek medical help for your FGM, you testified that you have not sought any medical treatment here apart from the examination you underwent with Dr[redacted] Thus, it has not been

established that the harm from your past experiences is so severe as to warrant a grant of asylum in the absence of a well-founded fear of persecution.

Finally, country conditions information indicates that the unrest in Mali is primarily in the northern part of the country. New York Times, "Fierce Justice Drives Thousands to Flee Mali", July 17, 2012, available at http://www.nytimes.com/2012/07/18/world/africa/jidhadists-fierce-justice-drives-thousands-to-flee-mali.html?pagewanted=2&_r=1&hp [accessed July 23, 2012]. You resided in the south, in Bamako. While the information cited above indicates that there have been beatings and arrests in Bamako, it does not provide information about those beatings and arrests to indicate that you would be at particular risk of such harm. Thus, it has not been established that there is a reasonable possibility that you would suffer other serious harm arising out of the unrest in Mali.

You also claim to have a fear of future persecution on account of your membership in the particular social group of Malian parents of Bambara ethnicity who oppose FGM for their female children. To establish a well-founded fear of future persecution, an asylum applicant must show that his or her fear is both subjectively genuine and objectively reasonable. An asylum applicant may establish an objectively reasonable fear by demonstrating that there is a reasonable possibility of suffering persecution.

Accordingly, it is the applicant's burden to establish that:

(1) she or he possesses (or is believed to possess) beliefs or characteristics the persecutor seeks to overcome in others;

(2) the persecutor is already aware, or could become aware, that she or he possesses these beliefs or characteristics;

(3) the persecutor has the capability of persecuting the applicant; and

(4) the persecutor has the inclination to persecute the applicant.

See *Matter of Mogharrabi*, 19 I&N Dec. 439 (BIA 1987).

You have failed to meet the modified *Mogharrabi* test for well-foundedness in that you have failed to establish that your father-in-law is capable and inclined to persecute you.

You testified that your father-in-law has insulted you verbally and that you are aware that he is prone to fighting based upon your experiences with him. However, you did not indicate that he has ever used physical force on you. Rather, you testified that he has insulted you verbally. There is no other evidence in the record that your father-in-law or any other member of your husband's family has ever resorted to physical violence, and therefore no evidence that your husband's family is capable of inflicting physical harm upon you. You are hereby requested to provide additional evidence or additional detailed statements to support your testimony that your father-in-law or other members of your husband's family are capable of inflicting physical harm upon you.

Also discussed above, your testimony is not found to be sufficient by itself to establish that your father-in-law forbade your daughter from traveling to the U.S. Thus, that testimony is not found to be sufficient to establish that your father-in-law kept her from traveling so that he could have FGM performed upon her, and that he is inclined to harm you for opposing FGM for your daughter. At the conclusion of your interview, you were provided with a request for additional information. Included in that request was a request for evidence of the airline tickets that had been purchased for your daughter to come to the U.S. with you (and that she did not use because your father-in-law prevented her departure). You did not submit this evidence. You are hereby asked again to submit this evidence or else to submit an explanation why that evidence could not be obtained (and any evidence supporting that explanation).

VIII. DECISION

For the reasons explained above, USCIS has found that you are not eligible for asylum status in the United States.

You can provide rebuttal to this notice in support of your request. You have sixteen (16) days [6 days total for mail included] from the date of this notice to submit such rebuttal or new evidence. Failure to respond to this notice within this allotted time may result in the denial of your request for asylum.

Please direct any response to the address on this letterhead. Mark both the envelope and the contents as follows:

Attention: File Number A[redacted] Rebuttal -- ZNK[redacted]

Sincerely,

(For) Susan Raufer
Director,
Newark Asylum Office

cc: [redacted]
New York, NY 10007