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U.S. Department of Justice
Immigration and Naturalization Service

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OFFICE OF ADMINISTRATIVE APPEALS
425 Eye Street N.W.
ULLB, 3rd Floor
Washington, D.C. 20536



FILE:

Office: Vermont Service Center

Date: 15 APR 2012

IN RE: Applicant:

APPLICATION: Application for Waiver of Grounds of Inadmissibility under
Section 212 of the Immigration and Nationality Act, 8 U.S.C.
1182

IN BEHALF OF APPLICANT: Self-represented

Public Copy

INSTRUCTIONS:

This is the decision in your case. All documents have been returned to the office which originally decided your case. Any further inquiry must be made to that office.

If you believe the law was inappropriately applied or the analysis used in reaching the decision was inconsistent with the information provided or with precedent decisions, you may file a motion to reconsider. Such a motion must state the reasons for reconsideration and be supported by any pertinent precedent decisions. Any motion to reconsider must be filed within 30 days of the decision that the motion seeks to reconsider, as required under 8 C.F.R. 103.5(a)(1)(i).

If you have new or additional information which you wish to have considered, you may file a motion to reopen. Such a motion must state the new facts to be proved at the reopened proceeding and be supported by affidavits or other documentary evidence. Any motion to reopen must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires may be excused in the discretion of the Service where it is demonstrated that the delay was reasonable and beyond the control of the applicant or petitioner. Id.

Any motion must be filed with the office which originally decided your case along with a fee of \$110 as required under 8 C.F.R. 103.7.

FOR THE ASSOCIATE COMMISSIONER,
EXAMINATIONS

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The waiver application was denied by the Director, Vermont Service Center, and is now before the Associate Commissioner for Examinations on appeal. The appeal will be rejected.

The applicant is a native and citizen of the Dominican Republic who filed an application for waiver of inadmissibility under section 212(a)(4)(A) of the Immigration and Nationality Act, (the Act), 8 U.S.C. 1182(a)(4)(A), as an alien who is likely to become a public charge. The applicant seeks a waiver of that ground of inadmissibility.

The director determined in his decision that there is no waiver available for an alien likely to become a public charge. The director stated that the only way to overcome a likelihood to become a public charge is the filing of an affidavit of support as provided in the regulations. The director denied the application accordingly.

On appeal, counsel submits an affidavit of support with all the necessary attachments.

Section 212(a)(4) of the Act provides that

(A) Any alien who, in the opinion of the consular officer at the time of application for a visa, or in the opinion of the Attorney General at the time of application for admission or adjustment of status, is likely to become a public charge is inadmissible.

(B)(i) In determining whether an alien is inadmissible under this paragraph, the consular officer or the Attorney General shall at a minimum consider the alien's-

- (I) age;
- (II) health;
- (III) family status;
- (IV) assets, resources, and financial status; and
- (V) education and skills

(ii) in addition to the factors under clause (i), the consular officer or the Attorney General may also consider any affidavit of support under section 213A for purposes of exclusion under this paragraph.

(C) Any alien who seeks admission or adjustment of status under a visa issued under section 201(b)(2) or section 203(a) is inadmissible under this paragraph unless-

(i) the alien has obtained-

- (I) status as a spouse or a child of a United States citizen pursuant to clause (ii), (iii) or (iv) of section 204(a)(1)(A), or

(II) classification pursuant to clause (ii) or (iii) of section 204(a)(1)(B)...(spouse or unmarried son or daughter of a lawful permanent resident alien), or

(ii) the person petitioning for the alien's admission (including any additional sponsor required under section 213A(f)) has executed an affidavit of support described in section 213A with respect to such alien.

Since there is no waiver for the ground of inadmissibility under section 212(a)(4) of the Act, the waiver application is moot and not necessary. Therefore, the appeal will be rejected, and the matter will be remanded for proper review at the time when the applicant seeks to adjust her status or to apply for an immigrant visa.

ORDER: The appeal is rejected. The matter is remanded for proper review when the applicant seeks adjustment of status or applies for an immigrant visa.