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U.S. Department of Justice

Immigration and Naturalization Service

to bring data deleted to prevent clearly unwarranted invasion of personal privacy



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

FILE: [Redacted]

Office: Panama

Date: AUG 19 2002

IN RE: Applicant: [Redacted]

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

IN BEHALF OF APPLICANT: Self-represented

Public Copy

INSTRUCTIONS:

This is the decision in your case. All documents have been returned to the office that 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 that 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 that 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 Assistant Officer in Charge, Panama City, Panama, and is now before the Associate Commissioner for Examinations on appeal. The appeal will be dismissed.

The applicant is a native and citizen of Colombia who was found to be inadmissible to the United States by a consular officer under section 212(a)(1)(A)(i) of the Immigration and Nationality Act (the Act), 8 U.S.C. 1182(a)(1)(A)(i), as an alien who is determined to have a communicable disease of public health significance. The applicant is the unmarried son of a naturalized U.S. citizen. The applicant seeks the above waiver under section 212(g) of the Act, 8 U.S.C. 1182(g), in order to join his relatives in the United States.

The assistant officer in charge denied the application for failure of the applicant to provide evidence that no cost would be incurred by any level of government agency of the United States without the prior consent of that agency. The acting officer in charge noted that the applicant submitted a form signed by Dr. Alan Greenberg indicating that Jersey City Medical Center would be willing to provide care at no cost to any government agency. However, there is no title or office held within that organization to establish that Dr. Greenberg is the spokesperson for the hospital or that he has the authority to obligate the hospital for any expenses incurred by the applicant.

On appeal, the applicant states that he will not use the government's aid to help his situation. The applicant states that his father has health insurance and he will be included under that health insurance policy as soon as he is accepted. That assertion is unsupported in the record. The applicant asserts that the decision looks somewhat like discrimination.

Section 212(a)(1)(A) of the Act provides, in part, that any alien-

(i) who is determined (in accordance with regulations prescribed by the Secretary of Health and Human Services) to have a communicable disease of public health significance, which shall include infection with the etiologic agent for acquired immune deficiency syndrome, ...is inadmissible.

Section 212(g)(1) of the Act provides that: The Attorney General may waive the application of subsection (a)(1)(A)(i) in the case of any alien who-

(A) is the spouse or the unmarried son or daughter, or the minor unmarried lawfully adopted child, of a United States citizen, or of an alien lawfully admitted for permanent residence, or an alien who has been issued an immigrant visa, or

(B) has a son or daughter who is a United States citizen, or an alien lawfully admitted for permanent residence, or an alien who has been issued an immigrant visa....

Service instructions provide that an applicant who is inadmissible under section 212(a)(1)(A)(i) of the Act because of HIV Infection must demonstrate the following criteria will be met if a waiver is to be approved.

(a) the danger to the public health of the United States created by the alien's admission is minimal;

(b) the possibility of the spread of the infection created by the applicant's admission is minimal; and

(c) there will be no cost incurred by any level of government agency of the United States without prior consent of that agency.

The applicant has failed to satisfy standard (c). Therefore, the assistant officer in charge's decision will be affirmed and the appeal will be dismissed.

**ORDER:** The appeal is dismissed.