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U.S. Department of Justice

Immigration and Naturalization Service

OFFICE OF ADMINISTRATIVE APPEALS

425 Eye Street N.W.

ULLB, 3rd Floor

Washington, D.C. 20536

HI



FILE: [Redacted] Office: SEOUL

Date:

JAN 07 2013

IN RE: Applicant: [Redacted]

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

IN BEHALF OF APPLICANT: Self-represented

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 Officer in Charge, Seoul, Korea, and is now before the Associate Commissioner for Examinations on appeal. The appeal will be dismissed.

The applicant is a native and citizen of Japan who was found to be inadmissible to the United States by the officer in charge under section 212(a)(1)(A)(ii) of the Immigration and Nationality Act (the Act), 8 U.S.C. 1182(a)(1)(A)(ii), as an alien who has failed to present documentation of having received vaccinations against vaccine-preventable diseases. The applicant married a United States citizen in April 1993 and is the beneficiary of an approved Petition for Alien Relative. The applicant seeks the above waiver under section 212(g) of the Act, 8 U.S.C. 1182(g), in order to join her husband in the United States.

The officer in charge denied the application after determining that the applicant had failed to provide sufficient information to support her reasons for not consenting to being vaccinated.

On appeal, the applicant submits a vaccination worksheet that indicates that she had an allergic reaction to a vaccination 30 years ago and since that time has not been vaccinated. The worksheet also contains a recommendation from a panel physician that the applicant be granted a blanket waiver as the vaccinations would be medically inappropriate. Statements from the applicant and her husband explain why, aside from her past medical history, they are both opposed to vaccinations for religious and moral reasons. The applicant also provides a brochure describing Vipassana Meditation, which she practices. A letter from the applicant states that as a Vipassana meditator she cannot act at variance with her conscience because this would be a violation of universal moral principle that is forbidden in the Buddha Dhamma.

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

(ii) except as provided in subparagraph (C), who seeks admission as an immigrant, or who seeks adjustment of status to the status of an alien lawfully admitted for permanent residence, and who has failed to present documentation of having received vaccination against vaccine-preventable diseases, . . . , is inadmissible.

Section 212(g) of the Act states that the Attorney General may waive the application of-

(2) subsection (a)(1)(A)(ii) in the case of any alien-

(A) who receives vaccination against the vaccine-preventable disease or diseases for which the alien has failed to present documentation of previous vaccination,



(B) for whom a civil surgeon, medical officer, or panel physician (as those terms are defined by section 34.2 of title 42 of the Code of Federal Regulations) certifies according to such regulations as the Secretary of Health and Human Services may prescribe, that such vaccination would not be medically appropriate, or

(C) under such circumstances as the Attorney General provides by regulation, with respect to whom the requirement of such a vaccination would be contrary to the alien's religious beliefs or moral convictions;

Information received from the Department of State indicates that the applicant was interviewed by a consular officer in July of 2002 and her immigrant visa was granted based on the recommended blanket waiver. The current waiver application is therefore unnecessary and moot.

ORDER: The appeal is dismissed as moot.