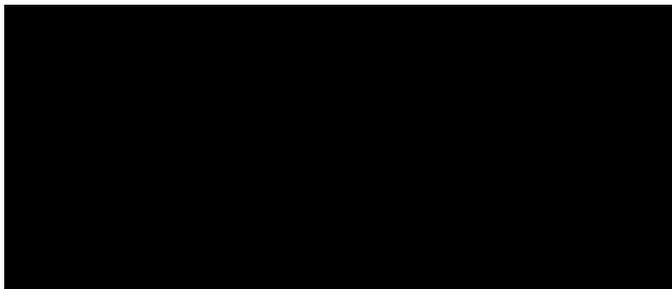


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FILE:



Office: BANGKOK, THAILAND

Date: OCT 28 2005

IN RE:



APPLICATION: Application for Waiver of Grounds of Inadmissibility under Section 212(g)(2) of the Immigration and Nationality Act, 8 U.S.C. § 1182(g)(2)

ON BEHALF OF APPLICANT:

SELF-REPRESENTED

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office 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.

Robert P. Wiemann, Director  
Administrative Appeals Office

**DISCUSSION:** The waiver application was denied by the District Director, Bangkok, Thailand, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The applicant is a native and citizen of New Zealand who was found to be inadmissible to the United States under section 212(a)(1)(A)(ii) of the Immigration and Nationality Act (the Act), 8 U.S.C. 1182(a)(1)(A)(ii), for having failed to present documentation of having received vaccination against vaccine-preventable diseases. The applicant is the beneficiary of an approved petition for alien employment. The applicant's wife and children have derivative applications pending based on the applicant's employment-based case.

The district director found that based on the evidence in the record, the applicant failed to establish eligibility for a waiver of inadmissibility. The application was denied accordingly. *Decision of the District Director*, dated May 26, 2004.

On appeal, the applicant contends that he has met the required criteria in order for a waiver to be approved. *Brief in Support of Appeal*, dated June 11, 2004.

The record includes, but is not limited, to the aforementioned brief, previous letters from the applicant and several vaccine-related articles. The entire record was considered in rendering this decision.

The record indicates that the applicant declined to be vaccinated for tetanus/diphtheria, polio, mumps, influenza type B, hepatitis B, varicella, pneumonia and influenza. The applicant's spouse declined to be vaccinated for tetanus/diphtheria, polio, influenza type B, hepatitis B, varicella, pneumonia and influenza and their two children did not receive any vaccinations.

Section 212(a) of the Act states:

CLASSES OF ALIENS INELIGIBLE FOR VISAS OR ADMISSION.-Except as otherwise provided in this Act, aliens who are ineligible under the following paragraphs are ineligible to receive visas and ineligible to be admitted to the United States:

(1) HEALTH RELATED GROUNDS-

(A) IN GENERAL- Any alien-

....

(ii) 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 vaccination-preventable diseases, which shall include at least the following diseases: mumps, measles, rubella, polio, tetanus and diphtheria toxoids, pertussis, influenza type B and hepatitis, and any other vaccinations against vaccine preventable diseases recommended by the Advisory Committee for Immunization Practices,

....

(B) WAIVER AUTHORIZED-For provisions authorizing waiver of certain clauses of subparagraph (A), see subsection(g).

Section 212(g)(2) provides that the Attorney General may waive the application of 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 beliefs or moral convictions; . . .

At present, Service guidelines provide that an applicant who is inadmissible under section 212(a)(1)(A)(ii) and seeks a waiver of inadmissibility under section 212(g)(2)(C), must demonstrate the following criteria for the waiver to be approved: (1) he or she is opposed to vaccinations in any form; and (2) the objection is based on religious belief or moral convictions (whether or not a member of a recognized religion); and (3) the religious belief or moral conviction (whether or not as a part of a "mainstream" religion) is sincere. When the waiver application is for a child, the child's parent must satisfy these three requirements.

The applicant asserts that he meets all three of the aforementioned requirements. *Brief in Support of Appeal*, at 1. In regard to the first requirement, the applicant admits that he is not opposed to vaccinations in any form by stating, "We are not especially anti-vaccine as much as we are pro-choice..." *Applicant's Letter*, at 31, dated February 24, 2004. The applicant asserts that he is opposed to vaccinations based on his moral and religious beliefs. *Brief in Support of Appeal*, at 1. The applicant is a member of Ramtha's School of Enlightenment (RSE), a group that seeks to reconnect its members to their inner divinity. *Applicant's Letter*, at 2. RSE has a spiritual leader, Ramtha, who encourages the students to engage principles which enable them to become masters of their reality. *Id.* at 3. The applicant asserts that the immunization requirements conflict with one the cornerstones of the school, specifically that the nature of one's reality is created through consciousness and energy. *Id.* at 6.

The applicant states that one cannot become a master until one accepts all of one's reality, including health. *Id.* The applicant states that he accepts responsibility for his health, it would be against his moral conviction to compromise this acceptance and Ramtha places considerable emphasis on respecting the body and brain. *Id.* at 9. The applicant perceives vaccines to be unsafe and they would compromise what is true for him. *Id.* at 10. The applicant has provided numerous articles regarding vaccines, autism and autoimmune diseases. The district director found that the scientific reports submitted do not establish that vaccines are harmful. *Decision of the District Director*, at 4. The applicant states that the district director was correct in this statement. *Brief in Support of Appeal*, at 2. However, the applicant then states that he does not put anything into his body which he perceives to be harmful, regardless of whether it is actually harmful. *Id.* It is contradictory for the applicant to state that he perceives vaccines to be harmful without providing a basis for this perception, i.e. scientific evidence of their harmfulness. Furthermore, Ramtha states, "Never put into your body that which is harmful, which you *know* is harmful." *Id.* at 9. As the applicant does not know vaccinations are harmful, it would not be against the beliefs of RSE. The record fails to include any recent, credible scientific reports to support a claim that vaccinations are harmful. In addition, the applicant has not produced any evidence from any RSE text that specifically states vaccinations are against the belief system.

Finally, the AAO notes that the applicant is being sponsored to work as a nurse, a profession which is involved with medicine and vaccinations.

While the concerns of the applicant regarding vaccinations are understandable, the concern of those who may contact these preventable life-altering diseases is significant. The law requires vaccinations for immigrants in order to prevent the spread of preventable diseases through vaccinations, and to promote the health and well being of people living in the United States.

It is concluded that the applicant has failed to satisfactorily establish that the applicant warrants a waiver of the vaccination requirement. As the applicant is not eligible for a waiver, his wife is not eligible for a waiver as she shares the same religious beliefs and his children are not eligible as the applicant has not met the waiver requirements. Accordingly, the appeal will be dismissed.

In proceedings for application for waiver of grounds of inadmissibility under section 212(g)(2) of the Act, the burden of proving eligibility remains entirely with the applicant. Here, that burden has not been met.

**ORDER:** The appeal is dismissed.