

identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy

PUBLIC COPY

U. S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Administrative Appeals Office (AAO)
20 Massachusetts Ave., N.W., MS 2090
Washington, DC 20529-2090



**U.S. Citizenship
and Immigration
Services**

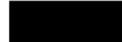
H,



FILE:



Office:



Date: **APR 07 2011**

IN RE:

Applicant:



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

ON BEHALF OF APPLICANT:

SELF-REPRESENTED

INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office in your case. All of the documents related to this matter have been returned to the office that originally decided your case. Please be advised that any further inquiry that you might have concerning your case must be made to that office.

Thank you,

A handwritten signature in cursive script that reads "Michael Shumway".

for Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The waiver application was denied by the Acting District Director (“director”), [REDACTED]. The Administrative Appeals Office (AAO) dismissed a subsequent appeal. The AAO will now reopen the matter *sua sponte* and the decision of the director will be withdrawn as the applicant is not inadmissible. The waiver application will be declared moot, and the appeal will be dismissed.

The applicant is a native and citizen of [REDACTED] who was found to be inadmissible to the United States 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 been infected with HIV, a communicable disease of public health significance. The applicant seeks a waiver of inadmissibility pursuant to section 212(g) of the Act, 8 U.S.C. § 1182(g).

The director determined that the applicant failed to establish that he has a qualifying relative through whom he can claim eligibility for a waiver. The applicant’s Form I-601, Application for Waiver of Ground of Excludability (now referred to as Inadmissibility), was denied accordingly. *Denial Notice*, dated July 7, 2006.

On appeal, the applicant did not contest the director’s determination. The applicant instead submitted an affidavit detailing his desire to remain in the United States. *See Affidavit of* [REDACTED] [REDACTED] dated September 5, 2006.

On January 16, 2009, the AAO dismissed the appeal, finding that since the applicant’s U.S. citizen father is deceased, he is no longer a qualifying family member for purposes of a section 212(g) waiver of inadmissibility. The AAO determined that because the applicant no longer has a qualifying family member, he is not eligible for a waiver of inadmissibility under section 212(g) of the Act.

Upon review, the AAO will reopen *sua sponte* its January 16, 2009 decision for purposes of entering a new decision pursuant to 8 C.F.R. § 103.5(a)(5).

The AAO notes that on January 4, 2010, the Centers for Disease Control and Prevention (CDC), within the U.S. Department of Health and Human Services (HHS), amended its regulations to remove HIV infection from the definition of communicable disease of public health significance. Therefore, the AAO finds that the applicant is no longer inadmissible to the United States based solely on the ground that he is infected with HIV. As such, the issue of whether the applicant has established eligibility for a waiver under section 212(g) of the Act is moot and need not be addressed.

ORDER: The decision of the director is withdrawn as the applicant is not inadmissible, the waiver application is declared moot, and the appeal is dismissed. The matter is returned to the director to reopen and process the applicant’s Form I-485 Application to Register Permanent Resident or Adjust Status.