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U. S. Department of Homeland Security  
U. S. Citizenship and Immigration Services  
Office of Administrative Appeals (AAO)  
20 Massachusetts Ave., N.W., MS2090  
Washington, DC 20529-2090



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



H<sub>1</sub>

FILE:



Office: SACRAMENTO, CA

Date:

IN RE:

Applicant:



**FEB 10 2011**

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:

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,

*Perry Rhew*

Perry Rhew  
Chief, Administrative Appeals Office

**DISCUSSION:** The waiver application was denied by the Field Office Director, Sacramento, California, and is now before the Administrative Appeals Office on appeal. The appeal will be sustained.

The applicant is a native and citizen of Ukraine 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 has been authorized Significant Public Benefit Parole under section 212(d)(5)(A) of the Act and seeks adjustment of status pursuant to the Lautenberg Amendment, P.L. 101-167, Nov. 21, 1989. The applicant is the daughter of a lawful permanent resident father and seeks a waiver of inadmissibility pursuant to section 212(g)(2) of the Act, 8 U.S.C. § 1182(g)(2), in order to remain in the United States.

The Field Office Director concluded that the applicant had failed to establish that she is opposed to vaccinations in any form based on sincere religious or moral convictions, and denied the application accordingly. *See Decision of the Field Office Director* dated April 29, 2010.

On appeal, the applicant's father asserts that his child is exempt from vaccination because it conflicts with his family's sincerely held Christian belief. *Form I-290B, Notice of Appeal or Motion*.

In support of the waiver application and appeal, the applicant submitted publications that include information on vaccinations and excerpts of Bible passages referred to by the applicant's father in the Notice of Appeal. The entire record was reviewed and considered in arriving at a decision on the appeal.

Section 212(a) of the Act provides, in pertinent part:

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 [Secretary] 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; . . .

USCIS guidelines provide that an applicant who is inadmissible under section 212(a)(1)(A)(ii) of the Act and seeks a waiver of inadmissibility under section 212(g)(2)(C) of the Act 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. *See Memorandum on Vaccination Requirements Under Section 212(a)(1)(A)(ii) of the Act from Paul W. Virtue, Acting Executive Associate Commissioner, Office of Programs, dated September 29, 1997.*

The record reflects that the applicant is a five year-old native and citizen of the Ukraine whose father requested a waiver of vaccinations due to religious beliefs and moral convictions that cause him to oppose his child being vaccinated. The applicant's father asserts that his objection to his child being vaccinated is based on a sincerely held Christian belief, and that his family's personal Christian beliefs prohibit the injection of foreign substances into their bodies. *Form I-290B, Notice of Appeal or Motion.* The AAO observes that the applicant was granted Significant Public Benefit Parole pursuant to the Lautenberg Amendment,<sup>1</sup> and her Registration for Classification As Refugee, Form I-590T, states that she is fleeing the Ukraine for reasons pertaining to her Evangelical Christian Baptist beliefs. *Form I-*

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<sup>1</sup> The Lautenberg Amendment to the Foreign Operations Appropriations Act allows certain individuals that were denied refugee status to be inspected and paroled into the United States on a humanitarian basis. Today, this provision is limited to only those from the former Soviet Union and include (but are not necessarily limited to) Jews, Evangelical Christians, and Ukrainian Christians of the Orthodox and Roman Catholic denominations. *U.S. Department of State, Refugee Admissions Program for Europe and Central Asia, Bureau of Population, Refugees, and Migration, Fact Sheet, February 6, 2009.*

*590T, Registration for Classification As Refugee, Section 207 Immigration and Nationality Act; Form I-512, Authorization for Parole of Alien Into the United States.*

The applicant's father states,

The Bible teaches that we shall keep the blood pure, and keep the seed from being mixed. Obviously, when genetic materials from bacteria, viruses, yeast, animals, birds, and other humans are injected during vaccination, the blood gets contaminated, and genetic changes occur. God warned not to do this. To do so would violate these teachings of the Bible. Our objection is based on our deeply-held religious beliefs. All vaccines are made in violation of God's Word. Vaccines are made with toxic chemicals that are injected into the bloodstream by vaccination. All vaccines are made with foreign proteins (viruses and bacteria), and some vaccines are made with genetically engineered viral and bacterial materials. The New Testament says that life is a gift of God and the body is a marvelous work of divine creation to be revered as a temple of God. To keep the body holy and clean from blemish, scripture warns against defiling the body . . . Leviticus 17:14, 1Thess.5:23, I Corinthians 3:16-17, 6:19, 2 Corinthians 7:1.

The record indicates that the applicant and her family were granted parole under the Lautenberg Amendment as Evangelical Christians and the applicant's father states that their family's personal Christian beliefs prohibit the injection of foreign substances into the body in the form of vaccinations. The AAO finds that the applicant's father has established that he is opposed to vaccinations in any form and that the objection is based on sincere religious beliefs or moral convictions. Accordingly, the appeal will be sustained.

**ORDER:** The appeal is sustained. The director shall reopen the denial of the I-485 application and continue processing the application for adjustment of status.