



U.S. Citizenship
and Immigration
Services

H2

[REDACTED]

FILE:

[REDACTED]

Office: CHICAGO, IL

Date: JAN 31 2006

IN RE:

[REDACTED]

APPLICATION:

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

ON BEHALF OF APPLICANT:

[REDACTED]

PUBLIC COPY

Identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy

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

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The waiver application was denied by the District Director, Chicago, Illinois. The matter is now before the Administrative Appeals Office (AAO) on appeal. The decision of the district director will be withdrawn and the matter remanded to the district director for further action consistent with this decision.

The applicant is a native and citizen of Nigeria who was determined to be inadmissible to the United States pursuant to section 212(a)(6)(C)(i) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(a)(6)(C)(i), for having failed to provide sufficient evidence proving the legal termination of his prior marriage. The applicant is the spouse of a citizen of the United States and seeks a waiver of inadmissibility pursuant to section 212(i) of the Act, 8 U.S.C. § 1182(i), in order to reside in the United States with his spouse.

The district director concluded that the applicant was not eligible for admission as required by section 245(a)(2) of the Act and that he did not meet the required standards for adjustment to permanent resident of the United States. The district director denied the Application for Waiver of Grounds of Excludability (Form I-601) accordingly. *Decision of the District Director*, dated January 15, 1998.

On appeal, counsel states that the decision of the district director does not adequately specify the basis for a determination that the applicant is ineligible for admission to the United States. In addition, counsel contends that the applicant qualifies for a waiver of inadmissibility as his U.S. citizen spouse would suffer extreme hardship if the applicant were removed from the United States. *Form I-290B*, dated January 29, 1998. In support of these assertions, counsel submits a brief and several exhibits. The entire record was reviewed and considered in rendering a decision on the applicant's appeal.

Section 212(a)(6)(C) of the Act provides, in pertinent part:

- (i) Any alien who, by fraud or willfully misrepresenting a material fact, seeks to procure (or has sought to procure or has procured) a visa, other documentation, or admission into the United States or other benefit provided under this Act is inadmissible.

Section 212(i) of the Act provides:

- (1) The Attorney General [now the Secretary of Homeland Security (Secretary)] may, in the discretion of the Attorney General [Secretary], waive the application of clause (i) of subsection (a)(6)(C) in the case of an alien who is the spouse, son or daughter of a United States citizen or of an alien lawfully admitted for permanent residence, if it is established to the satisfaction of the Attorney General [Secretary] that the refusal of admission to the United States of such immigrant alien would result in extreme hardship to the citizen or lawfully resident spouse or parent of such an alien.

The record reflects that the applicant was granted conditional permanent residence on June 29, 1990. The record further reflects that the former Immigration and Naturalization Service [now Citizenship and Immigration Services] subsequently revoked the applicant's status on February 16, 1994 because it was discovered that the divorce decree submitted by the applicant was determined to be "insufficient to prove legal termination" the applicant's prior marriage. *See Decision of the District Director. See also Unclassified*

Wire from United States Embassy Lagos, dated February 4, 1991. Counsel contends that the decision of the district director failed to provide a clear and thorough explanation for the determination that the applicant is inadmissible to the United States. *Appellant's Brief in Support of Appeal from Decision of the Immigration and Naturalization Service*, 13, dated April 13, 1998. The AAO finds the contention of counsel to be persuasive as the decision of the district director fails to state how the applicant, "by fraud or willfully misrepresenting a material fact, [sought] to procure (or has sought to procure or has procured) a visa, other documentation, or admission into the United States or other benefit provided under [the] Act".

Because the district director failed to clearly state the basis for a finding of inadmissibility, the AAO finds it necessary to remand the present matter to the district director for a new decision. If the new decision is adverse to the applicant, the decision shall be certified to the AAO for review.

ORDER: The decision of the district director is withdrawn. The petition is remanded to the district director for further action consistent with the present decision.