



U.S. Citizenship  
and Immigration  
Services

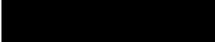
**PUBLIC COPY**

identifying data deleted to  
prevent clearly unwarranted  
invasion of personal privacy

H12



FILE:



Office: MOSCOW, RUSSIA

Date: JUL 10 2007

IN RE:



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

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, Chief  
Administrative Appeals Office

**DISCUSSION:** The waiver application was denied by the U. S. Citizenship and Immigration Services (USCIS) Officer in Charge (OIC), Moscow, Russia, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The applicant is a native and citizen of Armenia who was found to be inadmissible to the United States pursuant to section 212(a)(2)(A)(i)(I) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(a)(2)(A)(i)(I), for having been convicted of a crime involving moral turpitude. The applicant has not disputed this finding. The applicant's spouse and two children are U.S. citizens and his parents are legal permanent residents. The applicant seeks a waiver of inadmissibility pursuant to section 212(h) of the Act, 8 U.S.C. § 1182(h), so that he may rejoin them in the United States.

The record reflects that the applicant was paroled into the United States on April 28, 1990 and granted permanent resident status on October 17, 1991. On November 17, 2000, the applicant was convicted in United States District Court for the Eastern District of California of Health Care Fraud, Aiding and Abetting under 18 U.S.C. § 1347 and sentenced to 11 months in prison and 36 months of supervised probation. The loss caused by the applicant's crime was assessed at \$2,470,000.00, which the applicant was unable to pay in restitution. The applicant was subsequently placed in removal proceedings and ordered removed on October 4, 2001.

The applicant and his wife, [REDACTED] were married in Armenia in 1981. [REDACTED] who became a naturalized U.S. citizen on May 29, 1997, filed a Form I-130, Petition for Alien Relative, on the applicant's behalf that was approved on January 12, 2004. The applicant subsequently filed Form I-601, Application for Waiver of Grounds of Inadmissibility. The applicant's parents, [REDACTED] and [REDACTED] are legal permanent residents in the United States. The applicant also has two U.S. citizen children.

The OIC concluded that the applicant had failed to establish that extreme hardship would be imposed on a qualifying relative and denied the waiver application accordingly. *Decision of OIC*, dated March 10, 2006.

On appeal, the applicant provides "further clarifications and additional supporting documents" to establish extreme hardship to his qualifying relatives. *Form I-290B, attachment*.

Section 212(a)(2) of the Act states in pertinent part, that:

(A)(i) [A]ny alien convicted of, or who admits having committed, or who admits committing acts which constitute the essential elements of-

(I) a crime involving moral turpitude (other than a purely political offense) or an attempt or conspiracy to commit such a crime . . . is inadmissible.

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

(h) The Attorney General [now Secretary, Homeland Security, "Secretary"] may, in his discretion, waive the application of subparagraphs (A)(i)(I) . . . of subsection (a)(2) . . . if -

....

(1) (B) in the case of an immigrant who is the spouse, parent, son, or daughter of a citizen of the United States or an alien lawfully admitted for permanent residence if it is established to the satisfaction of the Attorney General [Secretary] that the alien's denial of admission would result in extreme hardship to the United States citizen or lawfully resident spouse, parent, son, or daughter of such alien . . . and

(2) the Attorney General [Secretary], in his discretion, and pursuant to such terms, conditions and procedures as he may by regulations prescribe, has consented to the alien's applying or reapplying for a visa, for admission to the United States, or adjustment of status. . . .

**No waiver shall be provided under this subsection in the case of an alien who has previously been admitted to the United States as an alien lawfully admitted for permanent residence if . . . since the date of such admission the alien has been convicted of an aggravated felony. . . . (emphasis added)**

Section 101(a)(43)(M)(i) of the Act provides that an offense that “involves fraud or deceit in which the loss to the victim or victims exceeds \$10,000” is an aggravated felony.

The applicant in this case was a legal permanent resident convicted of aiding and abetting health care fraud with a loss exceeding \$2 million. Therefore, pursuant to section 212(h)(2) of the Act, the applicant is statutorily ineligible for a waiver of inadmissibility under section 212(h) of the Act.

Because the applicant is statutorily ineligible for relief, no purpose would be served in discussing whether the applicant has established extreme hardship to his wife, parents or children or whether he merits the waiver as a matter of discretion.

In proceedings for an application for waiver of grounds of inadmissibility under section 212(h) of the Act, the burden of establishing that the application merits approval rests with the applicant. *See* section 291 of the Act, 8 U.S.C. § 1361. In this case, the applicant has not met his burden.

**ORDER:** The appeal is dismissed.