U.S. Department of Homeland Security
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Washington, DC 20529

identifying data deleted to
prevent clearly unwarranted
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U.S. Citizenship and Immigration Services

[redacted]

H3

FILE: [redacted] Office: ATHENS, GREECE Date:

IN RE: [redacted]

APPLICATION: Application for Waiver of Grounds of Inadmissibility under Section 212(a)(9)(B) of the Immigration and Nationality Act, 8 U.S.C. § 1182(a)(9)(B)

ON BEHALF OF APPLICANT:

[redacted]

PUBLIC COPY

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 Officer-in-Charge, Athens, Greece and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed as the underlying Form I-130, Petition for Alien Relative ("I-130 Petition") has been withdrawn and the relevant Form I-601, Application for Waiver of Grounds of Excludability ("I-601 Application") is moot.

The applicant is a native and citizen of Yemen who was found to be inadmissible to the United States pursuant to section 212(a)(9)(B)(i)(II) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(a)(9)(B)(i)(II), for having been unlawfully present in the United States for more than one year and seeking readmission within 10 years of his last departure from the United States. The applicant is married to a U.S. citizen and seeks a waiver of inadmissibility in order to reside in the United States.

The officer-in-charge concluded that the applicant failed to establish that extreme hardship would be imposed on a qualifying relative and denied the I-601 Application. *Decision of the Officer-in-Charge*, dated December 12, 2005.

The AAO notes that the U.S. citizen petitioner in the underlying I-130 Petition has withdrawn her petition for the applicant. *Withdrawal Letter*, dated December 6, 2006. The viability of the applicant's I-601 Application is based on the underlying I-130 Petition. As the I-130 Petition has been withdrawn, the applicant's I-601 Application is moot.

In proceedings for application for waiver of grounds of inadmissibility under section 212(a)(9)(B)of the Act, the burden of proving eligibility remains entirely with the applicant. *See* Section 291 of the Act, 8 U.S.C. § 1361. Here, the applicant cannot meet that burden due to the I-130 Petition being withdrawn. Accordingly, the appeal will be dismissed as moot.

ORDER: The appeal is dismissed as moot based on withdrawal of the underlying petition.