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U.S. Citizenship
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FILE: [REDACTED]

Office: CHERRY HILL, NJ

Date: AUG 31 2005

IN RE: [REDACTED]

APPLICATION: Application for Waiver of Grounds of Inadmissibility

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, Director
Administrative Appeals Office

DISCUSSION: The waiver application was denied by the District Director, Cherry Hill, New Jersey, and is now before the Administrative Appeals Office (AAO) on appeal. The director's decision is withdrawn and the matter remanded to the director for further action consistent with this decision.

The applicant is a native and citizen of Jordan who was found 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 procured nonimmigrant visas and multiple admissions to the United States by fraud or willful misrepresentation and for attempting to adjust status to lawful permanent resident by fraud or willful misrepresentation. *See Notice of Intent to Deny*, at 2, dated October 24, 2003.

The district director concluded that the gravity of the applicant's crimes outweighed the hardships to his family and denied the Application for Waiver of Grounds of Excludability (Form I-601) under section 212(a)(2)(A)(i)(I) of the Act, 8 U.S.C. § 1182 (a)(2)(A)(i)(I). *Decision of the District Director*, dated February 23, 2004. The district director previously concluded that the applicant was inadmissible under section 212(a)(6)(C)(i) of the Act and he was ineligible for a waiver due to his lack of a qualifying relationship. *Notice of Intent to Deny*, at 2.

On appeal, the applicant's prior counsel asserts that the applicant is not subject to section 212(a)(6)(C)(i) of the Act as he did not willfully misrepresent any material facts on his visa applications. *Notice of Appeal*, dated March 25, 2004. The AAO notes that the applicant is currently self-represented as his prior counsel withdrew her representation in this matter and indicated that the applicant has obtained new counsel. *Fax from Lamiaa Elfar*, dated August 2, 2005.

The AAO finds that in the present case, the director specifically cited section 212(a)(6)(C)(i) of the Act as the relevant ground of inadmissibility in the notice of intent to deny. This ground of inadmissibility was addressed in detail by the applicant's prior counsel in her response to the notice of intent to deny. *Response Letter from Lamiaa Elfar*, dated December 24, 2003. However, the district director subsequently denied the waiver application stating, "Therefore your Application for waiver of your inadmissibility under Section 212(a)(2)(A)(i)(I) of the Immigration and Nationality Act, is denied." *Decision of the District Director*. Therefore, it is unclear as to which section(s) of the Act the applicant was found to be inadmissible. If the applicant is inadmissible under section 212(a)(2)(A)(i)(I) of the Act, the AAO notes that he has three U.S. citizen children who would be qualifying relatives pursuant to section 212(h) of the Act. Furthermore, the district director did not address counsel's assertion that the applicant may qualify for the petty offense exception under section 212(a)(2)(A)(ii)(II) of the Act.

Because the director's decision changed the relevant ground of inadmissibility from the initial notice of intent to deny, the AAO finds it necessary to remand the present matter to the director for a new decision explaining which section(s) of the Act the applicant is inadmissible under. If the new decision is adverse to the applicant, the decision shall be certified to the AAO for review.

ORDER: The director's decision is withdrawn and the matter remanded to the director for further action consistent with the present decision.