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U.S. Citizenship
and Immigration
Services

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[REDACTED]

FILE:

[REDACTED]

Office: SAN FRANCISCO, CA

Date:

AUG 17 2007

IN RE:

[REDACTED]

APPLICATION:

Application to Register Permanent Resident or Adjust Status Pursuant to Section 245
of the Immigration and Nationality Act, 8 U.S.C. § 1255

ON BEHALF OF APPLICANT:

[REDACTED]

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.

A handwritten signature in black ink, appearing to read "Robert P. Wiemann".

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The adjustment of status application was denied by the District Director, San Francisco, California. The applicant filed a motion to reopen on October 15, 2004. The District Director concluded that a reopening of the application was not warranted and certified his decision to the Administrative Appeals Office (AAO). The application will be denied. The district director's decision will be affirmed.

The applicant is a native and citizen of Canada who was found to be inadmissible to the United States under 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 admission into the United States by fraud or willful misrepresentation on or about April 10, 2003. The applicant is married to a U.S. citizen and seeks a waiver of inadmissibility pursuant to section 212(i) of the Act, 8 U.S.C. § 1182(i).

The district director concluded that the new evidence submitted by the applicant did not warrant the reopening of his adjustment of status application. The motion was denied accordingly. *Decision of the District Director*, dated October 25, 2004.

The record indicates that the applicant married his U.S. citizen spouse on September 27, 2002 in Edmonton, Canada. He then entered the United States via Vancouver, British Columbia on or about April 10, 2003. At the time of entry the applicant stated that his intention was to visit Seattle for the weekend. He subsequently filed the Form I-485, Application to Register Permanent Resident or Adjust Status, based on the Form I-130, Petition for an Alien Relative, filed on his behalf by his U.S. citizen spouse. The Form I-601, Application for Waiver of Grounds of Inadmissibility, filed by the applicant on June 7, 2004, was denied by the district director on September 15, 2004.

In his motion to reopen the denial of the Form I-485, counsel asserts that the applicant did not make a misrepresentation. He states that when the applicant entered the United States in April 2003, he intended to visit his spouse in Seattle for the weekend. Counsel states that the applicant's spouse became ill with pneumonia and was not able to travel from Modesto, California to Seattle to see the applicant. Counsel explains that the applicant and his spouse planned to reside in Canada, but in late 2002 his mother-in-law's health began to deteriorate. In January 2003 the applicant's spouse returned to Modesto, California to care for her mother. Counsel states that after the applicant found out about his spouse's illness in April 2003, he decided to travel to Modesto and take care of her and his mother-in-law. *Counsel's Brief*, dated February 28, 2005. In support of these assertions counsel submits documentation showing that the applicant continued to pay rent and invest in his business in Canada in the months leading up to April 2003.

The AAO notes that the record does not indicate that the applicant has appealed the Form I-601. In that the applicant has been found to be inadmissible to the United States and a waiver of that inadmissibility has been denied, the AAO concludes that a reopening of the Form I-485 would serve no purpose. Thus the district director's decision not to reopen the application will be affirmed and the appeal will be dismissed.

ORDER: The district director's decision is affirmed. The appeal is dismissed.