U.S. Department of Homeland Security
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U.S. Citizenship and Immigration Services

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JAN 31 2005

FILE: [redacted] Office: PHILADELPHIA, PENNSYLVANIA Date:

IN RE: Applicant: [redacted]

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

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.

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The Application for a Waiver of Inadmissibility was denied by the District Director, Philadelphia, Pennsylvania and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected.

The record reflects that on September 19, 2002, the district director found that the applicant was inadmissible to the U.S. pursuant to § 212(a)(6)(C)(i) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(a)(6)(C)(i), as an alien who procured entry into the United States by using a falsified passport. The director also noted that the applicant's alleged U.S. citizen wife had withdrawn the Petition for Alien Relative she had filed on the applicant's behalf, and that she admitted that the marriage was fraudulent, circumstances that led to the denial of the marriage-based petition and the applicant's Application for Adjustment of Status. The director determined that, because there was no application for permanent residence pending, there was no longer any basis for a waiver application under § 212(i) of the Act, 8 U.S.C. § 1182(i). The director pointed out that the waiver regulations require that the alien establish extreme hardship to a qualifying relative, and since the applicant in this case did not establish that he had a bona fide marriage to a U.S. citizen, he could not establish that any qualifying relative would suffer extreme hardship in the event of his removal.

On October 18, 2002, the applicant, through counsel, filed a Form I-290B Notice of Appeal. Counsel asserts that the applicant's marriage to the U.S. citizen is legitimate. The record, however, contains a detailed sworn statement that the applicant's wife signed on August 2, 2000, in which she explained how she entered into a fraudulent marriage with the applicant and in which she revoked her petition for the applicant. The revocation of the petition and consequent denial of the application for adjustment of status rendered moot the issue of the waiver of inadmissibility. The AAO agrees with the director's decision that there is no basis for the filing of an I-601 Application for Waiver of Inadmissibility; hence, this appeal must be rejected.

ORDER: The appeal is rejected.