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U.S. Department of Homeland Security
20 Massachusetts Avenue NW, Rm. A3042
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U.S. Citizenship
and Immigration
Services

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FILE:



Office: ATHENS, GREECE

Date: SEP 29 2005

IN RE:



APPLICATION:

Application for Waiver of Grounds of Inadmissibility under Section 212(i) of the Immigration and Nationality Act, 8 U.S.C. § 1182(i) and Application for Permission to Reapply for Admission into the United States after Deportation or Removal under Section 212(a)(9)(A) of the Immigration and Nationality Act, 8 U.S.C. § 1182(a)(9)(A)

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.

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

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The Application for Permission to Reapply for Admission into the United States after Deportation or Removal (Form I-212) and Application for Waiver of Grounds of Excludability (Form I-601) were denied by the Officer-in-Charge, Athens, Greece, and are now before the Administrative Appeals Office (AAO) on appeal. The officer-in-charge's decision is withdrawn and the matter remanded to the officer-in-charge for further action consistent with this decision.

The applicant is a native and citizen of Egypt 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) and section 212(a)(9)(A) of the Act, 8 U.S.C. § 1182(a)(9)(A). *See Decision of the Officer-in-Charge*, dated July 31, 2003.

The cover page of the decision orders that the Form I-601 be denied. *Id.* at cover page. However, the first page of the decision states, "Application: Application for Permission to Reapply for Admission into the United States after Deportation or Removal (I-212)." *Id.* at 1. The officer-in-charge provides analysis on the Form I-212, but does not provide analysis on the Form I-601. *Id.* at 1-3. The final order in the decision denies the Form I-212, but does not mention a decision on the Form I-601. *Id.* at 3. The applicant asserts that he did not need to apply for permission to reapply for admission as he voluntarily departed the United States without expense to the government. *Letter from Applicant*, at 2, dated October 24, 2003. The record reflects that the applicant was granted an order withdrawing his application for admission on November 22, 2000. *Order from Immigration Judge*, dated November 22, 2000. The officer-in-charge states that the applicant complied with this order. *Decision of the Officer-in-Charge* at 1. Therefore, there would be no need for the Form I-212. However, since the date of the decision, the applicant was ordered removed. *Order from Immigration Judge*, dated December 1, 2004. Therefore, the applicant would require a new Form I-212.

The decision is unclear as to the fraud or misrepresentation committed by the applicant which would render him inadmissible pursuant to section 212(a)(6)(C)(i) of the Act. The officer-in-charge states that the applicant used a different identity to travel to Miami, Florida. *Id.* However, the record does not indicate this fact nor does the officer-in-charge specifically state that this act would render the applicant inadmissible pursuant to section 212(a)(6)(C)(i) of the Act. The officer-in-charge also states in his analysis of the Form I-212 that the applicant committed marriage fraud. *Id.* at 3. The applicant's I-130 denial letter states that he failed to attend his interview, not that he committed marriage fraud. *See I-130 Denial Letter*, undated. The officer-in-charge does not specifically state this act would render him inadmissible pursuant to section 212(a)(6)(C)(i) of the Act.

As the basis for the finding of inadmissibility pursuant to section 212(a)(6)(C)(i) of the Act is unclear, the AAO finds it necessary to remand the present matter to the officer-in-charge for a new decision explaining the basis for requiring a Form I-601. If the new decision is adverse to the applicant, the decision shall be certified to the AAO for review. Furthermore, the AAO notes that separate decisions should be written when both Form I-601 and Form I-212 are submitted by an applicant. If the Form I-601 is denied, then the Form I-212 should be rejected.

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