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U.S. Department of Homeland Security  
U.S. Citizenship and Immigration Services  
Office of Administrative Appeals MS 2090  
Washington, DC 20529-2090



U.S. Citizenship  
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Services

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[Redacted]

FILE:

[Redacted]

Office: PROVIDENCE, RI

Date: NOV 10 2009

IN RE:

[Redacted]

APPLICATION: Application for Waiver of Grounds of Inadmissibility under Section 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.

Perry Rhew  
Chief, Administrative Appeals Office

**DISCUSSION:** The waiver application was denied by the Officer in Charge, Providence, Rhode Island and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed as moot.

The applicant is a native and citizen of the Ivory Coast who was found to be inadmissible to the United States under section 212(a)(6)(C) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(a)(6)(C), for having attempted to procure entry into the United States by fraud or willful misrepresentation. The applicant is married to a naturalized United States citizen and seeks a waiver of inadmissibility pursuant to section 212(i) of the Act, 8 U.S.C. § 1182(i), in order to reside in the United States with his U.S. citizen spouse.

The Officer in Charge found that, based on the evidence in the record, the applicant had failed to establish extreme hardship to his qualifying relative. The application was denied accordingly. *Decision of the Officer in Charge*, dated November 22, 2004.

On appeal, counsel for the applicant asserts that the applicant's qualifying relative would suffer extreme hardship as necessary for a waiver under section 212(i) of the Act. *Form I-290B*.

In support of the waiver the record includes, but is not limited to, employment letters for the applicant's spouse; tax returns for the applicant's spouse; earnings statements and W-2 Forms for the applicant and his spouse; statements from the applicant's spouse; criminal records; bank statements; a dental bill; a car insurance card and policy; a vehicle registration; telephone bills; an apartment lease; a school transcript and record for the applicant; a foreign credential evaluation; and an employment letter for the applicant. The entire record was reviewed and considered in rendering this decision.

Section 212(a)(6)(C) of the Act provides, in pertinent part, that:

- (i) Any alien who, by fraud or willfully misrepresenting a material fact, seeks to procure (or has sought to procure or has procured) a visa, other documentation, or admission into the United States or other benefit provided under this Act is inadmissible.

Section 212(i) of the Act provides that:

- (1) The Attorney General [now the Secretary of Homeland Security (Secretary)] may, in the discretion of the Attorney General [Secretary], waive the application of clause (i) of subsection (a)(6)(C) in the case of an alien who is the spouse, son or daughter of a United States citizen or of an alien lawfully admitted for permanent residence, if it is established to the satisfaction of the Attorney General [Secretary] that the refusal of admission to the United States of such immigrant alien would result in extreme hardship to the citizen or lawfully resident spouse or parent of such an alien.

The AAO notes that on November 22, 2004, the Form I-130, Petition for Alien Relative, benefiting the applicant was denied by United States Citizenship and Immigration Services. *Decision of the Officer in Charge*, dated November 22, 2004. On December 3, 2004 the applicant appealed this decision to the Board of Immigration Appeals (BIA). *Form EOIR-29, Notice of Appeal to the Board of Immigration Appeals*. On April 21, 2006 the applicant, through counsel, withdrew his appeal to the BIA. ***Withdrawal statement, dated April 21, 2006.*** As the applicant's appeal has been withdrawn, the decision of the Officer in Charge denying the Form I-130 remains. As such, there is no underlying Form I-130 petition on which to base the Form I-601 waiver.<sup>1</sup>

The Form I-130 benefiting the applicant has been denied and the applicant has no underlying petition on which to base a Form I-601 waiver. Accordingly, the appeal is dismissed as the waiver application is moot.

**ORDER:** The appeal is dismissed as the waiver application is moot.

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<sup>1</sup> The AAO notes that the applicant also applied for the diversity visa lottery program as a way to obtain lawful permanent residency. *Diversity visa lottery notice*, dated July 18, 1996. Although the applicant filed a Form I-485, *Application to Register Permanent Residence or Adjust Status* as a lottery winner, the record indicates that the applicant was found ineligible for classification as a diversity immigrant under the diversity visa lottery program. *Decision of the District Director, New York, New York*, dated August 23, 1997.