



U.S. Citizenship
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Services

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FILE:  Office: KINGSTON, JAMAICA Date: JUN 12 2009

IN RE: Applicant: 

APPLICATION: Application for Waiver of Grounds of Inadmissibility under section 212(a)(9)(B)(v) of the Immigration and Nationality Act, 8 U.S.C. § 1182(a)(9)(B)(v)

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.

If you believe the law was inappropriately applied or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. Please refer to 8 C.F.R. § 103.5 for the specific requirements. All motions must be submitted to the office that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion, with a fee of \$585. Any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen, as required by 8 C.F.R. § 103.5(a)(1)(i).

John F. Grissom
Acting Chief, Administrative Appeals Office

DISCUSSION: The waiver application was denied by the Officer in Charge, Kingston, Jamaica and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be summarily dismissed.

The record establishes that the applicant, a native and citizen of Jamaica, entered the United States without authorization in 1993 and did not depart until August 2004. The applicant accrued unlawful presence from April 1, 1997, the date of the enactment of the unlawful presence provisions, until her departure in August 2004. The applicant was thus found to be inadmissible to the United States pursuant to section 212(a)(9)(B)(i)(II) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(a)(9)(B)(i)(II), for having been unlawfully present in the United States for more than one year.¹ The applicant seeks a waiver of inadmissibility in order to reside in the United States with her U.S. citizen spouse.

The officer in charge concluded that the applicant had failed to establish that extreme hardship would be imposed on a qualifying relative and denied the Form I-601, Application for Waiver of Grounds of Inadmissibility (Form I-601) accordingly. *Decision of the Officer in Charge*, dated October 19, 2005.

The applicant's U.S. citizen spouse filed the Form I-290B, Notice of Appeal to the Administrative Appeals Office (Form I-290B), indicating that no separate brief and/or evidence was being submitted. On said form, the applicant's spouse outlined, in general terms, the circumstances leading to the applicant's entry to the United States without authorization, namely, family hardships in Jamaica, and further elaborated that she regretted her decision to unlawfully enter the United States and wanted to be reunited with her family. *See Form I-290B*. The applicant did not specifically identify any erroneous conclusion of law or statement of fact and/or provide additional documentation in support of extreme hardship to the applicant's U.S. citizen spouse, the only qualifying relative in this case.

An officer to whom an appeal is taken shall summarily dismiss any appeal when the party concerned fails to identify specifically any erroneous conclusion of law or statement of fact for the appeal. 8 C.F.R. § 103.3(a)(1)(v).

¹ The officer in charge also concluded that the applicant was inadmissible 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 entry into the United States by fraud or willful misrepresentation. 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.

The record fails to establish that section 212(a)(6)(C)(i) of the Act applies to the applicant. Irrespective of this issue, the applicant's unlawful presence automatically renders her inadmissible under 212(a)(9)(B)(i)(II).

The applicant has failed to specifically identify any erroneous conclusion of law or statement of fact for the appeal. As no additional evidence is presented on appeal to overcome the decision of the officer in charge, the appeal will be summarily dismissed in accordance with 8 C.F.R. § 103.3(a)(1)(v).

In proceedings for application for waiver of grounds of inadmissibility, the burden of proving eligibility remains entirely with the applicant. Section 291 of the Act, 8 U.S.C. § 1361. Here, the applicant has not met that burden.

ORDER: The appeal is summarily dismissed.