

identifying data deleted to  
prevent clearly unwarranted  
invasion of personal privacy

**PUBLIC COPY**

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



**U.S. Citizenship  
and Immigration  
Services**



HS #2

FILE: [Redacted] Office: MIAMI, FLORIDA Date: DEC 08 2009

IN RE: Applicant: [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).

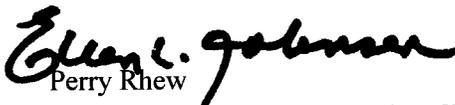
ON BEHALF OF APPLICANT:



**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).

  
Perry Rhew  
Chief, Administrative Appeals Office

**DISCUSSION:** The waiver application was denied by the District Director, Miami, Florida, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The applicant, [REDACTED] is a native and citizen of Haiti 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), for seeking admission into the United States by fraud or willful misrepresentation. The applicant is the spouse of [REDACTED] a naturalized citizen of the United States. She sought a waiver of inadmissibility pursuant to section 212(i) of the Act, 8 U.S.C. § 1182(i), in order to remain in the United States and obtain lawful permanent resident status on the basis of a Form I-130, Petition for Alien Relative, filed by her spouse on her behalf.

The district director concluded that the applicant had failed to establish that her bar to admission would impose extreme hardship on a qualifying relative, and denied the Application for Waiver of Grounds of Inadmissibility (Form I-601) accordingly. *Decision of the District Director, dated September 11, 2006.* The applicant submitted a timely appeal.

On September 11, 2006, the director denied the Form I-130, Petition for Alien Relative, underlying the applicant's adjustment of status application.

The filing of a Form I-601 waiver application is predicated on the necessity to demonstrate admissibility, which in this case is a requirement for adjustment to permanent resident status under section 245 of the Act. Although U.S. Citizenship and Immigration Services (USCIS) allows for the simultaneous filing of Forms I-130 and I-485, the applicant's eligibility to apply for adjustment to permanent resident status is dependent on approval of the Form I-130 petition filed by his spouse.

The purpose of the Form I-130 petition is to establish for immigration purposes the validity of the marriage relationship between the applicant and his spouse. In the absence of an approved I-130 petition, the applicant is not entitled to apply for adjustment of status, and her application for adjustment cannot be approved regardless of whether she is admissible or, if not, whether a waiver is available for any ground of inadmissibility.

In the absence of an underlying approved Form I-130, Petition for Alien Relative, the Form I-601, Application for Waiver of Grounds of Inadmissibility, is moot. The appeal of the denial of the waiver must therefore be dismissed.

**ORDER:** The appeal is dismissed.