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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Administrative Appeals Office (AAO)
20 Massachusetts Ave., N.W., MS 2090
Washington, DC 20529-2090



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



H5

Date: APR 07 2011 Office: CALIFORNIA SERVICE CENTER FILE: [REDACTED]

IN RE: Applicant: [REDACTED]

APPLICATION: Application for Waiver of Grounds of Inadmissibility pursuant to section 212(i) of the Act, 8 U.S.C. § 1182(i)

ON BEHALF OF APPLICANT:

SELF-REPRESENTED

INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office in your case. All of the documents related to this matter have been returned to the office that originally decided your case. Please be advised that any further inquiry that you might have concerning your case must be made to that office.

If you believe the law was inappropriately applied by us in reaching our decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. The specific requirements for filing such a request can be found at 8 C.F.R. § 103.5. 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 \$630. Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires that any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you,

A handwritten signature in black ink that reads "Perry Rhew".

Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The waiver application was denied by the Director, California Service Center. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The record reflects that the applicant 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 Act, 8 U.S.C. § 1182(a)(6)(C)(i), for willful misrepresentation of a material fact in order to procure an immigration benefit. The applicant is the daughter of a lawful permanent resident mother and U.S. citizen father and seeks a waiver of inadmissibility pursuant to section 212(i) of the Act, 8 U.S.C. § 1182(i), in order to reside with her parents and her U.S. citizen son in the United States.

The director found, *inter alia*, that the applicant failed to timely respond to the USCIS Notice of Intent to Deny and failed to provide a copy of an Application to Register Permanent Residence (Form I-485). The director denied the waiver application accordingly. *Decision of the Director*, dated November 8, 2010.

On appeal, the applicant contends, *inter alia*, that she timely responded to the Notice of Intent to Deny and explained that she moved to Haiti in September 2004 and, therefore, could not file a Form I-485.

A Form I-601 waiver application is viable when there is a pending adjustment of status application (Form I-485) or immigrant visa application. In this case, as the applicant correctly states, she cannot file a Form I-485 because she is not living in the United States. Therefore, no purpose would be served in examining the hardship to the applicant's mother and father as the applicant does not have an underlying adjustment application to support the filing of her Form I-601 waiver application. The applicant must now contact the U.S. Embassy in Haiti in order to apply for an immigrant visa. At that time, the applicant will be informed of any grounds of inadmissibility and any forms she will need to file, including a new waiver application.

Based on the foregoing, the applicant's appeal must be dismissed by the AAO as the underlying application is moot.

ORDER: The appeal is dismissed.