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

U.S. Citizenship and Immigration Services

[redacted]

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DATE: NOV 14 2012 Office: HARTFORD, CT FILE: [redacted]

IN RE: [redacted]

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

ON BEHALF OF APPLICANT:

[redacted]

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,

Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The waiver application was deemed unnecessary by the Field Office Director, Hartford, Connecticut, and the applicant was found to not be inadmissible. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed as there is no unfavorable decision that may serve as the proper subject of an appeal.

The applicant is a native and citizen of Ghana. He asserts that he is 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 procuring admission into the United States by willful misrepresentation.

The applicant is the beneficiary of an approved Petition for Alien Relative and seeks a waiver of inadmissibility pursuant to section 212(i) of the Act in order to reside in the United States with his United States citizen spouse.

The Field Office Director concluded that the applicant failed to establish inadmissibility and deemed the application unnecessary. *See Decision of Field Office Director* dated May 10, 2011.

On appeal, the applicant, through counsel, asserts that the Field Office Director erred in finding there was insufficient evidence to support a determination of inadmissibility under section 212(a)(6)(C)(i) of the Act.

The record reflects that on May 10, 2011, the Field Office Director determined that the applicant's Form I-601 waiver application was unnecessary, finding that the record does not support that the applicant entered the United States as asserted on November 14, 1999 through the use of passport with a false name. The Field Office Director found that the applicant is not inadmissible under section 212(a)(6)(C)(i) of the Act for procuring admission into the United States by willful misrepresentation.

On appeal, the applicant contends that he is in fact inadmissible under section 212(a)(6)(C)(i) of the Act, and he seeks a decision on the merits of his Form I-601 application for a waiver under section 212(i) of the Act. However, as the Field Office Director found that the applicant is not inadmissible under section 212(a)(6)(C)(i) of the Act, and no other ground of inadmissibility applies that may be waived pursuant to a Form I-601 application, the Field Office Director's decision constitutes a favorable decision on the present application. Therefore, there is no "unfavorable decision" to serve as subject of the present appeal. *See* 8 C.F.R. § 103.3(a)(ii).

It is evident that the applicant seeks to have his claimed manner and date of entry reviewed for the purpose of establishing eligibility to adjust his status to lawful permanent resident, and that his Form I-485 application was denied in part based on a finding that he did not sufficiently show that he entered with inspection, albeit with a fraudulent passport. However, the AAO lacks jurisdiction to review the Field Office Director's denial of the applicant's Form I-485 application, and the

applicant's manner of entry is not properly before us.[1] The requirements for filing a motion to reopen or motion to reconsider the denial of a Form I-485 application are provided in the regulation at 8 C.F.R. § 103.5.

Based on the foregoing, as there is no unfavorable decision to serve as subject of the present appeal, the appeal will be dismissed as unnecessary.

ORDER: The appeal is dismissed, as the application is unnecessary.

[1] The authority to adjudicate appeals is delegated to the AAO by the Secretary of the Department of Homeland Security (DHS) pursuant to the authority vested in him through the Homeland Security Act of 2002, Pub. L. 107-296. *See* DHS Delegation Number 0150.1 (effective March 1, 2003); *see also* 8 C.F.R. § 2.1 (2003). The AAO exercises appellate jurisdiction over the matters described at 8 C.F.R. § 103.1(f)(3)(iii) (as in effect on February 28, 2003).