



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



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Date: NOV 28 2012

Office: ST. PAUL

FILE: [REDACTED]

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:

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 AAO inappropriately applied the law in reaching its decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen in accordance with the instructions on Form I-290B, Notice of Appeal or Motion, with a fee of \$630. The specific requirements for filing such a motion can be found at 8 C.F.R. § 103.5. **Do not file any motion directly with the AAO.** Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires any motion to 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 "Michael Shumway".

Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The waiver application was denied by the Field Office Director, St. Paul, Minnesota, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The applicant is a citizen of Liberia who was found to be inadmissible to the United States 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 seeking admission into the United States by fraud or willful misrepresentation. He 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 Petition for Alien Relative (Form I-130) filed by his spouse on his behalf.

On January 19, 2012, the field office director denied the Application for Waiver of Grounds of Exclusion (Form I-601), concluding that the applicant had failed to establish that his bar to admission would impose extreme hardship on a qualifying relative. The applicant filed a timely appeal.

In a letter dated September 13, 2012, the applicant's spouse requested the withdrawal of the Form I-130 petition that she filed on behalf of the applicant.

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 the Application to Register Permanent Residence or Adjust States (Form I-485) and the Form I-130 petition, 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. As the applicant's spouse has requested the withdrawal of the approved I-130 petition, the applicant is not entitled to apply for adjustment of status, and his Form I-485 application cannot be approved, regardless of whether the applicant 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, the Form I-601 application for waiver of inadmissibility is moot. The appeal of the denial of the waiver must therefore be dismissed.

ORDER: The appeal is dismissed.