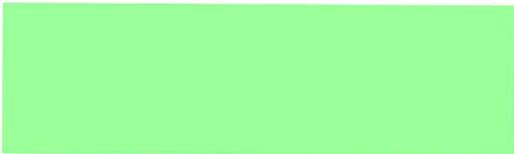




U.S. Citizenship
and Immigration
Services

(b)(6)

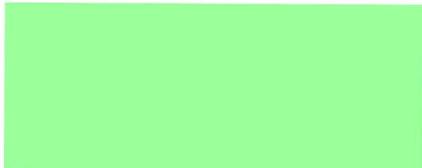


DATE: **NOV 06 2014** OFFICE: NEBRASKA SERVICE CENTER FILE:

IN RE:

APPLICATION: Application for Waiver of Grounds of Inadmissibility under Section 212(d)(11) of the Immigration and Nationality Act, 8 U.S.C. § 1182(d)(11)

ON BEHALF OF APPLICANT:



INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office (AAO) in your case.

This is a non-precedent decision. The AAO does not announce new constructions of law nor establish agency policy through non-precedent decisions. If you believe the AAO incorrectly applied current law or policy to your case or if you seek to present new facts for consideration, you may file a motion to reconsider or a motion to reopen, respectively. Any motion must be filed on a Notice of Appeal or Motion (Form I-290B) within 33 days of the date of this decision. **Please review the Form I-290B instructions at <http://www.uscis.gov/forms> for the latest information on fee, filing location, and other requirements.** See also 8 C.F.R. § 103.5. **Do not file a motion directly with the AAO.**

Thank you,

Ron Rosenberg
Chief, Administrative Appeals Office

DISCUSSION: The Form I-601, Application for Waiver of Grounds of Inadmissibility (Form I-601) was denied by the Director, Nebraska Service Center, and the matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The applicant is a native and citizen of Bangladesh who was found to be inadmissible to the United States pursuant to section 212(a)(6)(E)(i) of the Immigration and Nationality Act (the Act), 8 U.S.C. §1182(a)(6)(E)(i), for knowingly encouraging, inducing, assisting, abetting, or aiding her daughter to enter the United States in violation of law. The applicant seeks a waiver of inadmissibility pursuant to section 212(d)(11) of the Act, 8 U.S.C. § 1182(d)(11), in order to reside in the United States with her lawful permanent resident parents.

The director noted that the applicant knowingly allowed her daughter's attempt to be smuggled into the United States. The director further noted that the applicant was seeking admission based on a family-sponsored immigrant petition filed by her U.S. citizen brother, a fourth preference visa classification. The director concluded that she was thus statutorily ineligible for a waiver under section 212(d)(11) of the Act. The Application for Waiver of Grounds of Inadmissibility (Form I-601) was thus denied accordingly. *Decision of the Director*, dated March 12, 2014.

On appeal, counsel contends that the applicant did not play any part in allowing her daughter's attempt to be smuggled into the United States. Further, counsel maintains that the applicant was told by the consulate that she was eligible to file for a waiver because her parents are residing in the United States. Counsel concludes with the assertion that there is ample evidence to establish the humanitarian grounds to assure family unity and the favorable factors outweigh the unfavorable factors. *See Brief*.

Section 212(a)(6)(E) of the Act provides, in pertinent part:

- (i) In general - Any alien who at any time knowingly has encouraged, induced, assisted, abetted, or aided any other alien to enter or to try to enter the United States in violation of law is inadmissible.

...

- (iii) Waiver authorized-For provision authorizing waiver of clause (i), see subsection (d)(11).

Section 212(d)(11) of the Act provides:

The Attorney General [now Secretary, Department of Homeland Security, "Secretary"] may, in his discretion for humanitarian purposes, to assure family unity, or when it is otherwise in the public interest, waive application of clause (i) of subsection (a)(6)(E) in the case of . . . an alien seeking admission or adjustment of status as an immediate relative or immigrant under section 203(a) (other than

paragraph (4) thereof¹), if the alien has encouraged, induced, assisted, abetted, or aided only an individual who at the time of such action was the alien's spouse, parent, son, or daughter (and no other individual) to enter the United States in violation of law.

In the present matter, the applicant seeks admission as the sister of a U.S. citizen, a fourth preference visa classification. Irrespective of the fact that the applicant's mother and father are lawful permanent residents of the United States, the applicant is statutorily ineligible for consideration under section 212(d)(11) of the Act.

In application proceedings, it is the applicant's burden to establish eligibility for the immigration benefit sought. Section 291 of the Act, 8 U.S.C. § 1361. Here, that burden has not been met.

ORDER: The appeal is dismissed.

¹ Section 203(a) provides:

(4) **Brothers and sisters of citizens**

Qualified immigrations who are the brothers or sisters of citizens of the United States, if such citizens are at least 21 years of age, shall be allocated visas in a number not to exceed 65,000, plus any visas not required for the classes specified in paragraphs (1) through (3).