



U.S. Citizenship
and Immigration
Services

[REDACTED]

H1

DATE: NOV 05 2012 OFFICE: VERMONT SERVICE CENTER

FILE: [REDACTED]

IN RE: [REDACTED]

APPLICATION: Application for Waiver of Grounds of Inadmissibility under section 212(g)(2) of the Immigration and Nationality Act, 8 U.S.C. § 1182(g)(2)

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.

Thank you,

A handwritten signature in black ink, appearing to read "Perry Rhew", with a long horizontal flourish extending to the right.

Perry Rhew
Chief, Administrative Appeals Office

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

The applicant was found to be inadmissible to the United States pursuant to section 212(a)(1)(A)(ii) of the Act, 8 U.S.C. § 1182(a)(1)(A)(ii), for having failed to present documentation of receiving vaccination against vaccine-preventable diseases. The applicant is a beneficiary of an approved Petition for Alien Relative, as the spouse of a U.S. citizen, who seeks a waiver of inadmissibility in order to reside in the United States with his spouse.

The Center Director concluded that the applicant failed to demonstrate that he holds any moral conviction or religious belief related to vaccinations. The Center Director denied the application as a matter of discretion. *See Decision of the Center Director*, dated May 11, 2011.

On appeal, counsel for the applicant asserts that the applicant has demonstrated that he sincerely holds religious beliefs that oppose the use of vaccinations so that his waiver application should be granted.

In support of the waiver application and appeal, the applicant submitted affidavits, letters from his spouse and his brother, and identity documents. The entire record was reviewed and considered in rendering a decision on the appeal.

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

CLASSES OF ALIENS INELIGIBLE FOR VISAS OR ADMISSION.-Except as otherwise provided in this Act, aliens who are ineligible under the following paragraphs are ineligible to receive visas and ineligible to be admitted to the United States:

(1) HEALTH RELATED GROUNDS.-

(A) IN GENERAL. - Any alien-

....

(ii) except as provided in subparagraph (C), who seeks admission as an immigrant, or who seeks adjustment of status to the status of an alien lawfully admitted for permanent residence, and who has failed to present documentation of having received vaccination against vaccination-preventable diseases, which shall include at least the following diseases: mumps, measles, rubella, polio, tetanus and diphtheria toxoids, pertussis, influenza type B and hepatitis B, and any other vaccinations against vaccine preventable diseases recommended by the Advisory Committee for Immunization Practices,

.....

(B) WAIVER AUTHORIZED. - For provisions authorizing waiver of certain clauses of subparagraph (A), see subsection(g).

Section 212(g)(2) provides that the Attorney General may waive the application of subsection (a)(1)(A)(ii) in the case of any alien-

(A) who receives vaccination against the vaccine-preventable disease or diseases for which the alien has failed to present documentation of previous vaccination,

(B) for whom a civil surgeon, medical officer, or panel physician (as those terms are defined by section 34.2 of title 42 of the Code of Federal Regulations) certifies according to such regulations as the Secretary of Health and Human Services may prescribe, that such vaccination would not be medically appropriate, or

(C) under such circumstances as the Attorney General provides by regulation, with respect to whom the requirement of such a vaccination would be contrary to the alien's beliefs or moral convictions;

United States Citizenship and Immigration Services (USCIS) guidelines provide that an applicant who is inadmissible under section 212(a)(1)(A)(ii) of the Act and seeks a waiver of inadmissibility under section 212(g)(2)(C) of the Act must demonstrate the following criteria for the waiver to be approved: (1) he or she is opposed to vaccinations in any form; and (2) the objection is based on religious belief or moral convictions (whether or not a member of a recognized religion); and (3) the religious belief or moral conviction (whether or not as a part of a "mainstream" religion) is sincere. When the waiver application is for a child, the child's parent must satisfy these three requirements. *See Memorandum on Vaccination Requirements Under Section 212(a)(1)(A)(ii) of the Act from* [REDACTED]

The record reflects that the applicant is a 43 year-old native and citizen of Canada who requests a waiver of the vaccination requirement due to his sincere religious opposition to immunizations of any kind. The applicant asserts that his religious beliefs rely on God's natural healing process and that immunizations do not show faith in God's promises of protection. The applicant contends that his beliefs extend even beyond the declination of vaccinations to also include medications. Instead, the applicant asserts that he relies upon God's natural whole food and natural healing remedies to maintain his health.

The applicant further asserts that if he complied with the vaccination requirements, his religious beliefs would be compromised because it would violate his trust and faith in God's promises of protection and place his trust in man rather than God. The applicant contends that he received

vaccinations in his youth, but that his religious beliefs have since strengthened. Specifically, the applicant states that he has not received any vaccinations since the age of 15.

The record contains letters from the applicant's brother asserting that the applicant believes in God's natural healing powers and the protection of God's temple in the form of the applicant's body. The applicant's brother contends that he runs a business with the applicant and they have a close relationship. The applicant's brother further asserts that the applicant believes that we should not desecrate our bodies with anything not provided naturally by God, such as synthetically produced medications and vaccinations. The record also contains letters from the applicant's spouse asserting that ever since she has known the applicant, he has refused vaccines or synthetic medication based upon his faith in God. The applicant's spouse also asserts that she and the applicant are expecting a child and will apply the same religious beliefs to their baby. Based upon the evidence in the record, the AAO finds that the applicant has established that he is opposed to vaccinations in any form and that the objection is based upon sincerely held religious beliefs or moral convictions.

In proceedings for application for waiver of grounds of inadmissibility under section 212(g)(2) of the Act, the burden of proving eligibility remains entirely with the applicant. Section 291 of the Act, 8 U.S.C. § 1361. Here, the applicant met that burden. Accordingly, the appeal will be sustained.

ORDER: The appeal is sustained.