

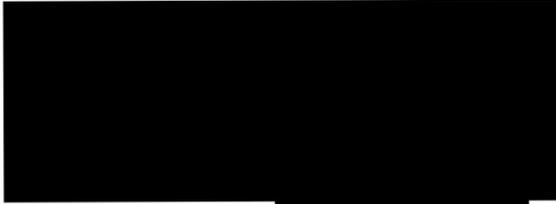
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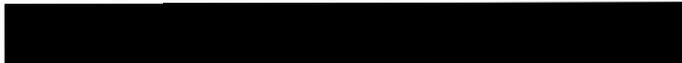
Office: CHICAGO, ILLINOIS

Date:

APR 08 2008

IN RE:

APPLICANT:



APPLICATION:

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

ON BEHALF OF APPLICANT:



INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

A handwritten signature in black ink, appearing to read "Robert P. Wiemann".

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The waiver application was denied by the Field Office Director, Chicago, Illinois, and 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 Jordan who initially entered the United States on August 30, 1996, on a B-1 nonimmigrant visa with authorization to remain in the United States until November 29, 1996. At some point, the applicant departed the United States. On September 3, 1996, the applicant entered the United States on a B-2 nonimmigrant visa with authorization to remain in the United States until May 29, 1997. On December 31, 1997, the applicant married [REDACTED], a United States citizen, in Illinois. On January 23, 1998, the applicant's wife filed a Petition for Alien Relative (Form I-130) on behalf of the applicant. On the same day, the applicant filed an Application to Register Permanent Residence or Adjust Status (Form I-485). At some point, the applicant departed the United States. On October 2, 1998, the applicant entered the United States on a B-2 nonimmigrant visa with authorization to remain in the United States until July 23, 1999. On June 10, 1999, the applicant departed the United States. On July 22, 1999, the applicant was paroled into the United States. On August 29, 1999, the applicant was arrested for five (5) counts of criminal sexual abuse of minors. On December 6, 1999, the applicant was convicted of three (3) counts of domestic battery and was sentenced to two (2) years probation. At some point, the applicant departed the United States. On September 11, 2001, the applicant was paroled into the United States. At some point, the applicant departed the United States. On May 6, 2002, the applicant was paroled into the United States. On March 24, 2004, the applicant and his wife divorced. At some point, the applicant departed the United States. On July 26, 2005, the applicant was paroled into the United States. At some point, the applicant departed the United States. On December 24, 2005, the applicant was paroled into the United States. On July 27, 2007, the applicant filed an Application for Waiver of Grounds of Excludability (Form I-601). On August 24, 2007, the Field Office Director denied the applicant's Form I-130. The Field Office Director determined that the basis for filing the petition, the applicant's marriage to a United States citizen, no longer existed, since the applicant and [REDACTED] were divorced. *Field Office Director's Decision*, dated August 24, 2007. On the same day, the Field Office Director also denied the applicant's Form I-601 and Form I-485. On September 25, 2007, the applicant filed three separate appeals of the Field Office Director's decisions on his Form I-130, Form I-601, and Form I-485. With his appeals, the applicant submitted an Order from the Circuit Court of Cook County, Illinois, dated July 11, 2005, stating that the applicant's divorce was vacated.

8 C.F.R. § 201.1(a) provides, in pertinent part:

- (a) **Types of petitions.** Petitions may be filed for an alien's classification as an immediate relative under section 201(b) of the Act or as a preference immigrant under section 203(a) of the Act based on a qualifying relationship to a citizen or lawful permanent resident of the United States.

The AAO finds that when the applicant and his wife divorced on March 24, 2004, there was no longer a qualifying relationship in which to base an approval of the Form I-130; therefore, the Field Office Director properly denied the applicant's Form I-130, which then led to the denial of the applicant's Form I-601 and

Form I-485. The AAO notes that the fact that the applicant's divorce was revoked on July 11, 2005¹ is irrelevant because as of the date of the divorce on March 24, 2004, the applicant could not establish a qualifying relationship with a United States citizen or lawful permanent resident of the United States. The applicant's spouse may now, if she chooses to do so, file a new Form I-130 on the applicant's behalf.

ORDER: The appeal is dismissed.

¹ The AAO notes that the applicant and his wife were divorced for a year and three months.