



U.S. Citizenship  
and Immigration  
Services

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[Redacted]

FILE:

[Redacted]

Office: BALTIMORE

Date: **AUG 29 2008**

IN RE:

[Redacted]

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:

[Redacted]

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.

Robert P. Wiemann, Chief  
Administrative Appeals Office

**DISCUSSION:** The waiver application was denied by the District Director, Baltimore, Maryland, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be sustained.

The applicant is a native and citizen of Sierra Leone who was found to be inadmissible to the United States pursuant to section 212(a)(2)(A)(i)(I) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(a)(2)(A)(i)(I), for having committed a crime involving moral turpitude. The applicant is the beneficiary of an approved Petition for Alien Relative (Form I-130) filed by her U.S. citizen spouse and seeks a waiver of inadmissibility pursuant to section 212(h) of the Act, 8 U.S.C. § 1182(h), in order to reside in the United States with her spouse and three U.S. citizen children.

The I-130 petition was approved on September 18, 1997. The applicant filed her Application to Register Permanent Residence or Adjust Status (Form I-485) and Application for Waiver of Grounds of Inadmissibility (Form I-601) on January 15, 2005.

The district director concluded that the applicant had failed to establish that extreme hardship would be imposed on the qualifying relatives and denied the waiver application accordingly. *Decision of District Director*, dated March 29, 2006.

On appeal, counsel asserts that the district director applied a higher standard of proof than the appropriate extreme hardship standard to deny the waiver application. Counsel asserts that the applicant has submitted sufficient evidence to demonstrate extreme hardship to her spouse and children. Counsel observes that the applicant endured female genital mutilation as a child, and that she fears her daughters will be subjected to it if they return to Sierra Leone. Counsel states that Sierra Leone is still recovering from the devastation of a long civil war, and that it ranks “among the world’s ten worst countries in terms of poverty, health, life expectancy, education, and general human development.” Counsel contends that the applicant spouse and children would experience extreme hardship if they relocated there. Counsel states that, in alternative, the applicant’s spouse and children would suffer emotionally if they remained in the United States and were separated from the applicant. Counsel asserts that contributes to the family income through her work as a nurse’s aid, and that she is primarily responsible for “running [the] house” and caring for the children.

In support of the waiver application, the applicant has submitted, among other documents, affidavits from herself and her spouse; medical records; tax, employment and bank records; a deed; U.S. State Department and other reports on Sierra Leone. The entire record was reviewed and considered in rendering a decision on the appeal.

Section 212(a)(2)(A) of the Act states in pertinent part:

- (i) In general.— . . . [A]ny alien convicted of, or who admits having committed, or who admits committing acts which constitute the essential elements of-
  - (I) a crime involving moral turpitude . . . or an attempt or conspiracy to commit such a crime . . . is inadmissible.

The record shows that the applicant was arrested on November 11, 1991 and convicted on April 17, 1992 in the 19th Judicial District of Virginia, Fairfax County General District Court of Grand Larceny (Felony) and sentenced to 18 months in jail. The sentence was suspended that the applicant was placed on probation for 18 months. The crime of grand larceny has long been considered a crime involving moral turpitude. *See Blumen v. Haff*, 78 F.2d 833 (9th Cir. 1935). The applicant has not disputed that she is inadmissible under section 212(a)(2)(A) of the Act for having committed a crime involving moral turpitude.

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

(h) The Attorney General [Secretary of Homeland Security] may, in his discretion, waive the application of subparagraph (A)(i)(I), (B), . . . of subsection (a)(2) . . . if –

. . . .

(1)(A) in the case of any immigrant it is established to the satisfaction of the Attorney General that –

(i) . . . the activities for which the alien is inadmissible occurred more than 15 years before the date of the alien's application for a visa, admission, or adjustment of status;

(ii) the admission to the United States of such alien would not be contrary to the national welfare, safety, or security of the United States, and;

(iii) the alien has been rehabilitated; or

(B) in the case of an immigrant who is the spouse, parent, son, or daughter of a citizen of the United States or an alien lawfully admitted for permanent residence if it is established to the satisfaction of the Attorney General [Secretary] that the alien's denial of admission would result in extreme hardship to the United States citizen or lawfully resident spouse, parent, son, or daughter of such alien . . .

The AAO notes that the activities that render the applicant inadmissible under Section 212(a)(2)(A) of the Act occurred more than 15 years ago. Consequently, the applicant is eligible for consideration of a waiver of inadmissibility under Section 212(h)(1)(A) of the Act.

The record shows that the applicant has been married since 1996 and is the mother and primary caregiver of three minor children. The record also shows that the applicant is employed as nurse's aide and earns approximately 15% of her household's total income. The applicant has no other arrests or convictions since her conviction in 1992, a strong indication that she has been rehabilitated. Although the applicant's crime and her periods of unauthorized presence in the United States cannot be condoned, based on the evidence in the record, the AAO concludes that the applicant's admission would not be contrary to the national welfare, safety, or security of the United States and that the applicant has been rehabilitated. Accordingly, the applicant is eligible for a waiver of inadmissibility under section 212(h)(1)(A) of the Act.

In proceedings for an application for waiver of grounds of inadmissibility under section 212(h) of the Act, the burden of establishing that the application merits approval remains entirely with the applicant. Section 291 of the Act, 8 U.S.C. § 1361. In this case, the applicant has met her burden that she merits approval of her application.

**ORDER:** The appeal is sustained.