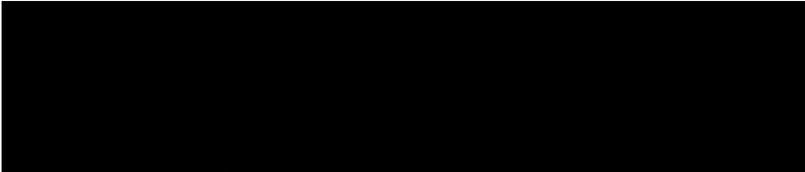


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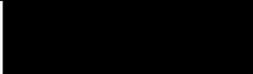
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FILE:



Office: KINGSTON, JAMAICA

Date:

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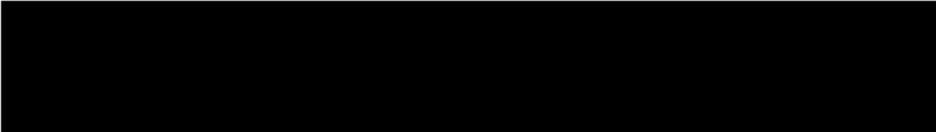
Applicant:



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:

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 Officer-in-Charge, Kingston, Jamaica, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed as the applicant is not inadmissible under section 212(a)(6)(C)(i) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(a)(6)(C)(i), thus the relevant waiver application is moot.

The applicant, [REDACTED] is a native and citizen of Jamaica 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. The applicant is married to a citizen of the United States. [REDACTED] sought a waiver of inadmissibility pursuant to section 212(i) of the Act, 8 U.S.C. § 1182(i), which the Officer-in-Charge denied, finding that [REDACTED] failed to establish extreme hardship would be imposed on a qualifying relative. *Decision of the Officer-in-Charge*, dated November 19, 2004. The applicant submitted a timely appeal.

The AAO notes that the Notice of Appeal, Form I-290B, indicates that a brief and/or evidence would be sent to the AAO within 30 days. On January 23, 2008, the AAO faxed to counsel a request for the additional evidence and/or brief, but did not receive a response. Thus, the AAO will consider the record as constituted as complete.

The AAO will first address the finding of inadmissibility under section 212(a)(6)(C)(i) of the Act.

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

- (i) Any alien who, by fraud or willfully misrepresenting a material fact, seeks to procure (or has sought to procure or has procured) a visa, other documentation, or admission into the United States or other benefit provided under this Act is inadmissible.

In the denial letter the Officer-in-Charge states that the applicant was granted extended medical parole to obtain medical treatment in Miami, Florida, for injuries sustained while on duty as a crewmember of the Royal Caribbean Cruise liner. The Office-in-Charge states that after the extended medical leave ended the applicant did not return to his employer, but instead absconded and deserted his job. The Officer-in-Charge states that the applicant willfully misrepresented himself to U.S. immigration officials when he applied for entry into the United States as a crewmember, and then absconded from his vessel while on an authorized medical parole.

The record reflects that the applicant was a crewmember with the Royal Caribbean Cruises Ltd. It shows that on December 17, 2000 he was flown into the Miami Airport based upon the grant of a medical parole into the United States for a hand injury. It shows that the applicant remained in parole status until May 1, 2002, at which time re-parole was denied. It shows that the applicant did not depart the United States after the request for parole was denied. The record contains a letter from the applicant's physician, [REDACTED] which states that the applicant is under his care, and that it is his request that the applicant stay in Miami for at least 4 weeks to obtain medical treatment and physical therapy for:

1. 927.20 crush injury of hand
2. 997.69 painful amputation stump
3. 719.54 joint stiffness

4. 337.21 complex regional pain syndrome

The record shows that Royal Caribbean Cruises Ltd. obtained an airline ticket for the applicant's flight home to Jamaica for departure on May 1, 2002 and that Royal Caribbean Cruise Ltd. was unable to locate the applicant and therefore reported him as a "jumper." *Royal Caribbean Cruises Ltd. letter, dated May 1, 2002.* The letter conveys that Royal Caribbean Cruises Ltd. believed that the Immigration and Naturalization Service declined to extend the applicant's request for an extension of the medical parole. *Id.* The letter states that the applicant is employed as a cook trainee, that he was provided with medical care while in the United States, and that he is still not fit for duty and will need further treatment. *Id.*

In the Record of Sworn Statement dated May 6, 2003, the applicant states that he married his wife on March 4, 2002 in Miami. He states that he did not know that his last medical parole request had been denied and a ticket issued for his return. The applicant states that he did not know that he was obligated to leave the United States after the denial of his medical parole request. The applicant states that before his medical parole expired he married and moved in with his wife, and filed the adjustment application.

Based on the evidence in the record, the AAO finds that the Officer-in-Charge erred in finding the applicant inadmissible under section 212(a)(6)(C) of the Act.

The applicant did not make a material misrepresentation to gain admission into the United States; he injured his hand and was granted medical parole into the United States to obtain medical treatment and physical therapy. Although the applicant remained in the United States following the denial of medical parole, his remaining in the United States and filing an adjustment of status application is not tantamount to making a material misrepresentation under section 212(a)(6)(C) of the Act. No material misrepresentations were made in the adjustment of status application and the petition for alien relative; the applicant is shown as a crewmember on medical parole in these documents, which the applicant believed to be the case.

Based on the record, the AAO finds that the applicant is not inadmissible to the United States pursuant to section 212(a)(6)(C)(i) of the Act. The waiver filed pursuant to section 212(i) of the Act is therefore moot. As the applicant is not required to file the waiver, the appeal of the denial of the waiver will be dismissed.

ORDER: The November 19, 2004 decision of the director is withdrawn. The appeal is dismissed as the underlying application is moot.