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U.S. Department of Homeland Security
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U.S. Citizenship
and Immigration
Services

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FILE: [REDACTED] Office: LOS ANGELES (SANTA ANA)

Date: SEP 02 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 PETITIONER:



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 application was denied by the District Director, Los Angeles, California. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed as the underlying waiver application is moot.

The applicant is a native of Nigeria and citizen of the United Kingdom and Nigeria who was found to be inadmissible to the United States under 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 been convicted of a crime involving moral turpitude (Forgery and Grand Theft). The applicant is married to a U.S. citizen and was the beneficiary of an approved Petition for Alien Relative. The applicant seeks a waiver of inadmissibility pursuant to section 212(h) of the Act, 8 U.S.C. § 1182(h), in order to remain in the United States with his spouse.

The district director concluded that the applicant failed to establish that extreme hardship would be imposed on a qualifying relative and denied the Application for Waiver of Grounds of Inadmissibility (Form I-601) accordingly. *See Decision of the District Director* dated August 4, 2006.

On appeal, counsel asserts that U.S. Citizenship and Immigration Services (CIS) erred and abused its discretion in denying the waiver application. On July 7, 2008, the applicant's wife submitted a letter that states, "I, [REDACTED] (U.S.-born spouse), have decided to withdraw my support and sponsorship for [REDACTED] through marriage." *See letter from [REDACTED]* dated July 7, 2008. The applicant's wife further states,

This marriage has wreaked havoc on my personal finances, along with infidelity, criminal-type behavior done by my spouse, [REDACTED] . . . Although a psychological evaluation . . . may portray me as dependent on [REDACTED] this is not at all true. [REDACTED] has not paid anything towards our household expenses on a consistent basis and my parents have taken on most of his financial obligations (pre-school payments, rent for living in parents' house). I have an excellent foundation of support through family and friends. . . [REDACTED] has been my financial burden and I have had to endure years of psychological harm, having him raise his fist to my face in arguments, which I can no longer suffer.

On July 16, 2008, the applicant's wife submitted a second letter, also signed by the applicant, that states:

I, [REDACTED] the wife of [REDACTED], recently sent a letter to rescind my sponsorship of my husband's green card appeal through marriage . . . I am writing to you, the immigration appeals jurisdiction, to hold a heavy, compassionate heart and allow our family to remain intact by approving our highly supported Appeal for Greencard Petition [REDACTED].
See letter from [REDACTED] dated July 16, 2008.

The applicant's wife requests that her previous request to withdraw the Petition for Alien Relative submitted on the applicant's behalf be disregarded and his waiver application be approved. The withdrawal of the petition may not, however, be retracted. 8 C.F.R. § 103.2(b)(6) states,

(6) An applicant or petitioner may withdraw an application or petition at any time until a decision is issued by USCIS or, in the case of an approved petition, until the person is

admitted or granted adjustment or change of status, based on the petition. However, a withdrawal may not be retracted.

The applicant is no longer eligible for adjustment of status because the underlying Petition for Alien Relative has been withdrawn. As he is not eligible to apply for adjustment of status, there is no need to adjudicate the Form I-601 waiver of inadmissibility. Further, even if the withdrawal of the petition could be retracted, the information provided in the letter dated July 7, 2008 refutes the applicant's claim that his removal from the United States would result in extreme hardship to his U.S. Citizenship wife as required by section 212(h) of the Act. Accordingly, the appeal will be dismissed.

ORDER: The appeal is dismissed.