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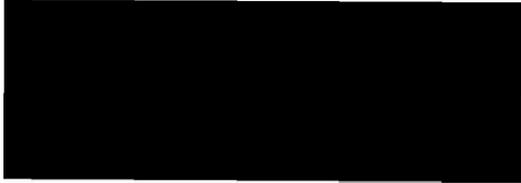
U.S. Department of Homeland Security
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U.S. Citizenship
and Immigration
Services

#12



FILE:



Office: VERMONT SERVICE CENTER

Date: JAN 15 2009

IN RE:



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:

SELF-REPRESENTED

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.

If you believe the law was inappropriately applied or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. Please refer to 8 C.F.R. § 103.5 for the specific requirements. All motions must be submitted to the office that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion, with a fee of \$585. Any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen, as required by 8 C.F.R. § 103.5(a)(1)(i).

A handwritten signature in black ink that reads "John F. Grissom".

John F. Grissom, Acting Chief
Administrative Appeals Office

DISCUSSION: The waiver application was denied by the Director, Vermont Service Center and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed, the Director's decision will be withdrawn and the file will be forwarded to the United States Citizen and Immigration Services (USCIS) office in Kingston, Jamaica for further processing.

The applicant is a native and citizen of Jamaica who was found to be inadmissible to the United States under section 212(a)(6)(C) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(a)(6)(C), for having attempted to procure entry into the United States by fraud or willful misrepresentation. The applicant is married to a United States citizen and seeks a waiver of inadmissibility pursuant to section 212(i) of the Act, 8 U.S.C. § 1182(i), in order to reside in the United States with his spouse and their U.S. citizen child.

The Director concluded that the applicant had failed to establish that extreme hardship would be imposed upon a qualifying relative and denied the Application for Waiver of Grounds of Inadmissibility (Form I-601) accordingly. *Decision of the Director*, dated May 8, 2007.

On appeal, the applicant submits additional evidence to establish extreme hardship to his spouse. *Form I-290B*, dated May 29, 2007 and supporting documentation.

The applicant attempted to enter the United States on September 25, 2005 by using a fraudulent visa. He was found inadmissible under section 212(a)(6)(C) of the Act for having attempted to enter the United States by fraud, and was expeditiously removed from the United States. He therefore needs both a waiver of inadmissibility (Form I-601) and permission to reapply for admission (Form I-212).

8 C.F.R. § 212.2 provides, in pertinent part, that:

- (d) *Applicant for immigrant visa.* Except as provided in paragraph (g)(3) of this section, an applicant for an immigrant visa who is not physically present in the United States and who requires permission to reapply must file Form I-212 with the district director having jurisdiction over the place where the deportation or removal proceedings were held. Except as provided in paragraph (g)(3) of this section, if the applicant also requires a waiver under section 212(g), (h), or (i) of the Act, Form I-601, Application for Waiver of Grounds of Excludability, must be filed simultaneously with the Form I-212 with the American consul having jurisdiction over the alien's place of residence. The consul must forward these forms to the appropriate Service office abroad with jurisdiction over the area within which the consul is located.

As the applicant is required to file both a Form I-601 and a Form I-212, he is required to file both forms with the consulate where he is applying for his visa. The Vermont Service Center did not have jurisdiction over the Form I-601. As such, the appeal will be dismissed, the Director's decision will be withdrawn and the case will be forwarded to the USCIS office in Kingston, Jamaica for further processing.

ORDER: The appeal is dismissed, the Director's decision is withdrawn and the case is forwarded to the USCIS office in Kingston, Jamaica for further processing.