

**identifying data deleted to  
prevent clearly unwarranted  
invasion of personal privacy**

U.S. Department of Homeland Security  
Citizenship and Immigration Services  
Administrative Appeals Office MS 2090  
Washington, DC 20529-2090



U.S. Citizenship  
and Immigration  
Services

**PUBLIC COPY**

H2

FILE:



Office: BALTIMORE

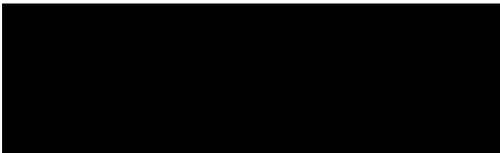
Date: SEP 01 2009

IN RE: 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.

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).

John F. Grissom  
Acting Chief, Administrative Appeals Office

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

The applicant is a native and citizen of the United Kingdom 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 to procure a visa, other documentation, or admission into the United States or other benefit provided under the Act by fraud or willful misrepresentation.<sup>1</sup> The applicant seeks a waiver of inadmissibility pursuant to section 212(i) of the Act, 8 U.S.C. § 1182(i), in order to enter the United States and reside with his U.S. citizen wife and child.

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 Ground of Inadmissibility (Form I-601) accordingly. *Decision of the District Director*, dated May 15, 2007.

On appeal, counsel for the applicant contends that the applicant's wife will suffer extreme hardship if the applicant is prohibited from residing in the United States. *Brief from Counsel*, undated.

The record contains a brief from counsel in support of the appeal; a statement from the applicant's wife; a psychological evaluation of the applicant and his wife; mortgage and settlement documents for a home owned by the applicant and his wife; documentation regarding childcare costs; documentation relating to the applicant's and his wife's employment and compensation; tax and financial records; copies of bills for the applicant's household; documentation regarding the cost of flights between the United States and the United Kingdom; copies of the applicant's passports and Form I-94; copies of birth records for the applicant, the applicant's wife, and the applicant's son; documentation in connection with the applicant's prior proceedings in Immigration Court; documentation in connection with the applicant's visa refusal and refusal of admission pursuant to the Visa Waiver Pilot Program; a copy of the applicant's marriage certificate, and; information regarding the applicant's prior misrepresentations to immigration officers regarding his immigration history. The entire record was reviewed and considered in rendering this decision.

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.

Section 212(i) of the Act provides that:

---

<sup>1</sup> The record further reflects that the applicant is inadmissible pursuant to section 212(a)(9)(B)(i)(II) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(a)(9)(B)(i)(II), for having been unlawfully present in the United States for more than one year and seeking readmission within 10 years of his last departure. Thus, he requires a waiver of inadmissibility under section 212(a)(9)(B)(v) of the Act in order to enter the United States.

- (1) The Attorney General [now the Secretary of Homeland Security (Secretary)] may, in the discretion of the Attorney General [Secretary], waive the application of clause (i) of subsection (a)(6)(C) in the case of an alien who is the spouse, son or daughter of a United States citizen or of an alien lawfully admitted for permanent residence, if it is established to the satisfaction of the Attorney General [Secretary] that the refusal of admission to the United States of such immigrant alien would result in extreme hardship to the citizen or lawfully resident spouse or parent of such an alien.

The record reflects that the applicant failed to admit that he had previously been refused admission under the Visa Waiver Pilot Program (VWPP) three times when he again sought entry under the VWPP on February 26, 2002. It is noted that a U.S. immigration officer notified the applicant on March 21, 1998 that he would not be eligible for future entries under the VWPP due to his refusal, thus the applicant was aware that he was not eligible for entry when he applied on February 26, 2002. Based on the foregoing, the applicant 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 to procure admission into the United States by fraud or willful misrepresentation.

The applicant filed a Form I-485, Application to Register Permanent Resident or Adjust Status, on February 24, 2005. He filed the Form I-601 application for a waiver that is the subject of the present appeal on April 20, 2007 in order to establish admissibility for the purpose of adjusting his status to permanent resident. The applicant was deported to the United Kingdom on June 28, 2007. As of the date of his deportation he was no longer eligible to adjust his status to permanent resident and his Form I-485 application was no longer valid. As the present Form I-601 application for a waiver was incident to the applicant's now invalid Form I-485 application, no purpose is served in adjudicating the Form I-601 application. Accordingly, the appeal will be dismissed.

**ORDER:** The appeal is dismissed.