



U.S. Citizenship
and Immigration
Services

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FILE: [REDACTED]

Office: VIENNA, AUSTRIA

Date: SEP 02 2009

IN RE: [REDACTED]

APPLICATION: Application for Waiver of Grounds of Inadmissibility under Section 212(a)(9)(B)(v) of the Immigration and Nationality Act, 8 U.S.C. § 1182(a)(9)(B)(v) and 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).

John F. Grissom

Acting Chief, Administrative Appeals Office

DISCUSSION: The waiver application was denied by the Officer-in-Charge, Vienna, Austria, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed as the waiver application is moot.

The applicant is a native and citizen of Albania who was found to be inadmissible to the United States pursuant to section 212(a)(6)(C)(i) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(a)(6)(C)(i), for attempting to procure admission to the United States by fraud or willful misrepresentation, and pursuant to section 212(a)(9)(B)(i)(II) of the Act, 8 U.S.C. § 1182(a)(9)(B)(i)(II), for having been unlawfully present in the United States for a period of one year or more and seeking admission within ten years of her last departure. The applicant seeks a waiver of inadmissibility pursuant to section 212(a)(9)(B)(v) of the Act, 8 U.S.C. § 1182(a)(9)(B)(v) and section 212(i) of the Act, 8 U.S.C. § 1182(i). The record reflects that the applicant's U.S. citizen spouse died on or about August 23, 2009. The applicant is the beneficiary of an approved I-130 petition filed by her late spouse.

The officer-in-charge concluded that the applicant had 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. *Decision of the Officer-in-Charge*, at 4, dated June 24, 2009.

On appeal, the applicant describes her previous marriage and her relationship with her since deceased spouse. *Letter in Support of Appeal*, at 1-2, undated.

The record includes, but is not limited to, statements from the applicant and her deceased spouse. The entire record was reviewed and considered in arriving at a decision on the appeal.

The AAO notes that the Form I-130 petition benefiting the applicant will be automatically revoked as of the date of its approval as a result of her spouse's death, thereby eliminating the underlying petition for her Form I-601. *See* 8 C.F.R. § 205.1(a)(3)(i)(C). As such, the AAO finds no useful purpose would be served in considering the applicant's waiver application and the appeal will be dismissed.¹

ORDER: The appeal is dismissed.

¹ The AAO also notes that even if the applicant were granted a humanitarian exception in regard to her Form I-130 petition, she does not have a qualifying relative on which to base the Form I-601.