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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

H2

FILE: Office: NEW YORK Date: SEP 02 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, New York, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The applicant is a native and citizen of the Dominican Republic 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. The applicant seeks a waiver of inadmissibility pursuant to section 212(i) of the Act, 8 U.S.C. § 1182(i), in order to remain in the United States.

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. *Decision of the District Director*, dated December 15, 2006.

On appeal, counsel for the applicant contends that the applicant's father will suffer extreme hardship if the applicant is compelled to depart the United States. *Statement from Counsel on Form I-290B*, dated December 29, 2006.

The record contains a statement from counsel on Form I-290B; statements from the applicant and his father; a copy of the applicant's father's naturalization certificate; a copy of the applicant's birth certificate, and; documentation regarding the applicant's prior marriage fraud. The entire record was reviewed and considered in rendering this decision.

Section 204(c) of the Act provides:

Notwithstanding the provisions of subsection (b) no petition shall be approved if (1) the alien has previously been accorded, or has sought to be accorded, an immediate relative or preference status as the spouse of a citizen of the United States or the spouse of an alien lawfully admitted for permanent residence, by reason of a marriage determined by the Attorney General to have been entered into for the purpose of evading the immigration laws or (2) the Attorney General has determined that the alien has attempted or conspired to enter into a marriage for the purpose of evading the immigration laws.

On January 24, 1979, a visa preference petition was approved on behalf of the applicant as the spouse of a permanent resident. On August 11, 1980 the petition was revoked due to a finding that the applicant entered into the marriage solely for immigration purposes. Accordingly, as of November 10, 1986 the applicant was no longer eligible for approval of a visa petition due to the fact that he previously entered into a marriage for the purpose of evading the immigration laws of the United States. As the applicant is statutorily ineligible to receive a visa, no purpose would be served in adjudicating his waiver application.

In proceedings for application for waiver of grounds of inadmissibility under section 212(i)(1) of the Act, the burden of proving eligibility remains entirely with the applicant. *See* Section 291 of the Act, 8 U.S.C. § 1361. Here, the applicant has not met that burden. Accordingly, the appeal will be dismissed.

**ORDER:** The appeal is dismissed.