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

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U.S. Citizenship  
and Immigration  
Services

H2

FILE:

Office: NEWARK

Date:

SEP 21 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, Newark, New Jersey, 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 Poland 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 enter the United States and reside with his U.S. citizen wife.

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 June 22, 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*, July 18, 2007.

The record contains a brief from counsel in support of the appeal; a statement from the applicant and the applicant's wife; a psychological evaluation of the applicant's wife; medical documentation for the applicant's wife; documentation regarding an automobile accident; copies of photographs; a copy of the applicant's birth certificate and passport; copies of documents relating to the applicant's and the applicant's wife's employment; tax records, and; information regarding the applicant's entry to the United States using fraud and misrepresentation. 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:

- (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 applied for entry to the United States using a passport and visa that was issued to another individual. Accordingly, he 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 does not contest his inadmissibility.

The applicant filed a Form I-485, Application to Register Permanent Resident or Adjust Status (Form I-485), on September 9, 2005. He filed the Form I-601 that is the subject of the present appeal on May 24, 2006 in order to establish admissibility for the purpose of becoming a permanent resident. On November 18, 2005, the applicant, through prior counsel, requested that the Form I-485 be withdrawn. On December 21, 2005 the applicant's prior counsel was provided with official acknowledgement that the Form I-485 had been withdrawn. The record does not reflect that he has filed a new Form I-485, or that he has sought to obtain an immigrant visa through consular processing abroad. A Form I-601 is incident to an application for admission into the United States or adjustment of status. As the applicant does not presently have a pending application for admission or adjustment, no purpose would be served in adjudicating the Form I-601. Accordingly, the appeal will be dismissed.

**ORDER:** The appeal is dismissed.