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



**U.S. Citizenship  
and Immigration  
Services**

H2

**AUG 09 2010**

FILE:

Office: BALTIMORE, MD Date:

IN RE:

PETITION: Application for Waiver of Grounds of Inadmissibility under section 212(h) of the Act,  
8 U.S.C. § 1182(h)

ON BEHALF OF APPLICANT:

INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office in your case. All of the documents related to this matter have been returned to the office that originally decided your case. Please be advised that any further inquiry that you might have concerning your case must be made to that office.

Thank you,

A handwritten signature in black ink, appearing to read "Perry New".

Chief, Administrative Appeals Office

**DISCUSSION:** The waiver application was denied by the District Director, Baltimore, Maryland, and is now before the Administrative Appeals Office (AAO) on appeal. The decision of the district director will be withdrawn, the appeal will be dismissed, and the matter will be forwarded to the field office having jurisdiction over waiver application to issue a decision.

The applicant is a native and citizen of Peru who was found to be inadmissible to the United States under section 212(a)(2)(A)(i)(I) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(a)(2)(A)(i)(I), for having been convicted of a crime involving moral turpitude. The applicant is married to a Lawful Permanent Resident and is the beneficiary of an approved Immigrant Petition for Alien Worker. The applicant seeks a waiver of inadmissibility pursuant to section 212(h) of the Act, 8 U.S.C. § 1182(h), in order to remain in the United States with his 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 accordingly. *See Decision of the District Director* dated November 25, 2009.

The regulation at 8 C.F.R. § 100.4(b) in effect at the time the decision of the district director was issued provided that the Washington, D.C. district office (now field office), had jurisdiction over the District of Columbia, the State of Virginia, and the Port-of-Entry at Andrews Air Force Base, Maryland. The applicant resided in the state of Virginia at the time the waiver application was submitted and the decision issued. The director of the Baltimore District Office (now Field Office) therefore did not have jurisdiction over the application. The AAO notes that the applicant's application for adjustment of status was forwarded to the Baltimore District Office in 2007 because at the time he was residing in the state of Maryland. The applicant had moved to Alexandria, Virginia at the time his waiver application was filed and the matter should have been forwarded to the Washington Field Office at that time. Since the decision was issued by an office not having jurisdiction over the matter, the AAO will withdraw the decision of the district director and the matter will be forwarded to the field office having jurisdiction over the matter for issuance of a new decision. If the new decision is adverse to the applicant, the decision shall be certified to the AAO for review.

**ORDER:** The appeal is dismissed, the prior decision of the director is withdrawn. The matter shall be forwarded to the office having jurisdiction over the applicant's place of residence for issuance of a new decision on the application for waiver of inadmissibility.