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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

[redacted]

H5 #2

FILE: [redacted] Office: FRANKFURT, GERMANY Date: FEB 04 2010

IN RE: Applicant: [redacted]

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:

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).

Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The waiver application was denied by the Officer-in-Charge, Frankfurt, Germany, 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 as a permanent resident.

The officer-in-charge 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 Officer-in-Charge*, dated July 23, 2007.

On appeal, the applicant contends that his father and mother will experience hardship if he is prohibited from entering the United States. Statement from the Applicant, dated August 22, 2007.

The record contains statements from the applicant, the applicant's father, and the president of a religious organization; information regarding the applicant's presentation of a fraudulent police report to a consular officer, and; documentation regarding a car accident caused by the applicant. The applicant further provided documents in a foreign language. Because the applicant failed to submit certified translations of the documents, the AAO cannot determine whether the evidence supports the applicant's claims. *See* 8 C.F.R. § 103.2(b)(3). Accordingly, the evidence is not probative and will not be accorded any weight in this proceeding. With the exception of the untranslated documents, the entire record was reviewed and considered in rendering this decision.

Section 212(a)(6)(C)(i) of the Act provides, in pertinent part, that:

> 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, in pertinent part, 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 immigrant 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 on October 23, 2006 the applicant presented a fraudulent police report to a consular officer in order to conceal his prior police record in the course of applying for an immigrant visa. The applicant asserted under oath that his documents were authentic, and that he had never been arrested. In fact, the applicant was placed into court proceedings in connection with an automobile accident that he caused through negligence. As a result, the applicant was found to be inadmissible to the United States under section 212(a)(6)(C)(i) of the Act 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.

Upon review, it is first noted that in order for fraud or misrepresentation to be material, it must be shown that the applicant is inadmissible based on the true facts, or that the misrepresentation shut off a line of inquiry which was relevant to the applicant's eligibility and which might have resulted in a proper determination that he is inadmissible. *See Matter of Ng*, 17 I&N Dec. 536, 537 (BIA 1980)(citing *Matter of S- and B-C-*, 9 I&N Dec. 436, 448-449 (AG 1961)).

In the present matter, the applicant was placed into court proceedings for causing an automobile accident that resulted in injury to another person. The record of the proceeding reflects that the applicant "unintentionally broke the road safety regulations." *Court Judgment*, dated May 10, 2005. The penal proceedings against him were conditionally discontinued for two years, and he was ordered to be placed under the supervision of a probation officer during that period. *Id.* at 1. The applicant was ordered to pay damages to the victim and court fees. *Id.* Accordingly, the applicant's act for which he was placed in penal proceedings was tantamount to negligence which resulted in injury to another individual, but not death. There is no evidence that the applicant consciously disregarded a substantial and unjustifiable risk constituting the *mens rea* of recklessness for a crime involving moral turpitude. *See Matter of Franklin*, 20 I&N Dec. 867 (BIA 1994)(modifying *Matter of Lopez*, 13 I&N Dec. 725 (BIA 1971)(finding that involuntary manslaughter does not constitute a crime involving moral turpitude)). The record does not support that the conduct the applicant was accused of committing, or the provision of penal law that related to his conduct, constituted a crime involving moral turpitude.

Based on the foregoing, whether the applicant was arrested or convicted for unintentionally causing an automobile accident was not material to whether he was admissible to the United States. The record does not show that the applicant has been arrested or convicted for other offenses, such that concealing his arrest cut off a material line of inquiry into a criminal history that might lead to a finding of inadmissibility. The record does not reveal any disqualifying facts that were obscured due to the applicant's presentation of the false police report and claim of no arrests. Thus, the applicant's act of fraud or misrepresentation does not render him inadmissible under section 212(a)(6)(C)(i) of the Act.

The record does not show that the applicant is inadmissible based on other grounds. Accordingly, the applicant is not inadmissible and he does not require a waiver under section 212(a)(6)(C)(i) of the Act. Therefore, the application is moot. As such, the applicant is free to pursue an immigrant visa to enter the United States as a permanent resident.

ORDER: The appeal is dismissed as the application is moot.