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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

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FILE:

[REDACTED]

Office: NEW YORK, NY

Date:

NOV 19 2010

IN RE:

[REDACTED]

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

ON BEHALF OF PETITIONER:

[REDACTED]

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. The fee for a Form I-290B is currently \$585, but will increase to \$630 on November 23, 2010. Any appeal or motion filed on or after November 23, 2010 must be filed with the \$630 fee. Any motion must be filed within 30 days of the decision that the motion seeks to reconsider, as required by 8 C.F.R. 103.5(a)(1)(i).

Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The application was denied by the District Director, New York, New York. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed as the underlying waiver application is moot.

The applicant is a native of the Dominican Republic and citizen of Venezuela 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 U.S. citizen and was the beneficiary of an approved Petition for Alien Relative. 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 her spouse.

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. *See Decision of the District Director* dated September 25, 2008.

On appeal, counsel for the applicant asserts that U.S. Citizenship and Immigration Services (USCIS) relied on erroneous conclusions of law and fact in denying the waiver application.

On October 28, 2008, the applicant's husband submitted a letter stating that he wished to cancel the applicant's case because he did not want to be responsible for someone who could be a problem to the United States and requesting that the case be closed as soon as possible. *See letter from* [REDACTED] dated October 28, 2008. In a letter dated November 3, 2008 the District Director notified the applicant's husband that the applicant's Petition for Alien Relative was automatically revoked pursuant to 8 C.F.R. § 205.1(a)(3)(i)(A) based on his withdrawal of the petition.

The applicant is no longer eligible for adjustment of status because the underlying Petition for Alien Relative has been withdrawn. As she is not eligible to apply for adjustment of status, there is no need to adjudicate Form I-601, application for waiver of inadmissibility. Accordingly, the appeal will be dismissed.

ORDER: The appeal is dismissed.