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U. S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Administrative Appeals Office (AAO)
20 Massachusetts Ave., N.W., MS 2090
Washington, DC 20529-2090



U.S. Citizenship
and Immigration
Services

PUBLIC COPY

[Redacted]

H₂

Date: **MAY 27 2011**

Office: BALTIMORE, MD

FILE: [Redacted]

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 APPLICANT:

[Redacted]

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.

If you believe the law was inappropriately applied by us in reaching our decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. The specific requirements for filing such a request can be found at 8 C.F.R. § 103.5. 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 \$630. Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires that any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you,

Perry Rhew
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 appeal will be dismissed.

The applicant, a native and citizen of Guinea, 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 seeks a waiver of inadmissibility pursuant to section 212(h) of the Act, 8 U.S.C. § 1182(h).

In a decision, dated September 22, 2010, the district director found the applicant inadmissible under section 212(a)(2)(A)(i)(I) of the Act for being convicted of petty larceny and sentenced to twelve months in prison. The district director also found that the applicant offered insufficient credible evidence as to how her inadmissibility would result in extreme hardship to her U.S. citizen spouse. The Application for Waiver of Grounds of Inadmissibility (Form I-601) was denied accordingly.

The record reflects that on March 21, 2011, the AAO received a letter from the applicant's spouse and petitioning relative stating that he would like to terminate his petition for his spouse as he is petitioning for a divorce after discovering that her only reason for marrying him was to gain an immigration benefit. The applicant's spouse states that he has not seen the applicant for 14 months and that she left him shortly after the marriage to live with a man in Maryland, whom he thought was the applicant's uncle.

The necessity of the Form I-601, Application for Waiver of Grounds of Inadmissibility, is dependent on the applicant seeking admission as an immigrant, which, in turn, is based on an approved Form I-130, Petition for Alien Relative. *See* 8 C.F.R. § 212.7(a). Also, in this case the applicant's spouse is the only qualifying relative for establishing extreme hardship as required for a waiver of inadmissibility. Therefore, withdrawal of the petition renders the present Form I-601 moot.

ORDER: The appeal is dismissed.