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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



H2

Date: **SEP 21 2011** Office: BALTIMORE

FILE: 

IN RE:

Applicant: 

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:



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,

for 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 rejected as improperly filed.

The applicant is a native and citizen of South Africa who was found to be inadmissible to the United States pursuant to 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. She seeks a waiver of inadmissibility in order to remain in the United States and continue work for her sponsoring employer.

The district director denied the Form I-601 application for a waiver, finding that the applicant failed to establish extreme hardship to a qualifying relative. *Decision of the District Director*, dated November 24, 2008.

On or about December 24, 2008, counsel for the applicant filed Form I-694, Notice of Appeal of Decision under Section 210 or 245A on behalf of the applicant. In subsequent correspondence, counsel refers to the filing as a "Form I-694, Notice of Appeal to the AAO." *Counsel's Letter with Brief*, dated January 22, 2009. The applicant has not filed a Form I-290B, Notice of Appeal or Motion. It is evident that counsel intends the filing to be an appeal of the district director's denial of the applicant's Form I-601 application for a waiver of her inadmissibility.

Form I-694 is used to notify U.S. Citizenship and Immigration Services (USCIS) that an applicant denied permanent residence, temporary residence or a waiver of grounds of excludability under the amnesty program provisions of the Immigration Reform and Control Act of 1986 (IRCA) is appealing the decision to the Director of USCIS. 8 C.F.R. § 103.3(a)(3). The applicant has not applied for benefits under IRCA, and Form I-694 is not relevant to her circumstances.

The regulation at 8 C.F.R. § 103.3(a)(2)(i) clearly states that to appeal a matter to the AAO (formerly Administrative Appeals Unit (AAU)) "[t]he affected party *shall* file an appeal on Form I-290B." (emphasis added). As the applicant has not filed Form I-290B, the appeal is not properly before the AAO and it must be rejected as improperly filed.

ORDER: The appeal is rejected as improperly filed.