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

U.S. Citizenship and Immigration Services

H2

DATE: DEC 2 1 2012 OFFICE: SANTO DOMINGO, DR File: [redacted]

IN RE: Applicant: [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:

SELF-REPRESENTED

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 AAO inappropriately applied the law in reaching its decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen with the field office or service center that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion, with a fee of $630. The specific requirements for filing such a motion can be found at 8 C.F.R. § 103.5. **Do not file any motion directly with the AAO.** Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires any motion to be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you,

Ron Rosenberg
Acting Chief, Administrative Appeals Office

DISCUSSION: The waiver application was denied by the Field Office Director, Santo Domingo, Dominican Republic and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The applicant is a native and citizen of the Dominican Republic 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. The applicant seeks a waiver of inadmissibility in order to reside in the United States with his lawful permanent resident mother.

The Field Office 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 accordingly. *See Decision of the Field Office Director,* dated January 12, 2012.

On appeal the applicant's mother asks that the documents in the record be reconsidered as she needs her son to be next to her to give her support after all the health problems she has been suffering. *See Form I-290B, Notice of Appeal or Motion,* received February 14, 2012.

The record contains, but is not limited to: Form I-290B and the applicant's statement thereon; various immigration applications and petitions; a hardship affidavit; medical records; and documents related to the applicant's criminal record. The entire record was reviewed and considered in rendering this decision on the appeal.

Section 212(a)(2)(A) of the Act states, in pertinent parts:

> (i) [A]ny alien convicted of, or who admits having committed, or who admits committing acts which constitute the essential elements of –
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> (I) a crime involving moral turpitude (other than a purely political offense) or an attempt or conspiracy to commit such a crime . . . is inadmissible.
>
> (ii) Exception.—Clause (i)(I) shall not apply to an alien who committed only one crime if-
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> > (I) the crime was committed when the alien was under 18 years of age, and the crime was committed (and the alien was released from any confinement to a prison or correctional institution imposed for the crime) more than 5 years before the date of the application for a visa or other documentation and the date of application for admission to the United States, or
> >
> > (II) the maximum penalty possible for the crime of which the alien was convicted (or which the alien admits having committed or of which the acts that the alien admits having committed constituted the essential

> elements) did not exceed imprisonment for one year and, if the alien was convicted of such crime, the alien was not sentenced to a term of imprisonment in excess of 6 months (regardless of the extent to which the sentence was ultimately executed).

The record reflects that the applicant was arrested on or about December 29, 1987 and charged with voluntary homicide/murder, in violation of the Criminal Code of the Dominican Republic articles 295 and 304, for causing the death of an individual after striking him multiple times. The applicant admits to having caused the victim's death and spending approximately five months in jail. As murder is recognized as a categorical crime involving moral turpitude, the AAO finds that the applicant has been convicted of a crime involving moral turpitude which renders him inadmissible under section 212(a)(2)(A)(i)(I) of the Act. The applicant does not contest inadmissibility.

Section 212(h) of the Act provides, in pertinent part, that:

> The Attorney General may, in his discretion, waive the application of subparagraphs (A)(i)(I), (B), (D), and (E) of subsection (a)(2) and subparagraph (A)(i)(II) of such subsection insofar as it relates to a single offense of simple possession of 30 grams or less of marijuana . . . .
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> (1) (A) in the case of any immigrant it is established to the satisfaction of the Attorney General [Secretary] that –
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> (i) . . . the activities for which the alien is inadmissible occurred more than 15 years before the date of the alien's application for a visa, admission, or adjustment of status,
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> (ii) the admission to the United States of such alien would not be contrary to the national welfare, safety, or security of the United States, and
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> (iii) the alien has been rehabilitated; or
>
> (B) in the case of an immigrant who is the spouse, parent, son, or daughter of a citizen of the United States or an alien lawfully admitted for permanent residence if it is established to the satisfaction of the Attorney General [Secretary] that the alien's denial of admission would result in extreme hardship to the United States citizen or lawfully resident spouse, parent, son, or daughter of such alien . . .; and
>
> (2) the Attorney General [Secretary], in his discretion, and pursuant to such terms, conditions and procedures as he may by regulations prescribe, has consented to the alien's applying or reapplying for a visa, for admission to the United States, or adjustment of status.

> No waiver shall be provided under this subsection in the case of an alien who has been convicted of (or who has admitted committing acts that constitute) murder or criminal acts involving torture, or an attempt or conspiracy to commit murder or a criminal act involving torture. ...

There is no waiver available for this ground of inadmissibility, i.e., there is no waiver available under section 212(h) of the Act for an individual who has been convicted of murder or who has admitted committing acts that constitute murder. As there is no waiver of inadmissibility that may be properly examined pursuant to the present Form I-601 application, the application may not be approved and the appeal will be dismissed.

ORDER: The appeal is dismissed.