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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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Date: **JAN 18 2012** Office: PORTLAND, ME 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(i)

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 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 Director, Portland, Maine, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be remanded to the director for action consistent with this decision.

The applicant is a native of Brazil and a citizen of Brazil and Italy 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's spouse is a U.S. citizen. The applicant seeks a waiver of inadmissibility pursuant to section 212(h) of the Act, 8 U.S.C. § 1182(h).

The field office director concluded that the applicant had failed to establish that extreme hardship would be imposed on a qualifying relative and denied the Application for Waiver of Ground of Inadmissibility (Form I-601) accordingly. *Decision of the Director*, dated January 21, 2009.

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

(i) [A]ny alien convicted of, or who admits having committed, or who admits committing acts which constitute the essential elements of-

(I) a crime involving moral turpitude (other than a purely political offense) or an attempt or conspiracy to commit such a crime . . . is inadmissible.

On October 22, 2011, the AAO received a letter purportedly from the applicant's U.S. citizen spouse, the petitioner of the Form I-130, Petition for Alien Relative, stating that, "I am immediately requesting my Application of Support for my wife be withdrawn. I can no longer support her for any immigration status...I have come to finally accept she married me only to obtain a Green Card." *Letter from Applicant's Spouse*, dated October 22, 2011.

Section 205.1 of Title 8 of the Code of Federal Regulations states, in pertinent part:

(a) Reasons for automatic revocation. The approval of a petition...made under section 204 of the Act...is revoked as of the date of approval:

(3) If any of the following circumstances occur...before the decision on his or her adjustment application becomes final:

(i) Immediate relative and family-sponsored petitions, other than Amerasian petitions. (A) Upon written notice of withdrawal filed by the petitioner...with any officer of the Service who is authorized to grant or deny petitions.

It appears that the petitioner of the Form I-130 has provided written notice of withdrawal with respect to his sponsorship of the applicant. The AAO will remand the appeal in order for the director to determine the legitimacy of the petitioner's letter, whether it is referring to withdrawal of the Form I-130, and whether the Form I-130 should be automatically revoked. If the I-130 petition

is revoked, the director shall deny the Form I-485 and Form I-601 accordingly. If the petition is not revoked, the director shall issue a new decision addressing the merits of the applicant's Form I-601 application. If that decision is adverse to the applicant, the director shall certify the decision to the AAO for review.

ORDER: The appeal is remanded.