

identifying data deleted to  
prevent clearly unwarranted  
invasion of personal privacy

PUBLIC COPY

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



U.S. Citizenship  
and Immigration  
Services

[REDACTED]

H2

DATE: JUL 03 2012

OFFICE: CHICAGO, IL

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 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,

for Perry Rhew  
Chief, Administrative Appeals Office

**DISCUSSION:** The waiver application was denied by the Acting Field Office Director, Chicago, Illinois and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The applicant is a native and citizen of Cuba 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 committed a crime involving moral turpitude. The applicant is married to a U.S. citizen, with three U.S. citizen children. He 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.

The Acting Field Office Director determined that the applicant's spouse had signed the Form I-601, Application for Waiver of Grounds of Inadmissibility, and denied the application as improperly filed. *Acting Field Office Director's Decision*, dated August 23, 2011.

On appeal, counsel contends that the applicant's spouse is authorized to sign the Form I-601 as she is the applicant's qualifying relative and further asserts that the applicant is not inadmissible pursuant to section 212(a)(2)(A)(i)(I) of the Act. *Form I-290B, Notice of Appeal or Motion*, dated September 6, 2011.

The regulation at 8 C.F.R. § 103.2(a)(2) states:

(2) *Signature.* An applicant or petitioner must sign his or her benefit request. However, a parent or legal guardian may sign for a person who is less than 14 years old. A legal guardian may sign for a mentally incompetent person. By signing the benefit request, the applicant or petitioner, or parent or guardian certifies under penalty of perjury that the benefit request, and all evidence submitted with it, either at the time of filing or thereafter, is true and correct . . . .

The regulation at 8 C.F.R. § 212.703.2(a) states that any alien who is eligible for a waiver of inadmissibility under 212(h) of the Act "may file on the form designated by USCIS, with the fee prescribed in 8 CFR 103.7(b)(1) and in accordance with the form instructions."

The General Instructions beginning on page 2 of the Instructions for I-601, Application for Waiver of Grounds of Inadmissibility state:

**4. Applicant's Signature.** Under 8 C.F.R. § 103.2(a)(2), you must sign this application personally, unless one of the following exceptions apply.

If you are under 14 years of age, your parent or legal guardian may sign the application for you.

If you are not competent to sign the application, but you are over 14 years of age, a duly appointed legal guardian may sign the application for you.

If you are filing this application to waive inadmissibility for a communicable disease of public health significance . . . and you are not competent to sign the application, a qualified family member listed in '**Specific Instructions, Applicants Seeking A Waiver of Health-Related Grounds of Inadmissibility Under INS Section**

**212(a)(1), 1. Applicants With Communicable Diseases'** may file and sign the waiver application on your behalf. This qualifying relative may sign the application for you even if that person is not your legal guardian.

Although counsel asserts that the Form I-601 specifically indicates that a qualifying relative may sign the I-601 on behalf of the applicant, it appears that she has based this conclusion on the annotation "Signature of Applicant or Qualified Relative/Legal Guardian" that appears below the signature line in "Part D. Applicant's Signature and Certification" of the Form I-601. However, the "Qualified Relative" indicated here refers to those individuals who may sign Form I-601 applications on behalf of incompetent applicants who are inadmissible to the United States on the basis of a communicable disease of public health significance, not to qualifying relatives generally. Accordingly, the applicant's spouse is not eligible to sign the Form I-601 on his behalf.

As the applicant's spouse signed the Form I-601, the AAO finds that the application was improperly filed and that the Field Office Director correctly refused to consider it. In that United States Citizenship and Immigration Services has not received an acceptable waiver application from the applicant, the AAO will not consider the finding of inadmissibility under section 212(a)(2)(A)(i)(I) of the Act or his eligibility for a section 212(h) waiver on appeal.

The burden of establishing that an application merits approval remains entirely with the applicant. *See* section 291 of the Act, 8 U.S.C. § 1361. Here, the applicant has not met that burden. Accordingly, the appeal will be dismissed.

**ORDER:** The appeal is dismissed.