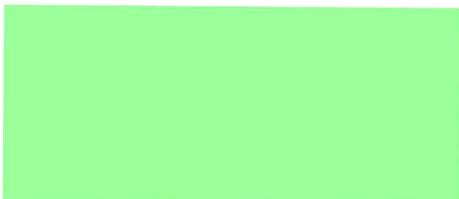


(b)(6)



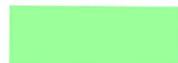
U.S. Citizenship  
and Immigration  
Services



Date: JUL 18 2014

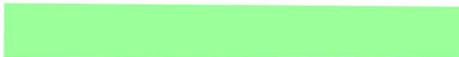
Office: NEBRASKA SERVICE CENTER

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:

SELF-REPRESENTED

INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office (AAO) in your case.

This is a non-precedent decision. The AAO does not announce new constructions of law nor establish agency policy through non-precedent decisions. If you believe the AAO incorrectly applied current law or policy to your case or if you seek to present new facts for consideration, you may file a motion to reconsider or a motion to reopen, respectively. Any motion must be filed on a Notice of Appeal or Motion (Form I-290B) within 33 days of the date of this decision. **Please review the Form I-290B instructions at <http://www.uscis.gov/forms> for the latest information on fee, filing location, and other requirements.** See also 8 C.F.R. § 103.5. **Do not file a motion directly with the AAO.**

Thank you,

Ron Rosenberg  
Chief, Administrative Appeals Office

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

The applicant is a native and citizen of Canada who attempted to enter the United States as a nonimmigrant under the Visa Waiver Program on June 8, 2008. The applicant was found inadmissible under section 212(a)(2)(A)(i)(II) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(a)(2)(A)(i)(II), due to a 1983 conviction in Canada relating to a controlled substance. The applicant withdrew her application for admission to the United States at that time.

On January 23, 2013, the applicant submitted Form I-601, Application for Waiver of Grounds of Inadmissibility (Form I-601) in an effort to obtain a nonimmigrant visa to visit the United States.

The Director, citing the categories of individuals who may apply for a waiver on Form I-601, determined that the applicant did not belong to any of the categories of individuals who are eligible to apply for a waiver on Form I-601 and denied the Form I-601 accordingly. *See Decision of the Director* dated September 19, 2013.

Individuals who are eligible to file the Form I-601 must be applicants for the following categories of immigration benefits:

- An immigrant visa
- Adjustment of status
- K-1 or K-2 nonimmigrant visa
- K-3, K-4, or V nonimmigrant visa
- Temporary Protected Status
- Nicaraguan Adjustment and Central American Relief Act
- Haitian Refugee Immigrant Fairness Act
- Violence Against Women Act self-petition, or
- T nonimmigrant visa status holder filing for adjustment of status who is inadmissible due to a ground that has not already been waived.

As the applicant does not belong to any of these categories, we concur with the Director that the applicant is not eligible to apply for a waiver of her inadmissibility under section 212(a)(2)(A)(i)(II) of the Act using the Form I-601.

The record indicates that in response to a request for evidence from the Director, Nebraska Service Center, dated June 11, 2013, the applicant submitted Form I-192, Application for Advance Permission to Enter as Nonimmigrant [Pursuant to Section 212(d)(3)(A)(ii) of the INA] (Form I-192). The instructions for Form I-192 state:

Inadmissible Nonimmigrant Already in Possession of Appropriate Documents:

The application is filed with U.S. Customs and Border Protection (CBP) in advance of the date of intended travel to the United States. Filing of this application is generally done in person at a CBP designated port of entry or a CBP designated preclearance office.

Canadian citizens are not required to have a visa to enter the United States for nonimmigrant purposes, and, as such, are considered to already be in possession of appropriate documents to enter the United States. Canadian citizens who are inadmissible to the United States and who would like to enter the U.S. for nonimmigrant purposes can apply for a waiver to overcome their inadmissibility by submitting the Form I-192 directly to U.S. Customs & Border Protection (CBP).

In application proceedings, it is the applicant's burden to establish eligibility for the immigration benefit sought. Section 291 of the Act, 8 U.S.C. § 1361. Here, that burden has not been met, as the applicant is not eligible to apply for a waiver of her inadmissibility using the Form I-601. Accordingly, the appeal will be dismissed.

**ORDER:** The appeal is dismissed.