(b)(6)

U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

MATTER OF S-F-S-

DATE: FEB. 9, 2016

MOTION ON ADMINISTRATIVE APPEALS OFFICE DECISION

APPLICATION: FORM I-601, APPLICATION FOR WAIVER OF GROUNDS OF INADMISSIBILITY

The Applicant, a native and citizen of Jordan, seeks a waiver of inadmissibility. *See* Immigration and Nationality Act (the Act) § 212(h), 8 U.S.C. § 1182(h). The Field Office Director, Detroit Michigan, denied the application. We dismissed an appeal of the Director's decision. The matter is now before us on a motion to reopen. The motion will be denied.

The Applicant was found to be inadmissible to the United States pursuant to section 212(a)(2)(A)(i)(I) of the Act, 8 U.S.C. § 1182(a)(2)(A)(i)(I), for having been convicted of a crime involving moral turpitude.

The Director determined that the Applicant failed to establish extreme hardship to a qualifying relative and denied the application accordingly. The Director upheld this determination in denying the Applicant's subsequent motion to reopen.

On appeal, the Applicant asserted that his spouse is a derivative of his Form I-140 petition and that denying his waiver application would render his spouse without status in the United States. The Applicant also asserted that his two U.S. citizen children would experience extreme hardship upon relocation due to their young age and current country conditions in Jordan.

We dismissed the appeal, finding that the Applicant was ineligible for any relief as the record reflects that an [redacted], 1988 *in absentia* exclusion order, of which Applicant is the subject, was reinstated on [redacted], 2014.

On motion, the Applicant asserts that a motion to reopen the 1988 exclusion order proceedings was granted and that the order was subsequently terminated. The Applicant asserts that because the exclusion order was terminated, we should review the waiver application on its merits and exercise discretion in favor of the Applicant.

A motion to reopen must state new facts to be proved in the reopened proceeding and be supported by affidavits or other documentary evidence. 8 C.F.R. § 103.5(a)(2). On motion, the Applicant has provided immigration court records, our prior decision, and country-conditions information on Jordan.

The record includes, but is not limited to, the Applicant's immigration records, statements from the Applicant and family members of the Applicant, a psychosocial assessment, medical records, and country-conditions information on Jordan. The entire record was reviewed and considered in rendering this decision.

The record reflects that on , 2014, the Applicant filed a motion to reopen the exclusion proceedings that resulted in an 1988 *in absentia* exclusion and deportation order. On 2014, the Immigration Court, New York terminated the exclusion proceedings, without prejudice, rendering the exclusion order inoperative.

On motion, we note that although Applicant's prior exclusion proceedings have been terminated, on 2014, the Immigration Court, Michigan, issued a Notice to Appear to the Applicant charging that he is inadmissible under 212(a)(6)(A)(i) of the Act, 8 U.S.C. § 1182(a)(6)(A)(i) and 212(a)(2)(A)(i)(I) of the Act, 8 U.S.C. § 1182(a)(2)(A)(i)(I). In a brief dated November 14, 2014, the Applicant confirms that he is presently in removal proceedings. The Applicant's master hearing is presently scheduled for , 2019.

8 C.F.R. §212.7(a) states:

> (a) *Filing and adjudication of waivers under sections 212(g), (h), or (i) of the Act.*
>
> (1) *Application.* Except as provided by 8 CFR 212.7(e), an applicant for an immigrant visa, adjustment of status, or a K or V nonimmigrant visa who is inadmissible under any provision of section 212(a) of the Act for which a waiver is available under section 212 of the Act may apply for the related waiver by filing the form designated by USCIS, with the fee prescribed in 8 CFR 103.7(b)(1), and in accordance with the form instructions. Certain immigrants may apply for a provisional unlawful presence waiver of inadmissibility as specified in 8 CFR 212.7(e).

Pursuant to 8 C.F.R. §212.7(a), an applicant who is inadmissible under any provision of section 212(a) of the Act for which a waiver is available, may apply for the related waiver by filing the form designated by USCIS, with the fee prescribed in 8 CFR 103.7(b)(1), and in accordance with the form instructions. The current Form I-601 instructions, which expire on March 31, 2017 and to which 8 C.F.R. § 212.7(a) refers, direct applicants to the USCIS website, www.uscis.gov/I-601, for current information on filing Form I-601. Per the USCIS website, applicants in removal proceedings must file Form I-601 with the Executive Office for Immigration Review (EOIR) according to the instructions provided in court. USCIS, *Direct Filing Addresses for Form I-601, Application for Waiver of Grounds of Inadmissibility*, https://www.uscis.gov/i-601-addresses (last visited February

8, 2016). As such, the Applicant would have to file the Form I-601 with the EOIR immigration court.[1]

We do not have jurisdiction over the Form I-601 before us. Accordingly, the motion to reopen will be denied.

ORDER: The motion to reopen is denied.

Cite as *Matter of S-F-S-*, ID# 14937 (AAO Feb. 9, 2016)

[1] The Applicant would also have to file the underlying Form I-485, Application to Register Permanent Residence or Adjust Status, with the EOIR immigration court. Pursuant to 8 C.F.R. § 245.2(a)(l), USCIS has jurisdiction to adjudicate an application for adjustment of status, unless the immigration judge has jurisdiction to adjudicate the application under 8 C.F.R. § 1245.2(a)(1). 8 C.F.R. § 1245.2(a)(l) provides that in the case of any alien who has been placed in deportation proceedings or in removal proceedings (other than as an arriving alien), the immigration judge hearing the proceeding has exclusive jurisdiction to adjudicate any application for adjustment of status the alien may file.