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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  
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FILE:

Office: CALIFORNIA SERVICE CENTER

Date:

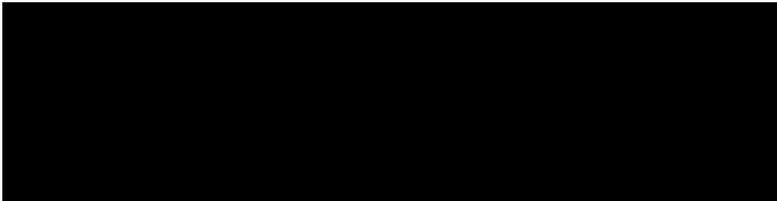
MAY 19 2010

IN RE: Applicant:

APPLICATION:

Application for Waiver of the Foreign Residence Requirement of Section 212(e) of the  
Immigration and Nationality Act; 8 U.S.C. § 1182(e).

ON BEHALF OF APPLICANT:



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.

Thank you,

Perry Rhew  
Chief, Administrative Appeals Office

**DISCUSSION:** The waiver application was denied by the Director, California Service Center, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed, the previous decision of the director will be withdrawn and the application declared moot.

The applicant is a native and citizen of Barbados who was admitted into the United States as a J-1 nonimmigrant exchange visitor. The applicant is subject to the two-year foreign residence requirement under section 212(e) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(e) based on government financing. The applicant presently seeks a waiver of her two-year foreign residence requirement, based on the claim that her lawful permanent resident child would suffer exceptional hardship if she relocated to Barbados temporarily with the applicant and in the alternative, if she remained in the United States while the applicant fulfilled her foreign residence requirement in Barbados.

The director concluded that the applicant failed to establish that a qualifying relative would experience exceptional hardship if the applicant fulfilled her two-year foreign residence requirement in Barbados. *Director's Decision*, dated September 10, 2009. The application was denied accordingly.

On appeal, counsel submitted a brief, dated November 12, 2009, and referenced exhibits with respect to exceptional hardship to the applicant's lawful permanent resident child. Counsel further noted and documented that a No Objection letter had been issued by the Embassy of Barbados to the applicant on October 20, 2009.

Section 212(e) of the Act states in pertinent part that:

No person admitted under section 101(a)(15)(J) or acquiring such status after admission

- (i) whose participation in the program for which he came to the United States was financed in whole or in part, directly or indirectly, by an agency of the Government of the United States or by the government of the country of his nationality or his last residence,
- (ii) who at the time of admission or acquisition of status under section 101(a)(15)(J) was a national or resident of a country which the Director of the United States Information Agency, pursuant to regulations prescribed by him, had designated as clearly requiring the services of persons engaged in the field of specialized knowledge or skill in which the alien was engaged, or
- (iii) who came to the United States or acquired such status in order to receive graduate medical education or training, shall be eligible to apply for an immigrant visa, or for permanent residence, or for a nonimmigrant visa under section 101(a)(15)(H) or section 101(a)(15)(L) until it is established that such person has resided and been physically present in the country of his nationality or his last residence for an aggregate of a least two years

following departure from the United States: Provided, That upon the favorable recommendation of the Director, pursuant to the request of an interested United States Government agency (or, in the case of an alien described in clause (iii), pursuant to the request of a State Department of Public Health, or its equivalent), or of the Commissioner of Immigration and Naturalization [now, Citizenship and Immigration Services (CIS)] after he has determined that departure from the United States would impose exceptional hardship upon the alien's spouse or child (if such spouse or child is a citizen of the United States or a lawfully resident alien), or that the alien cannot return to the country of his nationality or last residence because he would be subject to persecution on account of race, religion, or political opinion, the Attorney General [now the Secretary, Homeland Security (Secretary)] may waive the requirement of such two-year foreign residence abroad in the case of any alien whose admission to the United States is found by the Attorney General (Secretary) to be in the public interest except that in the case of a waiver requested by a State Department of Public Health, or its equivalent, or in the case of a waiver requested by an interested United States government agency on behalf of an alien described in clause (iii), the waiver shall be subject to the requirements of section 214(I): And provided further, That, except in the case of an alien described in clause (iii), the Attorney General (Secretary) may, upon the favorable recommendation of the Director, waive such two-year foreign residence requirement in any case in which the foreign country of the alien's nationality or last residence has furnished the Director a statement in writing that it has no objection to such waiver in the case of such alien.

Subsequent to the above-referenced appeal filing, the U.S. Department of State's website indicates that the approval of a waiver of the applicant's two-year foreign residence requirement based on the above-referenced No Objection application was recommended by the U.S. Department of State on February 1, 2010. Electronic USCIS records indicate that the applicant's Form I-612 was approved on February 4, 2010 and the Form I-797, Approval Notice for the Form I-612 was mailed to the applicant on February 18, 2010.

Based on electronic USCIS records, it has been established that the applicant's two-year home residency requirement has been waived. Therefore, the instant appeal is moot. Thus, no purpose would be served in discussing whether he had established extreme hardship to a qualifying relative under section 212(e) of the Act. Accordingly, the appeal will be dismissed, the prior decision of the director is withdrawn and the instant application for a waiver of the two-year foreign residency requirement is declared moot.

**ORDER:** The appeal is dismissed, the prior decision of the director is withdrawn and the instant application for a waiver of the two-year foreign residency requirement is declared moot.