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U.S. Department of Homeland Security  
U. S. Citizenship and Immigration Services  
Office of Administrative Appeals  
Washington, DC 20529-2090



U.S. Citizenship  
and Immigration  
Services

144

FILE:

Office: FRANKFURT

Date: MAR 19 2009

IN RE:

APPLICATION: Application for Waiver of Grounds of Inadmissibility under Section 212(a)(9)(B)(v)  
of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(a)(9)(B)(v)

ON BEHALF OF APPLICANT:

SELF-REPRESENTED

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

If you believe the law was inappropriately applied or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. Please refer to 8 C.F.R. § 103.5 for the specific requirements. 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 \$585. Any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen, as required by 8 C.F.R. § 103.5(a)(1)(i).

A handwritten signature in black ink, appearing to read "John F. Grissom".

John F. Grissom  
Acting Chief, Administrative Appeals Office

**DISCUSSION:** The waiver application was denied by the Officer in Charge, Frankfurt, Germany. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The record reflects that the applicant is a native and citizen of Lebanon who entered the United States on January 28, 1987, using a B-2 visitor's visa with authorization to remain in the United States until June 27, 1987. The applicant overstayed his visa, and on November 7, 1990, the applicant married [REDACTED] a U.S. citizen. The applicant was granted conditional permanent residence until June 7, 1993, based on his marriage to [REDACTED]. After the couple applied to remove the conditions of the applicant's status, the former INS requested additional evidence to establish the couple's bona fide marriage. The applicant failed to provide additional evidence as requested after numerous opportunities and, as a result, on November 28, 1994, the former INS terminated the applicant's conditional residence status and issued him an Order to Show Cause, charging him with violating section 241(a)(1)(D)(i) of the Act for failing to submit documentation that he entered into a marriage in good faith. The applicant failed to appear for his hearing and was order removed *in absentia* on May 21, 1996.

On June 26, 2000, the applicant married [REDACTED], a U.S. citizen. On October 25, 2001, the applicant was apprehended by a deportation officer, and after filing a Motion to Reconsider which was denied by the immigration judge, the applicant was deported to Lebanon on April 3, 2002.

On January 12, 2005, [REDACTED] filed a Petition for Alien Relative (Form I-130) on the applicant's behalf. On the Form I-130, [REDACTED] indicated that the applicant had not been previously married. On February 14, 2005, [REDACTED] filed a Petition for Alien Fiance (Form I-129F) on the applicant's behalf. Again, [REDACTED] stated that the applicant had no prior spouses. The Form I-129F was approved on July 6, 2005. In late 2005, the applicant applied for a visa to enter the United States and filed an Application for Waiver of Grounds of Inadmissibility (Form I-601). On August 15, 2006, USCIS sent [REDACTED] a Notice of Intent to Revoke, stating that the applicant had been previously married and granting [REDACTED] the opportunity to submit proof of the termination of the applicant's first marriage. Ms. [REDACTED] did not timely submit the requested documentation and on January 8, 2007, USCIS revoked the I-129F petition it had previously approved. Because the Form I-129F was revoked, the officer in charge found that there was no "qualifying relationship" to be eligible for a waiver. The officer in charge denied the application accordingly. *Decision of the Officer in Charge*, dated January 8, 2007. On February 27, 2007, the Form I-130 was denied.

On appeal, [REDACTED] submits a copy of the divorce decree for the applicant's first marriage.

The applicant accrued unlawful presence from April 1, 1997, the date of enactment of unlawful presence provisions under the Act, until his deportation in April 2002. Therefore, the applicant accrued unlawful presence of five years. He now seeks admission within ten years of his April 2002 deportation. Accordingly, he is inadmissible to the United States under section 212(a)(9)(B)(i)(II) of the Act, 8 U.S.C. § 1182(a)(9)(B)(i)(II), for being unlawfully present in the United States for a period of more than one year.

The viability of the Form I-601, Application for Waiver of Grounds of Inadmissibility, is dependent on an adjustment of status application that is, in turn, based on an approved Form I-129F or I-130. It is undisputed that the applicant's Form I-129F was revoked and that the I-130 was denied. In the absence of an underlying approved Form I-129F or I-130, the Form I-601, Application for Waiver of Grounds of Inadmissibility, is moot. The appeal of the denial of the waiver must therefore be dismissed as moot. Furthermore, the AAO notes that neither the applicant nor his wife provided any explanation for why the applicant's marital status was misrepresented on both the Form I-129F and Form I-130. Accordingly, the appeal will be dismissed.

**ORDER:** The appeal is dismissed.