



U.S. Citizenship  
and Immigration  
Services

(b)(6)

DATE: **JAN 11 2013** Office: ATHENS, GREECE

FILE: [REDACTED]

IN RE: Applicant: [REDACTED]

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

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.

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,

Ron Rosenberg  
Acting Chief, Administrative Appeals Office

**DISCUSSION:** The waiver application was denied by the Field Office Director, Athens, Greece. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed as the application is unnecessary.

The applicant is a native and citizen of Pakistan who was found to be inadmissible to the United States pursuant to section 212(a)(9)(A)(ii) of the Act, 8 U.S.C. § (a)(9)(A)(ii), as an alien who has been ordered removed under section 240 of the Act, or any other provision of law and who seeks readmission within 10 years of such alien's removal from the United States.<sup>1</sup> The applicant's father is a United States citizen and he seeks a waiver of inadmissibility in order to reside in the United States.

The Field Office Director found that the applicant failed to establish extreme hardship to a qualifying relative and the application was denied accordingly. *Decision of the Field Office Director*, dated December 16, 2011.

On appeal, counsel for the applicant asserts that the applicant's father would experience extreme hardship if the applicant is not granted a waiver of inadmissibility. *Brief in Support of Appeal*, dated January 17, 2012.

The record includes, but is not limited to: counsel's brief, the applicant's statement, the applicant's father's statements, family letters, medical records for the applicant's parent, financial records and various immigration application forms. The entire record was reviewed and considered in rendering a decision on the appeal.

Section 212(a)(9)(A)(ii) of the Act provides, in pertinent part:

(I) Any Alien who has been ordered removed under section 240 of the Act or any other provision of the law and seeks admission within 10 years of the date of such departure or removal is inadmissible.

(iii) Exception

Clause (i) shall not apply to an alien seeking admission within a period if, prior to the date of the alien's re-embarkation at a place outside the United States or attempt to be admitted from a foreign contiguous territory, the Attorney General has consented to the alien reapplying for admission.

The record reflects that the applicant was admitted to the United States on January 19, 1990 as an L-2 non-immigrant spouse or child of an alien classified as an L-1, with authorization to remain for a

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<sup>1</sup> The applicant was also found to be inadmissible under section 212(a)(9)(B)(i)(II) of the Act, 8 U.S.C. § 1182(a)(9)(B)(i)(II) for having been unlawfully present in the United States for one year or more and seeking re-admission within 10 years from his last departure from the United States, yet he is no longer inadmissible under this provision.

maximum period of three years. The applicant filed for asylum on April 30, 1993. The applicant's asylum case was denied by an Immigration Judge on September 12, 1996 and he was then granted voluntary departure. The applicant filed a Motion to Reopen on February 28, 1997, which was denied on March 21, 1997. The applicant did not depart the United States voluntarily, and was removed on April 16, 2002.

The applicant now seeks readmission more than 10 years from his removal date of April 16, 2002. Accordingly, the 10-year bar to admission based on section 212(a)(9)(A)(ii) of the Act has expired. Therefore, the applicant is no longer inadmissible under section 212(a)(9)(A)(ii) of the Act, and the present Form I-212 application for permission to reapply for admission into the United States after removal is unnecessary.

In proceedings for application for waiver of grounds of inadmissibility under section 212(a)(9)(A)(ii) of the Act, the burden of proving eligibility remains entirely with the applicant. Section 291 of the Act, 8 U.S.C. § 1361. Here, the applicant is no longer inadmissible. Accordingly, the appeal will be dismissed as the application is unnecessary.

**ORDER:** The appeal is dismissed, as the applicant is not inadmissible and the Form I-212 application is unnecessary.