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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
and Immigration
Services**



HS

FILE: [REDACTED] Office: MEXICO CITY (CIUDAD JUAREZ)

Date:

MAY 03 2010

IN RE:



APPLICATION: Application for Waiver of Grounds of Inadmissibility under section 212(a)(6)(C)
of the Immigration and Nationality Act, 8 U.S.C. § 1182(a)(6)(C)

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, as required by 8 C.F.R. 103.5(a)(1)(i).

Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The waiver application was denied by the District Director, Mexico City (Ciudad Juarez), Mexico. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The applicant is a native and citizen of the Dominican Republic who was found to be inadmissible to the United States pursuant to section 212(a)(6)(C)(i) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(a)(6)(C)(i), for attempting to procure admission into the United States by fraud on February 28, 2002. The applicant is the spouse of a lawful permanent resident and the father of two lawful permanent resident children and one U.S. citizen child. He seeks a waiver of inadmissibility in order to reside in the United States.

In a decision dated December 20, 2007, the district director finds that because the applicant had a previous visa application denied for marriage fraud, his waiver application is denied. The district director found that section 204(c) of the Act prohibits the approval of a visa petition filed on behalf of an alien who has attempted or conspired to enter into a marriage for the purposes of evading immigration law. The application was denied accordingly.

In a statement attached to the applicant's Notice of Appeal to the AAO (Form I-290B), the applicant's spouse states that she is suffering emotionally as a result of being separated from the applicant. She states that all of her children live in the United States and that she cannot return to the Dominican Republic because she will lose her income. Finally she states that 22 years ago her husband acted in economic desperation.

The record indicates that on May 23, 1985 a [REDACTED] filed an Alien Relative Petition (Form I-130) on behalf of the applicant as his spouse. On April 22, 1988, after an investigation by the U.S. Embassy in Santo Domingo, Dominican Republic revealed that the applicant's marriage to [REDACTED] was entered into for the sole purpose of acquiring an immigration benefit, the applicant's Form I-130 was revoked.

Section 204(c) of the Act states:

Notwithstanding the provisions of subsection (b) no petition shall be approved if (1) the alien has previously been accorded, or has sought to be accorded, an immediate relative or preference status as the spouse of a citizen of the United States or the spouse of an alien lawfully admitted for permanent residence, by reason of a marriage determined by the Attorney General to have been entered into for the purpose of evading the immigration laws or (2) the Attorney General has determined that the alien has attempted or conspired to enter into a marriage for the purpose of evading the immigration laws.

The AAO finds that there is no waiver to the section 204(c) bar to granting an immigrant visa to an applicant who had previously been found to enter into a marriage for the purpose of evading

immigration laws. Thus, no purpose would be served in discussing his eligibility for a waiver under section 212(i) of the Act.

In proceedings for application for waiver of grounds of inadmissibility under section 212(i) of the Act, the burden of proving eligibility remains entirely with the applicant. *See* section 291 of the Act, 8 U.S.C. § 1361. Here, the applicant has not met that burden. Accordingly, the appeal will be dismissed.

ORDER: The appeal is dismissed.