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U.S. Department of Homeland Security  
U.S. Citizenship and Immigration Services  
Administrative Appeals Office (AAO)  
20 Massachusetts Ave., N.W., MS 2090  
Washington, DC 20529-2090



U.S. Citizenship  
and Immigration  
Services

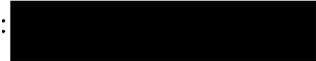
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DATE **JUL 06 2011** Office: NEW YORK, NY

FILE:



IN RE:

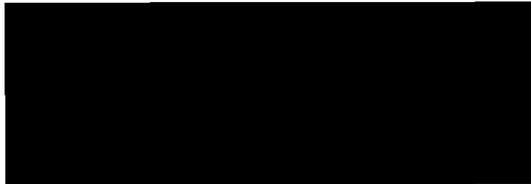
Applicant:



APPLICATION:

Application for Waiver of Grounds of Inadmissibility under Section 212(i) of the  
Immigration and Nationality Act, 8 U.S.C. § 1182(i).

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 law was inappropriately applied by us in reaching our decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. The specific requirements for filing such a request can be found at 8 C.F.R. § 103.5. 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 \$630. Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires that any motion be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you,

Perry Rhew

Chief, Administrative Appeals Office

**DISCUSSION:** The waiver application was denied by the District Director, New York District Office, New York, New York, and is now before the Administrative Appeals Office (AAO) on appeal. The matter will be remanded to the District Director for further action consistent with the present decision.

The applicant is a native and a citizen of Bangladesh who used a fraudulent passport to enter the United States. The applicant 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). He is the spouse of a U.S. citizen. The applicant is seeking a waiver under section 212(i) of the Act, 8 U.S.C. § 1182(i) in order to reside in the United States.

The District Director concluded that the applicant had failed to establish that the bar to his admission would impose extreme hardship on a qualifying relative, his U.S. citizen spouse, and denied the Application for Waiver of Grounds of Inadmissibility (Form I-601) on October 2, 2008.

On appeal, counsel for the applicant asserts that the applicant's spouse will suffer extreme hardship if the applicant is denied admission to the United States. Brief in Support of Appeal, dated October 31, 2008.

On October 2, 2008, the District Director denied the Form I-130, Petition for Alien Relative, underlying the applicant's adjustment of status application. The denial has been appealed to the Board of Immigration Appeals (BIA).

The viability of the Form I-601, Application for Waiver of Grounds of Inadmissibility, is dependent on the Form I-130, Petition for Alien Relative. In the absence of an underlying Form I-130, Petition for Alien Relative, no purpose would be served in adjudicating the Form I-601, Application for Waiver of Grounds of Inadmissibility at this time. The AAO will remand the Form I-601 to the District Director to await the BIA's decision on the denial of the Form I-130. Should the BIA dismiss the applicant's appeal, the Form I-601 is moot based on the absence of an underlying immigrant visa petition. If the applicant's appeal is sustained by the BIA, the District Director should again consider the Form I-601 filed by the applicant and issue a new decision.

**ORDER:** The appeal is remanded for further action consistent with the present decision.