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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 25 2011**

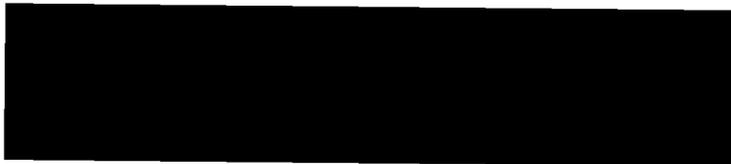
Office: CHICAGO

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 must 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 Field Office Director, Chicago, Illinois, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The record establishes that the applicant, a native of India, procured L-1A Intracompany Transferee nonimmigrant status by fraud or willful misrepresentation. The applicant was thus 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 having procured an immigration benefit by fraud or willful misrepresentation. The applicant does not contest this finding of inadmissibility. Rather, he is seeking a waiver of inadmissibility pursuant to section 212(i) of the Act, 8 U.S.C. § 1182(i), in order to remain in the United States with U.S. citizen spouse.

The field office director concluded that the applicant had failed to establish that extreme hardship would be imposed on a qualifying relative and denied the Application for Waiver of Grounds of Inadmissibility (Form I-601) accordingly. *Decision of the Field Office Director*, dated June 21, 2010.

Section 212(a)(6)(C) of the Act provides, in pertinent part:

- (i) Any alien who, by fraud or willfully misrepresenting a material fact, seeks to procure (or has sought to procure or has procured) a visa, other documentation, or admission into the United States or other benefit provided under this Act is inadmissible.

Section 212(i) of the Act provides:

- (1) The Attorney General [now the Secretary of Homeland Security (Secretary)] may, in the discretion of the Attorney General (Secretary), waive the application of clause (i) of subsection (a)(6)(C) in the case of an immigrant who is the spouse, son or daughter of a United States citizen or of an alien lawfully admitted for permanent residence if it is established to the satisfaction of the Attorney General (Secretary) that the refusal of admission to the United States of such immigrant alien would result in extreme hardship to the citizen or lawfully resident spouse or parent of such an alien...

In July 2011, the AAO was advised by the USCIS Field Office Director in London that the applicant's spouse had submitted a Form I-130, Petition for Alien Relative, on behalf of the applicant, indicating that she and the applicant were residing in the United Kingdom. Since the record establishes that the applicant is residing outside the United States, the applicant is no longer eligible for adjustment of status, and it is necessary that he file a Form DS-230, Application for Immigrant Visa and Alien Registration, with the American Embassy in London, where he resides. The regulation at 8 C.F.R. § 212.7(a) and the instructions of Form I-601 further provide that for individuals living outside the United States, Form I-601 must be submitted to the U.S. Embassy or

consulate where the applicant is applying for a visa. The Field Office Director, Chicago, Illinois, therefore no longer has jurisdiction over the applicant's Form I-601, application for waiver of inadmissibility.

As the applicant is residing outside the United States and is ineligible for adjustment of status, there is currently no underlying application for admission pending upon which to base a Form I-601 waiver application, and the Field Office Director, Chicago, Illinois no longer has jurisdiction over the waiver application. The appeal in the present matter will therefore be dismissed.

ORDER: The appeal is dismissed.