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U. S. Department of Homeland Security
U. S. Citizenship and Immigration Services
Office of Administrative Appeals (AAO)
20 Massachusetts Ave., N.W., MS2090
Washington, DC 20529-2090



U.S. Citizenship
and Immigration
Services

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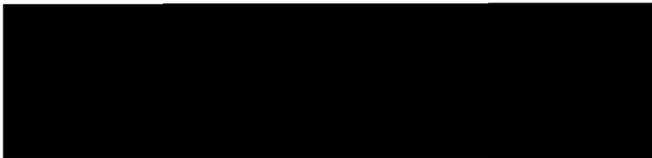
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FILE: **MAY 19 2011** DATE: Office: ACCRA, GHANA 

IN RE: Applicant: 

APPLICATION: Application for Waiver of Grounds of Inadmissibility pursuant to 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,

fr

Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The application was denied by the Field Office Director, Accra, Ghana. The applicant timely appealed to the Administrative Appeals Office (AAO). The appeal will be dismissed.

The applicant is a native and citizen of Ghana who was found to be inadmissible to the United States under 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 attempted to procure admission into the United States by fraud or willful misrepresentation. The applicant is married to a United States citizen. He seeks a waiver of inadmissibility in order to reside in the United States with his spouse.

The Field Office Director found that, based on the evidence in the record, the applicant had failed to establish extreme hardship to his qualifying relative. The application was denied accordingly. *Decision of the Field Office Director*, dated May 28, 2008.

On appeal, counsel for the applicant contends that the applicant's qualifying relative would suffer extreme hardship should the waiver application be denied. *Form I-290B, Notice of Appeal to the AAO*.

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

- (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 that:

- (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 alien 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.

The Field Office Director found that a database check revealed an arrest for a drug-related offense associated with two phonetically identical names in common with the applicant and referencing a passport number that once belonged to the applicant. *Decision of the Field Office Director*, dated May 28, 2008. According to the Field Office Director, the applicant acknowledged that he had an encounter that may have implicated such a charge, but said that it was a case of mistaken identity that was resolved in his favor. *Id.* The applicant indicated that he would bring a letter showing he was cleared. *Department of State record*, dated February 28, 2006. The AAO observed that there was no clearance letter included in the record. Accordingly, on January 10, 2011, the AAO requested that the applicant submit documentary evidence that he was cleared of this charge. The applicant was given twelve weeks to respond. In response to the request for evidence, the applicant



timely submitted a police clearance letter from the Ghana Police, Criminal Investigation Department stating that the applicant has not been convicted for possession of Cannabis or any other offense and that nothing incriminating was found against the applicant when records from the Criminal Data Services Bureau based at the Criminal Investigation Department's Headquarters in Accra, Ghana were checked. *Criminal Check, The Ghana Police, Criminal Investigation Department*, dated March 28, 2011. While the AAO acknowledges this documentation, it notes that the applicant's arrest occurred in London, United Kingdom, not in Ghana. As such, the applicant still has not submitted any documentation regarding his arrest for a drug-related offense. The AAO notes that it is the applicant's burden to show that he is eligible for the benefit sought. As the applicant has failed to submit documentation regarding his drug-related offense, he has not met his burden in showing that he is not inadmissible under section 212(a)(2)(A)(i)(II) of the Act for which no waiver is available except for a single offense of simple possession of 30 grams or less of marijuana.

In proceedings for application for waiver of grounds of inadmissibility, 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.