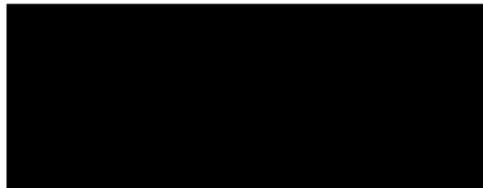


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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Administrative Appeals Office
20 Massachusetts Avenue, NW, MS 2090
Washington, DC 20529-2090
**U.S. Citizenship
and Immigration
Services**



HLS

DATE: **AUG 02 2012**

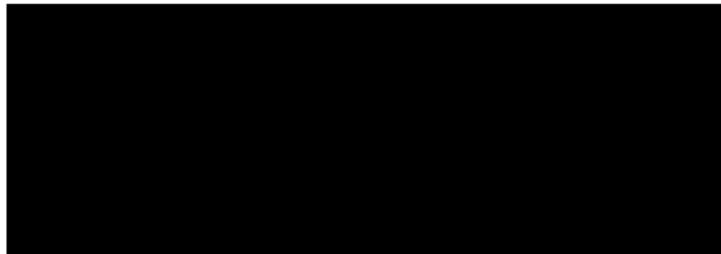
OFFICE: BALTIMORE, MD

FILE: 

IN RE: 

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 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 in accordance with the instructions on 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,


Perry R. Hew

Chief, Administrative Appeals Office

DISCUSSION: The Form I-601, Application for Waiver of Grounds of Inadmissibility was denied by the District Director, Baltimore, Maryland, and is now before the Administrative Appeals Office (AAO) on appeal. The decision of the district director will be withdrawn and the matter remanded to the district director to reopen applicant's Form I-485 and Form I-601 applications and issue a decision on the Form I-130 filed by the applicant's spouse. If the Form I-130 petition is denied, the district director shall deny the Form I-485 application and the Form I-601 accordingly. If the Form I-130 is approved, the district director shall issue a new decision fully addressing the applicant's ground of inadmissibility and the merits of his Form I-601 application. If that decision is adverse to the applicant, the district director shall certify the decision to the AAO for review.

The record reflects that the applicant is a native and citizen of Lebanon. On February 4, 2004, the applicant's U.S. citizen spouse filed a Form I-130 Petition for Alien Relative (Form I-130) on the applicant's behalf, accompanied by the applicant's Application to Register Permanent Resident or Adjust Status (Form I-485). The applicant filed his Form I-601 waiver application on June 3, 2010. The district director denied the waiver application on July 29, 2010, on the basis that the applicant had failed to establish that his U.S. citizen wife would experience extreme hardship if he were denied admission into the United States. The applicant has appealed that decision. The record reflects, however, that no final decision has been issued on the Form I-130 petition.

The filing of a Form I-601 waiver application is predicated on the necessity to demonstrate admissibility, which in this case is a requirement for adjustment to permanent resident status under section 245 of the Act. Although USCIS allows for the simultaneous filing of Forms I-130 and I-485, the applicant's eligibility to apply for adjustment to permanent resident status is dependent on approval of the Form I-130 petition filed by his spouse.

The purpose of the Form I-130 petition is to establish for immigration purposes the validity of the marriage relationship between the applicant and his spouse. In the absence of an approved I-130 petition, the applicant is not entitled to apply for adjustment of status, and his application for adjustment cannot be approved regardless of whether he is admissible or, if not, whether a waiver is available for any ground of inadmissibility. Furthermore, a determination that the applicant has demonstrated extreme hardship to his spouse and thus qualifies for a waiver of inadmissibility would be rendered moot if, in the subsequent adjudication of the Form I-130, it were determined that their marriage was not bona fide.

Therefore, the AAO finds that in the absence of an approved Form I-130, the district director's decision denying the Form I-601 was premature. Accordingly, the decision of the district director will be withdrawn and the matter remanded to the district director to issue a decision on the Form I-130 petition filed by the applicant's spouse.

ORDER: The decision of the district director is withdrawn and the matter is remanded to the district director to reopen the applicant's Form I-601 application and issue a decision on the Form I-130 petition filed by the applicant's spouse. If the Form I-130 is denied, the district director shall deny the Form I-601 accordingly. If the petition is approved, the district director shall issue

a new decision fully addressing the applicant's ground of inadmissibility and the merits of his Form I-601 application. If adverse to the applicant, the district director shall certify the decision to the AAO for review.