

identifying data deleted to  
prevent clearly unwarranted  
invasion of personal privacy  
**PUBLIC COPY**

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



115

[REDACTED]

DATE: **AUG 28 2012** OFFICE: NEW YORK FILE: [REDACTED]

IN RE: [REDACTED]

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:

[REDACTED]

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.

Thank you.

Perry Rhew, Chief  
Administrative Appeals Office

**DISCUSSION:** The waiver application was denied by the District Director, New York, NY and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed as no purpose would be served.

The applicant, who is a native and citizen of China, was found inadmissible 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 attempted to procure admission to the United States by fraud or willful misrepresentation. The applicant does not contest this finding of inadmissibility. Rather, she sought a waiver of inadmissibility (Form I-601) pursuant to section 212(i) of the Act, 8 U.S.C. § 1182(i), in conjunction with her application for adjustment of status (Form I-485) in order to remain in the United States with her U.S. citizen spouse. The record indicates that an unexecuted order of removal exists the applicant's case; however, USCIS retains jurisdiction over the application for adjustment of status and the corresponding application for a waiver of inadmissibility pursuant to 8 CFR § 245.2(a)(1).<sup>1</sup>

In a decision dated July 26, 2010 the District Director concluded that the applicant did not meet her burden of proof to illustrate that her U.S. citizen spouse would suffer extreme hardship and the application for a waiver of inadmissibility was denied accordingly.

On appeal, counsel for the applicant stated that the applicant's U.S. citizen spouse would suffer from extreme hardship as a result of the applicant's inadmissibility.

The AAO conducts appellate review on a *de novo* basis. *See Soltane v. DOJ*, 381 F.3d 143, 145 (3d Cir. 2004). The entire record was reviewed and considered in rendering a decision on the appeal.

On April 23, 2012 the applicant filed a new application for adjustment of status (Form I-485), along with a new application for waiver of inadmissibility (Form I-601) requesting a waiver of her inadmissibility under section 212(a)(6)(C)(i) of the Act. On August 18, 2012, the District Director approved the applicant's Form I-601, and her Form I-485. The applicant is no longer inadmissible under section 212(a)(6)(C)(i) of the Act. As such, no purpose would be served in adjudicating the appeal. The appeal in the present matter will therefore be dismissed.

**ORDER:** The appeal is dismissed.

---

<sup>1</sup> The AAO notes that the applicant was ordered removed by the Immigration Judge on November 17, 2003 and her appeal to the Board of Immigration Appeals (BIA) was dismissed on May 26, 2005. The BIA case processing information indicates that the applicant filed a Motion to Reopen her immigration proceedings before the BIA on August 2, 2012 and that motion remains pending. It is unclear from the record whether the BIA has granted the applicant's Motion to Reopen and vacated her underlying removal order. In the event that the applicant has a final order of removal, the applicant would remain inadmissible under section 212(a)(9)(A)(i) of the Act, 8 U.S.C. § 1182(a)(9)(A)(i), and would require permission to reapply for admission into the United States after deportation or removal (Form I-212) under section 212(a)(9)(A)(iii) of the Act, 8 U.S.C. § 1182(a)(9)(A)(iii). An application for Permission to Reapply for Admission after Deportation or Removal (Form I-212) has not been filed in this case and is not under consideration on appeal.