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

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U.S. Citizenship and Immigration Services

[redacted]

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Date: JUN 1 3 2012 Office: LONDON, UNITED KINGDOM FILE: [redacted]

IN RE: Applicant: [redacted]

APPLICATION: Application for Waiver of Grounds of Inadmissibility under section 212(a)(9)(B)(v) of the Immigration and Nationality Act, 8 U.S.C. § 1182(a)(9)(B)(v), and section 212(i) of the Immigration and Nationality Act, 8 U.S.C. § 1182(i)

ON BEHALF OF APPLICANT:

SELF REPRESENTED

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 with the field office or service center that originally decided your case by filing a 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,

for

Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The waiver application was denied by the Field Office Director, London, United Kingdom. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The applicant is a native of Iran and citizen of Sweden 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 procuring admission to the United States through fraud or misrepresentation.[1] The applicant seeks a waiver of inadmissibility pursuant to section 212(i) of the Act, 8 U.S.C. § 1182(i), to reside in the United States with his U.S. Citizen fiancée. The applicant was also found to be inadmissible to the United States pursuant to section 212(a)(9)(B)(i)(II) of the Act, 8 U.S.C. § 1182(a)(9)(B)(i)(II), for having been unlawfully present in the United States for more than one year. The applicant also seeks a waiver of inadmissibility under section 212(a)(9)(B)(v) of the Act, 8 U.S.C. § 1182(a)(9)(B)(v).

The field office director concluded that the applicant 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. *See Decision of the Field Office Director,* dated July 20, 2009.

The record reflects that on May 11, 2010, the applicant's fiancée forwarded a letter to USCIS, stating that her engagement to the applicant has been dissolved, and requesting that the case be closed. The letter included a statement and signature from the petitioner attesting to her wish to close the case. Accordingly, the Form I-129F, Petition for Alien Fiancé(e), for applicant is withdrawn. This withdrawal cannot be retracted. 8 C.F.R. § 103.2(b)(6).

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 a fiancé visa under section 101(a)(5)(k) of the Act. The applicant's eligibility to apply for a fiancé visa is dependent on approval of the Form I-129F petition filed by his fiancée.

The purpose of the Form I-129F petition is to establish for immigration purposes the validity of the relationship between the applicant and his fiancée. In the absence of an approved I-129F petition, the applicant is not entitled to a fiancé visa, and his application for a fiancé visa cannot be approved regardless of whether he is admissible or, if not, whether a waiver is available for any ground of inadmissibility.

In the absence of an underlying approved Form I-129F, Petition for Alien Fiancé(e), the Form I-601, Application for Waiver of Grounds of Inadmissibility, is moot. The appeal for the denial of the waiver must therefore be dismissed.

ORDER: The appeal is dismissed.

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[1] The Field Office Director found that the applicant misrepresented material facts in falsely answering Question F on the Nonimmigrant Visa Waiver Arrival/Departure Form (Form I-94) on December 21, 2006, and falsely answering Question 39 on the Nonimmigrant Visa Application (Form DS-156) on July 22, 2008.