



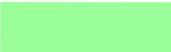
U.S. Citizenship
and Immigration
Services

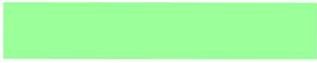
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Date: **OCT 20 2014**

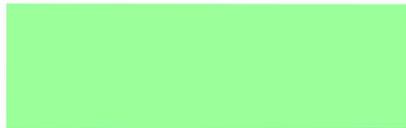
Office: BOSTON

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 (AAO) in your case.

This is a non-precedent decision. The AAO does not announce new constructions of law nor establish agency policy through non-precedent decisions. If you believe the AAO incorrectly applied current law or policy to your case or if you seek to present new facts for consideration, you may file a motion to reconsider or a motion to reopen, respectively. Any motion must be filed on a Notice of Appeal or Motion (Form I-290B) within 33 days of the date of this decision. **Please review the Form I-290B instructions at <http://www.uscis.gov/forms> for the latest information on fee, filing location, and other requirements. See also 8 C.F.R. § 103.5. Do not file a motion directly with the AAO.**

Thank you,

Ron Rosenberg
Chief, Administrative Appeals Office

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

The applicant is a native and citizen of the Dominican Republic who claims 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 procured admission to the United States through fraud or misrepresentation. The applicant is the spouse of a lawful permanent resident and the beneficiary of an approved Form I-130, Petition for Alien Relative, filed by his U.S. citizen daughter. He seeks 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 his spouse.

The Field Office Director concluded that the applicant failed to establish he is eligible to adjust his status to that of a lawful permanent resident under section 245(a) of the Act, because there was insufficient evidence to establish that the applicant ever was admitted or paroled into the United States. The Field Office Director also found that the applicant failed to establish he is eligible to adjust his status under section 245(i) of the Act, because he did not demonstrate that he falls within one of the enumerated classes of eligible individuals under that statute. Therefore, the Field Office Director concluded that the applicant had no basis to file a waiver application or adjust his status. The Field Office Director denied the applicant's Form I-485, Application to Register Permanent Residence or Adjust Status (Form I-485), and his Form I-601, Application for Waiver of Grounds of Inadmissibility (Form I-601), on the same day. *See Decisions of the Field Office Director*, dated June 19, 2013.

A Form I-601 waiver application is viable only when there is a pending Form I-485 application or immigrant visa application. As noted above, the Field Office Director denied the applicant's Form I-485 in a decision dated June 19, 2013. In addition to appealing the Form I-601 denial, the applicant also filed a motion to reopen and reconsider the denial of his Form I-485 application. *See Form I-290B, Notice of Appeal or Motion for Form I-485*, filed July 19, 2013.

On April 24, 2014, we remanded the matter to the Field Office Director, Boston, Massachusetts, to adjudicate the applicant's motion to reopen and reconsider the denial of the Form I-485 application. On July 1, 2014, the Field Office Director determined that that the applicant did not provide sufficient evidence to warrant a reopening and reconsideration of the denial of the applicant's Form I-485. The Form I-485 remains denied.

As such, the appeal of the Form I-601 is dismissed as there is no underlying Form I-485.

In application proceedings, it is the applicant's burden to establish eligibility for the immigration benefit sought. Section 291 of the Act, 8 U.S.C. § 1361. Here, that burden has not been met.

ORDER: The appeal is dismissed.