U.S. Citizenship and Immigration Services

**Non-Precedent Decision of the Administrative Appeals Office**

MATTER OF R-R-D-

DATE: OCT. 19, 2015

APPEAL OF CLEVELAND FIELD OFFICE DECISION

APPLICATION: FORM I-601, APPLICATION FOR WAIVER OF GROUNDS OF INADMISSIBILITY

The Applicant, a native of the Palestinian Territories, seeks a waiver of inadmissibility. *See* Immigration and Nationality Act (the Act) § 212(i), 8 U.S.C. § 1182(i). The Field Office Director, Cleveland, Ohio, denied the application. The matter is now before us on appeal. The appeal will be dismissed.

The Director found the Applicant to be inadmissible to the United States under section 212(a)(6)(C)(i) of the Act, 8 U.S.C. § 1182(a)(6)(C)(i), for attempting to procure admission to the United States through fraud or misrepresentation. Concluding the Applicant had failed to establish being lawfully married to a citizen of the United States, the Director denied the application, accordingly. *Decision of the Field Office Director,* February 21, 2013.

On appeal, the Applicant asserts that the waiver denial was based on the erroneous denial of his immigrant visa petition on February 14, 2013. Claiming that evidence of a bona fide marriage makes him eligible for a waiver, he asks that the waiver be granted. In support, the Applicant refers to previously submitted evidence indicating that his claimed prior marriage never occurred and statements that he created and maintained the fiction of this marriage in order to procure a U.S. tourist visa. The entire record was reviewed and considered in rendering a decision on the appeal.

The filing of a Form I-601 waiver application is based 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 immigrant visa petition filed by his spouse. In the present case, the Director denied the Form I-130 on February 14, 2013, and the Board of Immigration Appeals dismissed an appeal and affirmed the denial on August 24, 2015.

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 whether a waiver is available for any applicable ground of inadmissibility.

As the Form I-130 filed on behalf of the Applicant was denied, the Applicant is not eligible to apply for adjustment of status, and the Form I-601cannot be approved. The appeal of the denial of the waiver must therefore be dismissed.

**ORDER:** The appeal is dismissed.

Cite as *Matter of R-R-D-*, ID# 14046 (AAO Oct. 19, 2015)