



**U.S. Citizenship  
and Immigration  
Services**

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

MATTER OF M-M-

DATE: OCT. 20, 2015

APPEAL OF CHARLOTTE, NORTH CAROLINA FIELD OFFICE DECISION

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

The Applicant, a native and citizen of Pakistan, seeks a waiver of inadmissibility. *See* Immigration and Nationality Act (the Act) § 212(i), 8 U.S.C. § 1182(i). The Field Office Director, Charlotte, North Carolina, denied the application. The matter is now before us on appeal. The matter is remanded to the Field Office Director for further proceedings consistent with the foregoing opinion and for entry of a new decision, which if adverse, shall be certified to us for review.

The record reflects that the Applicant is a native and citizen of Pakistan. On July 20, 2009, the Applicant's current spouse, a U.S. citizen, filed a Form I-130, Petition for Alien Relative naming the Applicant as beneficiary, which was accompanied by the Applicant's Form I-485, Application to Register Permanent Resident or Adjust Status. On March 4, 2010, a notice was sent to the Applicant informing him that he was required to file a Form I-601, Application for Waiver of Ground of Inadmissibility. The Applicant filed the Form I-601 on July 1, 2010. On September 18, 2013, the Field Office Director issued a decision denying the Applicant's waiver application on the grounds that the Applicant had failed to establish that extreme hardship would be imposed on a qualifying relative. The Applicant has appealed that decision. The record reflects that a notice of intent to deny the Form I-130 was issued on September 18, 2013, and no final decision on the Form I-130 petition has been issued.

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 CIS 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's application for adjustment cannot be approved regardless of whether he is admissible or whether a waiver is available for any applicable ground of inadmissibility.

Therefore, we find that in the absence of an approved Form I-130, the Field Office Director's decision denying the Form I-601 was premature. The decision of the Field Office Director will be withdrawn and the matter remanded to the Field Office Director to issue a decision on the Form I-130 petition filed by

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the Applicant's spouse. If that petition is denied, the Field Office Director shall deny the Form I-601 accordingly. If that petition is approved, the Field Office Director shall issue a new decision addressing the merits of the Applicant's Form I-601 application. If that decision is adverse to the Applicant, the Field Office Director shall certify the decision to this office for review.

**ORDER:** The matter is remanded to the Field Office Director for further proceedings consistent with the foregoing opinion and for entry of a new decision, which if adverse, shall be certified to us for review.

Cite as *Matter of M-M-*, ID# 14754 (AAO Oct. 20, 2015)