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

identifying data deleted to prevent clearly unwarranted invasion of personal privacy

PUBLIC COPY

U.S. Citizenship and Immigration Services

H6

[redacted]

Date: APR 29 2011 Office: MANILA, PHILLIPPINES FILE: [redacted]

IN RE: [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), section 212(i) of the Act, 8 U.S.C. § 1182(i), and section 212(a)(6)(E) of the Act, 8 U.S.C. § 1182(a)(6)(E),

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 law was inappropriately applied by us in reaching our decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. The specific requirements for filing such a request can be found at 8 C.F.R. § 103.5. All motions must be submitted to the office that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion, with a fee of $630. Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires that any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you,

Michael Shumway

for Perry Rhew
Chief, Administrative Appeals Office

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

The applicant, a native and citizen of Fiji, was found to be inadmissible to the United States pursuant to section 212(a)(9)(B)(i)(II) of the Immigration and Nationality Act (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 and seeking admission within ten years of her last departure from the United States; section 212(a)(6)(C)(i) of the Act, 8 U.S.C. § 1182(a)(6)(C)(i), for having procured admission into the United States by fraud or willful misrepresentation; and section 212(a)(6)(E)(i) of the Act, 8 U.S.C. § 1182(a)(6)(E)(i), for encouraging, inducing, assisting, abetting, or aiding any other alien to enter or to try to enter the United States in violation of the law. The applicant seeks waivers of inadmissibility in order to reside in the United States with her U.S. citizen spouse and two U.S. citizen children.

In a decision, dated May 11, 2010, the field office director found that the applicant was ineligible for a waiver of her ground of inadmissibility under section 212(a)(6)(E) of the Act because the person the applicant assisted in entering the United States in violation of the law was not her spouse, parent, or child. The field office director then concluded that the applicant had failed to establish that her inadmissibilities under section 212(a)(9)(B)(i)(II) and section 212(a)(6)(C)(i) of the Act would impose extreme hardship on a qualifying relative. The Application for Waiver of Grounds of Inadmissibility (Form I-601) was denied accordingly.

The record reflects that on June 14, 2010, the National Visa Center received a letter from the applicant's spouse and petitioning relative stating that he would like to withdraw his petition for his spouse as they are separated and a divorce will follow. Accordingly, on September 30, 2010, the Director, California Service Center, revoked the Form I-130, Petition for Alien Relative, which was the basis of the applicant's immigrant visa application.

The viability of the Form I-601, Application for Waiver of Grounds of Inadmissibility, is dependent on an immigrant visa application that is, in turn, based on an approved Form I-130, Petition for Alien Relative. *See* 8 C.F.R. § 212.7(a). In the absence of an underlying approved Form I-130, Petition for Alien Relative, the Form I-601, Application for Waiver of Grounds of Inadmissibility, is moot. The appeal of the denial of the waiver must therefore be dismissed as moot.

ORDER: The appeal is dismissed.