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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



U.S. Citizenship
and Immigration
Services



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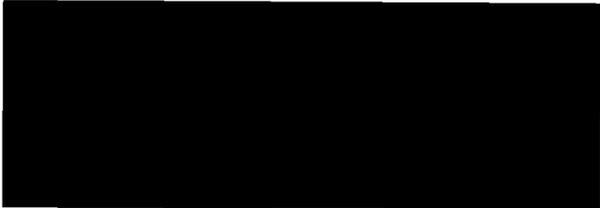
Date: **AUG 18 2011** Office: ROME, ITALY

FILE:

IN RE:

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

ON BEHALF OF APPLICANT:



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

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Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The waiver application was denied by the Field Office Director, Rome, Italy. 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 Tunisia who 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 again seeking admission within ten years of his last departure from the United States. He seeks a waiver of inadmissibility in order to reside in the United States with his United States citizen spouse.

In a decision dated February 1, 2011, the Field Office Director found that the applicant failed to establish that his qualifying relative would experience extreme hardship as a consequence of his inadmissibility. The application was denied accordingly. *See Decision of the Field Office Director* dated February 1, 2011.

The applicant filed his original Application for Waiver of Grounds of Inadmissibility (Form I-601) with the Rome District Office, as he was living in Tunisia. The applicant subsequently obtained a visitors visa and reentered the United States on March 24, 2011. The applicant currently has an Application to Adjust Status (Form I-485) and a new Form I-601 pending with the New York District Office.

The regulation at 8 C.F.R. § 212.7(a) and the instructions of Form I-601 provide that for individuals living within the United States, Form I-601 must be submitted to the Service office that has jurisdiction over the alien. In this case, the New York District Office has jurisdiction over the applicant's Form I-485 and Form I-601 and the Field Office Director in Rome, Italy no longer has jurisdiction over the applicant's waiver application.

The applicant is currently in the United States and has an Application to Adjust Status (Form I-485) and Form I-601 pending with the New York District Office. The Field Office Director in Rome, Italy no longer has jurisdiction over the waiver application, and the appeal in the present matter will therefore be dismissed.

ORDER: The appeal is dismissed.