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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Office of Administrative Appeals MS 2090
Washington, DC 20529-2090



U.S. Citizenship
and Immigration
Services

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[REDACTED]

FILE: [REDACTED] Office: MEXICO CITY, MEXICO

Date: JAN 05 2011

IN RE: Applicant: [REDACTED]

APPLICATIONS: Application for Waiver of Grounds of Inadmissibility under Section 212(i) of the Immigration and Nationality Act, 8 U.S.C. § 1182(i); 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); and Application for Permission to Reapply for Admission into the United States after Deportation or Removal under Section 212(a)(9)(A) of the Immigration and Nationality Act, 8 U.S.C. § 1182(a)(9)(A)

ON BEHALF OF APPLICANT:

[REDACTED]

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.

Thank you,

Tainy Sued
for
Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The waiver application was denied by the Acting District Director, Mexico City, Mexico, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be sustained.

The record reflects that the applicant is a native and citizen of Guyana who was found to be inadmissible to the United States pursuant to section 212(a)(6)(C)(i) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(a)(6)(C)(i), for seeking to procure admission to the United States through fraud or the willful misrepresentation of a material fact; and section 212(a)(9)(B)(i)(II) of 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 readmission within 10 years of his last departure from the United States. The applicant is married to a United States citizen and the father of two United States citizen children. He is the beneficiary of an approved Petition for Alien Relative (Form I-130). The applicant seeks a waiver of inadmissibility pursuant to section 212(i) of the Act, 8 U.S.C. § 1182(i), and section 212(a)(9)(B)(v) of the Act, 8 U.S.C. § 1182(a)(9)(B)(v), in order to reside in the United States with his United States citizen wife and children.

The Acting District Director found that the applicant had failed to establish that extreme hardship would be imposed on the applicant's qualifying relative and denied the Application for Waiver of Grounds of Inadmissibility (Form I-601) accordingly. *Decision of the Acting District Director*, dated April 14, 2008.

On appeal, the applicant, through counsel, asserts that the applicant "has met the statutory requirements to show that his U.S.C. wife and his children will endure extreme hardship if he is not granted a waiver to join them in the U.S." *Form I-290B*, dated May 11, 2008.

The record includes, but is not limited to, an affidavit from the applicant's wife; letters of support for the applicant and his wife; medical documents for the applicant's wife and mother-in-law; an individualized family service plan and school documents for the applicant's daughter; medical bills, utility bills, insurance documents, a property tax bill, credit card statements, loan documents, and past due notices; marriage and divorce documents for the applicant; and documents from the applicant's removal proceeding. The entire record was reviewed and considered in arriving at a decision on the appeal.

Section 212(a)(6)(C) of the Act provides, in pertinent part, that:

- (i) In general.-Any alien who, by fraud or willfully misrepresenting a material fact, seeks to procure (or has sought to procure or has procured) a visa, other documentation, or admission into the United States or other benefit provided under this Act is inadmissible.
- (iii) Waiver authorized.-For provision authorizing waiver of clause (i), see subsection (i).

Section 212(i) of the Act provides, in pertinent part, that:

- (i) (1) The Attorney General [now the Secretary of Homeland Security, "Secretary"] may, in the discretion of the [Secretary], waive the application of clause (i) of subsection (a)(6)(C) in the case of an immigrant who is the spouse, son, or daughter of a United States citizen or of an alien lawfully admitted for permanent residence, if it is established to the satisfaction of the [Secretary] that the refusal of admission to the United States of such immigrant alien would result in extreme hardship to the citizen or lawfully resident spouse or parent of such an alien...

Section 212(a)(9)(B) of the Act provides, in pertinent part:

(B) Aliens Unlawfully Present.-

- (i) In general.-Any alien (other than an alien lawfully admitted for permanent residence) who-
 - (II) has been unlawfully present in the United States for one year or more, and who again seeks admission within 10 years of the date of such alien's departure or removal from the United States, is inadmissible.
- (v) Waiver.-The [Secretary] has sole discretion to waive clause (i) in the case of an immigrant who is the spouse or son or daughter of a United States citizen or of an alien lawfully admitted for permanent residence, if it is established to the satisfaction of the [Secretary] that the refusal of admission to such immigrant alien would result in extreme hardship to the citizen or lawfully resident spouse or parent of such alien.

In the present case, the record reflects that on April 21, 1995, the applicant attempted to enter the United States by presenting a photo altered Trinidadian passport. On May 16, 1995, an immigration judge ordered the applicant excluded and deported from the United States. On May 19, 1995, the applicant was deported from the United States. On July 17, 1995, the applicant attempted to enter the United States by presenting fraudulent travel documents. On January 9, 1996, the applicant was paroled into the United States. On November 5, 1996, an immigration judge ordered the applicant excluded and deported from the United States. On November 21, 1996, the applicant filed an Application to Register Permanent Residence or Adjust Status (Form I-485). On February 24, 1998, the applicant's Form I-485 was denied. On December 28, 2001, the applicant filed another Form

I-485. On April 30, 2003, the applicant's second Form I-485 was denied. The applicant had a stay of removal from October 27, 2003 until October 28, 2004. On December 9, 2004, the applicant was removed from the United States.

Based on the applicant's use of a photo altered Trinidadian passport and fraudulent travel documents in an attempt to procure admission to the United States, the AAO finds that the applicant is inadmissible under section 212(a)(6)(C)(i) of the Act. The AAO notes that counsel does not dispute this finding. Additionally, the applicant accrued unlawful presence from February 24, 1998, the day his first Form I-485 was denied, until December 28, 2001, the day the applicant filed his second Form I-485. The applicant is seeking admission into the United States within ten years of his December 9, 2004 removal. The applicant is, therefore, inadmissible to the United States under section 212(a)(9)(B)(i)(II) of the Act for being unlawfully present in the United States for a period of more than one year.

Waivers of inadmissibility under section 212(i) and section 212(a)(9)(B)(v) of the Act are dependent on a showing that the bar to admission imposes extreme hardship on a qualifying relative, which includes the U.S. citizen or lawfully resident spouse or parent of the applicant. Hardship to the applicant or children can be considered only insofar as it results in hardship to a qualifying relative. The applicant's wife is the only qualifying relative in this case. If extreme hardship to a qualifying relative is established, the applicant is statutorily eligible for a waiver, and United States Citizenship and Immigration Service (USCIS) then assesses whether a favorable exercise of discretion is warranted. *See Matter of Mendez-Morales*, 21 I&N Dec. 296, 301 (BIA 1996).

As a qualifying relative is not required to depart the United States as a consequence of an applicant's inadmissibility, two distinct factual scenarios exist should a waiver application be denied: either the qualifying relative will join the applicant to reside abroad or the qualifying relative will remain in the United States. Ascertaining the actual course of action that will be taken is complicated by the fact that an applicant may easily assert a plan for the qualifying relative to relocate abroad or to remain in the United States depending on which scenario presents the greatest prospective hardship, even though no intention exists to carry out the alleged plan in reality. *Cf. Matter of Ige*, 20 I&N Dec. 880, 885 (BIA 1994) (addressing separation of minor child from both parents applying for suspension of deportation). Thus, we interpret the statutory language of the various waiver provisions in section 212 of the Act to require an applicant to establish extreme hardship to his or her qualifying relative(s) under both possible scenarios. To endure the hardship of separation when extreme hardship could be avoided by joining the applicant abroad, or to endure the hardship of relocation when extreme hardship could be avoided by remaining in the United States, is a matter of choice and not the result of removal or inadmissibility. As the Board of Immigration Appeals (Board) stated in *Matter of Ige*:

[W]e consider the critical issue . . . to be whether a child would suffer extreme hardship if he accompanied his parent abroad. If, as in this case, no hardship would ensue, then the fact that the child might face hardship if left in the United States would be the result of parental choice, not the parent's deportation.

Id. See also *Matter of Pilch*, 21 I&N Dec. 627, 632-33 (BIA 1996).

Extreme hardship is “not a definable term of fixed and inflexible content or meaning,” but “necessarily depends upon the facts and circumstances peculiar to each case.” *Matter of Hwang*, 10 I&N Dec. 448, 451 (BIA 1964). In *Matter of Cervantes-Gonzalez*, the Board provided a list of factors it deemed relevant in determining whether an alien has established extreme hardship to a qualifying relative. 22 I&N Dec. 560, 565 (BIA 1999). The factors include the presence of a lawful permanent resident or United States citizen spouse or parent in this country; the qualifying relative’s family ties outside the United States; the conditions in the country or countries to which the qualifying relative would relocate and the extent of the qualifying relative’s ties in such countries; the financial impact of departure from this country; and significant conditions of health, particularly when tied to an unavailability of suitable medical care in the country to which the qualifying relative would relocate. *Id.* The Board added that not all of the foregoing factors need be analyzed in any given case and emphasized that the list of factors was not exclusive. *Id.* at 566.

The Board has also held that the common or typical results of deportation, removal and inadmissibility do not constitute extreme hardship, and has listed certain individual hardship factors considered common rather than extreme. These factors include: economic disadvantage, loss of current employment, inability to maintain one’s present standard of living, inability to pursue a chosen profession, separation from family members, severing community ties, cultural readjustment after living in the United States for many years, cultural adjustment of qualifying relatives who have never lived outside the United States, inferior economic and educational opportunities in the foreign country, or inferior medical facilities in the foreign country. See generally *Matter of Cervantes-Gonzalez*, 22 I&N Dec. at 568; *Matter of Pilch*, 21 I&N Dec. at 631-32; *Matter of Ige*, 20 I&N Dec. at 883; *Matter of Ngai*, 19 I&N Dec. 245, 246-47 (Comm’r 1984); *Matter of Kim*, 15 I&N Dec. 88, 89-90 (BIA 1974); *Matter of Shaughnessy*, 12 I&N Dec. 810, 813 (BIA 1968).

However, though hardships may not be extreme when considered abstractly or individually, the Board has made it clear that “[r]elevant factors, though not extreme in themselves, must be considered in the aggregate in determining whether extreme hardship exists.” *Matter of O-J-O-*, 21 I&N Dec. 381, 383 (BIA 1996) (quoting *Matter of Ige*, 20 I&N Dec. at 882). The adjudicator “must consider the entire range of factors concerning hardship in their totality and determine whether the combination of hardships takes the case beyond those hardships ordinarily associated with deportation.” *Id.*

We observe that the actual hardship associated with an abstract hardship factor such as family separation, economic disadvantage, cultural readjustment, et cetera, differs in nature and severity depending on the unique circumstances of each case, as does the cumulative hardship a qualifying relative experiences as a result of aggregated individual hardships. See, e.g., *In re Bing Chih Kao and Mei Tsui Lin*, 23 I&N Dec. 45, 51 (BIA 2001) (distinguishing *Matter of Pilch* regarding hardship faced by qualifying relatives on the basis of variations in the length of residence in the United States and the ability to speak the language of the country to which they would relocate).

Family separation, for instance, has been found to be a common result of inadmissibility or removal in some cases. *See Matter of Shaughnessy*, 12 I&N Dec. at 813. Nevertheless, family ties are to be considered in analyzing hardship. *See Matter of Cervantes-Gonzalez*, 22 I&N Dec. at 565-66. The question of whether family separation is the ordinary result of inadmissibility or removal may depend on the nature of family relationship considered. For example, in *Matter of Shaughnessy*, the Board considered the scenario of parents being separated from their soon-to-be adult son, finding that this separation would not result in extreme hardship to the parents. *Id.* at 811-12; *see also U.S. v. Arrieta*, 224 F.3d 1076, 1082 (9th Cir. 2000) (“Mr. Arrieta was not a spouse, but a son and brother. It was evident from the record that the effect of the deportation order would be separation rather than relocation.”). In *Matter of Cervantes-Gonzalez*, the Board considered the scenario of the respondent’s spouse accompanying him to Mexico, finding that she would not experience extreme hardship from losing “physical proximity to her family” in the United States. 22 I&N Dec. at 566-67.

The decision in *Cervantes-Gonzalez* reflects the norm that spouses reside with one another and establish a life together such that separating from one another is likely to result in substantial hardship. It is common for both spouses to relocate abroad if one of them is not allowed to stay in the United States, which typically results in separation from other family members living in the United States. Other decisions reflect the expectation that minor children will remain with their parents, upon whom they usually depend for financial and emotional support. *See, e.g., Matter of Ige*, 20 I&N Dec. at 886 (“[I]t is generally preferable for children to be brought up by their parents.”). Therefore, the most important single hardship factor may be separation, particularly where spouses and minor children are concerned. *Salcido-Salcido*, 138 F.3d at 1293 (quoting *Contreras-Buenfil v. INS*, 712 F.2d 401, 403 (9th Cir. 1983)); *Cerrillo-Perez*, 809 F.2d at 1422.

Regardless of the type of family relationship involved, the hardship resulting from family separation is determined based on the actual impact of separation on an applicant, and all hardships must be considered in determining whether the combination of hardships takes the case beyond the consequences ordinarily associated with removal or inadmissibility. *Matter of O-J-O-*, 21 I&N Dec. at 383. Nevertheless, though we require an applicant to show that a qualifying relative would experience extreme hardship both in the event of relocation and in the event of separation, in analyzing the latter scenario, we give considerable, if not predominant, weight to the hardship of separation itself, particularly in cases involving the separation of spouses from one another and/or minor children from a parent. *Salcido-Salcido*, 138 F.3d at 1293.

The first prong of the analysis addresses hardship to the applicant’s wife if she relocates to Guyana. In an affidavit dated July 8, 2006, the applicant’s wife states she works as a nurse and “it will be a hardship for [her] employer and the city to lose [her] if [the applicant] is not granted a visa and [she] [has] to join him in Guyana.” In a letter dated June 20, 2006, [REDACTED] states there is a nursing shortage in the United States and without the applicant’s wife they “would not be able to care for [their] patients.” The applicant’s wife states because her husband has been unable to find employment in Guyana, he could not care for their family if they relocated to Guyana. The AAO acknowledges that the applicant and his wife might suffer some level of financial hardship in relocating to Guyana.

The applicant's wife states besides caring for her two children, she also assists her mother. She states her mother has a history of heart disease and she had a stroke, and she "needs physical and emotional support." The applicant's wife claims her father, who was in a car accident with her, needs back surgery and he "is unable to render assistance to [her] mother. They are both depending on [her]." The AAO notes that the record establishes that the applicant's mother-in-law has a history of coronary heart disease; she had open-heart surgery in 1999; and she suffers from high blood pressure, hyperlipidemia, and diabetes. *See letter from [REDACTED]*, dated June 26, 2006. However, the AAO notes that no medical documentation has been submitted establishing that the applicant's father-in-law is suffering from any medical conditions. Going on record without supporting documentation is not sufficient to meet the applicant's burden of proof in this proceeding. *See Matter of Soffici*, 22 I&N Dec. 158, 165 (Comm. 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm. 1972)). The AAO notes the applicant's wife's concerns regarding her parents.

The applicant's wife states her children would also suffer in Guyana. She claims that when her daughter, [REDACTED] was in Guyana in January 2005, she "suffered from infected mosquito bites. Because of a high fever and vomiting, she has to be rushed to the doctor and she recovered only when she returned." The applicant's wife states their "children would not be able to avail themselves of adequate medical and social services in Guyana." The AAO notes that the record establishes that the applicant's daughter, [REDACTED] has a developmental disability and is receiving speech language services. *See speech and language re-evaluation*, undated. The applicant's wife claims that Guyana "is not a safe and stable environment in which to rear [their] children." The AAO notes the applicant's wife's concerns for her children in Guyana.

In a statement dated November 13, 2010, counsel states the applicant's wife "has had serious medical issues – she had cancerous cells removed but needs cervical biopsy." The AAO notes that the record establishes that on July 25, 2010, the applicant's wife had a colposcopy which detected atypical squamous cells. *See medical records*, dated July 26, 2010. Additionally, the AAO notes that the record establishes that the applicant's wife is receiving physical therapy three times a week for back pain. [REDACTED], dated July 7, 2006. Further, the AAO notes that the applicant's wife suffered an injury on July 30, 2010, which left her incapacitated on August 2, 2010. *See State of Connecticut, Workers' Compensation Commission Voluntary Agreement*, undated. The AAO notes the applicant's wife's medical issues.

The AAO acknowledges the claims made by the applicant's spouse regarding the difficulties she would face in relocating to Guyana. The AAO notes that the applicant's wife has been residing in the United States for many years. However, the AAO observes that the applicant's wife is a native of Guyana and the record does not establish that she has no family ties to Guyana. Additionally, other than the applicant's wife's statement regarding the employment problems in Guyana, there is no documentation in the record establishing her claim.

However, based on the applicant's wife's medical issues, her concern for her children's health in Guyana, the assistance provided by the applicant's spouse to her mother, leaving her employment in the

United States, and the emotional hardship of being separated from her family including her mother who has health issues, the AAO finds that the applicant's wife would suffer extreme hardship if she were to relocate to Guyana to be with the applicant.

Regarding the hardship the applicant's wife would suffer if she were to remain in the United States without the applicant, the applicant's wife states she is suffering "extreme hardship from the deprivation of [the applicant]." On appeal, counsel states the applicant's family was "torn apart" when the applicant was removed to Guyana. She states the applicant's wife, "who is a visiting nurse, was left to care for the couple's two children" who were six and four years old.¹ Counsel claims that the applicant's wife and "children have serious medical, psychological and economic issues confronting them." The applicant's wife states she is suffering from depression and being treated by a doctor. In a statement dated June 27, 2006, [REDACTED] states the applicant's wife "has become emotionally sick" due to the separation from her husband. Additionally, as noted above, the AAO notes that the record establishes that on July 25, 2010, the applicant's wife had a colposcopy which detected atypical squamous cells. *See medical records, supra.* The applicant's wife states that while the applicant was detained before he was removed from the United States, she "was in a serious motor vehicle accident and injured [her] back – from the neck down to the lower back. [She] was unable to work for six months and was on disability." Counsel states that from the car accident, the applicant's wife "continues to suffer from sharp back pain and encounters difficulty in bed mobility and with simple standing and ambulation. She has done months of therapy but continues to suffer much discomfort in carrying out daily chores, such as lifting, bathing, and dressing her children." As noted above, the record establishes that the applicant's wife is receiving physical therapy three times a week for back pain. [REDACTED] Additionally, as noted above, the applicant's wife suffered an injury on July 30, 2010, which left her incapacitated on August 2, 2010. *See State of Connecticut, Workers' Compensation Commission Voluntary Agreement, supra.* The applicant's wife states the applicant's "presence in [their] household will certain [sic] alleviate the pain and discomfort [she] [is] suffering." The AAO notes the applicant's wife's medical issues.

Counsel states the applicant's children "have multiple medical issues. [REDACTED] is suffering from depression over the absence of her father. She has lost her appetite and she is now under the care of a psychologist. [REDACTED] has developmental disability and she is being monitored in a special education program." The applicant's wife states her daughter, [REDACTED], was "slow in developing" and she is being monitored through "a program catered to the needs of children with developmental problems." In a letter dated July 11, 2006, [REDACTED] states she treats [REDACTED] in the Stepping Stones program. [REDACTED] states "family life is becoming more difficult without [the applicant]. The children have no father figure and with their mom working full time to make ends meet financially, she cannot afford the children much quality time. The children's grandparents are very good but have significant health issues and are getting older." In an undated speech and language re-evaluation, the applicant's daughter, [REDACTED] was qualified "to receive itinerant speech services for 1 hr/week to address articulation weaknesses."

¹ The AAO notes that the applicant's children are now 7 and 8 years old.

█ states the applicant's wife and children reside with the applicant's wife's parents. Counsel states the applicant's wife "has serious financial hardship. She is unable to meet her living expenses. She has three outstanding loans to repay – loans taken out to pay legal and medical fees, credit card bills, and even utilities and groceries." The AAO notes that the record establishes that the applicant's wife has received past due notices and shut-off notices for overdue utility bills. Additionally, the record establishes that the applicant's wife had her mother obtain a \$42,000.00 loan to help her pay her debts. *See statement from* █, dated May 5, 2008. Further, the record establishes that the applicant's wife procured a \$5,000.00 loan in order to pay the applicant's legal fees. *See promissory note*, dated May 1, 2005. The record also establishes that the applicant's wife owes \$18,516.08 on one credit card, at least \$20,000 on two other credit cards, and on May 11, 2006, she took a \$5,000.00 advance from Beneficial. Counsel states the applicant's wife's "credit card bills have become unmanageable." Counsel also states the applicant's wife's financial problems have added to her "deteriorating emotional and physical condition." The applicant's wife states the applicant has been "unable to find a suitable job in Guyana." The AAO notes that the applicant's mother-in-law is caring for his two children; however, because of her medical condition caring for the children "is putting too much of a strain on her heart that could result in serious consequences." *See letter from* █, *supra*.

Based on the applicant's spouse's financial issues, medical issues, emotional issues, raising a child with developmental issues, raising two children without their father, her mother's medical issues, and the normal effects of a permanent separation, the AAO finds that the applicant's wife would experience extreme hardship if the applicant's waiver request were to be denied and she remained in the United States.

The AAO additionally finds that the applicant merits a waiver of inadmissibility as a matter of discretion. In discretionary matters, the alien bears the burden of proving eligibility in terms of equities in the United States which are not outweighed by adverse factors. *See Matter of T-S-Y-*, 7 I&N Dec. 582 (BIA 1957).

The adverse factors in the present case are the applicant's misrepresentations, his exclusion and deportation orders, his failure to abide by the immigration judge's orders, his December 30, 1996 DUI conviction, and his unlawful presence. The favorable and mitigating factors are the applicant's United States citizen wife and children, and the extreme hardship to his wife if he were refused admission.

The AAO finds that, although the immigration violations committed by the applicant are serious and cannot be condoned, when taken together, the favorable factors in the present case outweigh the adverse factors, such that a favorable exercise of discretion is warranted.

In proceedings for application for waiver of grounds of inadmissibility under section 212(a)(6)(C)(i) and section 212(a)(9)(B)(v) of the Act, the burden of proving eligibility remains entirely with the applicant. *See* section 291 of the Act, 8 U.S.C. § 1361. Here, the applicant has met that burden. Accordingly, the appeal will be sustained.

The AAO notes that the Acting District Director denied the applicant's Application for Permission to Reapply for Admission into the United States After Deportation or Removal (Form I-212) in the same decision. The Form I-212 was denied solely based on the denial of the Form I-601. As the AAO has now found the applicant eligible for a waiver of inadmissibility under section 212(a)(6)(C)(i) and section 212(a)(9)(B)(v) of the Act, it will withdraw the Acting District Director's decision on the Form I-212 and render a new decision.

Section 212(a)(9)(A) of the Act states:

Aliens previously removed.-

(A) Certain aliens previously removed.-

(i) Arriving aliens.-Any alien who has been ordered removed under section 235(b)(1) or at the end of proceedings under section 240 initiated upon the alien's arrival in the United States and who again seeks admission within 5 years of the date of such removal (or within 20 years in the case of a second or subsequent removal or at any time in the case of an alien convicted of an aggravated felony) is inadmissible.

(ii) Other aliens.- Any alien not described in clause (i) who-

(I) has been ordered removed under section 240 or any other provision of law, or

(II) departed the United States while an order of removal was outstanding, and seeks admission within 10 years of the date of such alien's departure or removal (or within 20 years of such date in the case of a second or subsequent removal or at any time in the case of an aliens convicted of an aggravated felony) is inadmissible.

(iii) Exception.- Clauses (i) and (ii) shall not apply to an alien seeking admission within a period if, prior to the date of the aliens' reembarkation at a place outside the United States or attempt to be admitted from foreign continuous territory, the Attorney General [now, Secretary, Department of Homeland Security] has consented to the aliens' reapplying for admission.

On May 16, 1995 and November 5, 1996, the applicant was ordered excluded and deported from the United States. As such, he is inadmissible under section 212(a)(9)(A) of the Act and must request permission to reapply for admission.

A grant of permission to reapply for admission is a discretionary decision based on the weighing of negative and positive factors. The AAO has found that the applicant warrants a favorable exercise of discretion related to the adjudication of the Form I-601. For the reasons stated in that finding, the AAO finds that the applicant's Form I-212 should also be granted as a matter of discretion.

ORDER: The appeal is sustained.