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



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

[REDACTED]

Date: **MAY 28 2015** [REDACTED]

IN RE: Applicant: [REDACTED]

APPLICATION: Application for Waiver of Grounds of Inadmissibility

ON BEHALF OF APPLICANT:

NO REPRESENTATIVE OF RECORD

Enclosed is the non-precedent decision of the Administrative Appeals Office (AAO) for your case.

If you believe we incorrectly decided your case, you may file a motion requesting us to reconsider our decision and/or reopen the proceeding. The requirements for motions are located at 8 C.F.R. § 103.5. Motions must be filed on a Notice of Appeal or Motion (Form I-290B) **within 33 days of the date of this decision**. The Form I-290B web page (www.uscis.gov/i-290b) contains the latest information on fee, filing location, and other requirements. **Please do not mail any motions directly to the AAO.**

Thank you,

A handwritten signature in black ink that reads "Ron Rosenberg".

Ron Rosenberg
Chief, Administrative Appeals Office

DISCUSSION: The Director, National Benefits Center, denied the waiver application. 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 the Dominican Republic who filed the Form I-601, Application for Waiver of Grounds of Inadmissibility (Form I-601) in June 2013, contending that he was inadmissible to the United States as a result of having entered the United States without inspection.

The director determined that the applicant had not established that he was inadmissible to the United States on any ground waivable by the filing of Form I-601. The Form I-601, Application for Waiver of Inadmissibility, was denied accordingly.

The instructions to the Form I-601 list the grounds of inadmissibility that may be waived by the Form I-601. Entry without inspection is not one of the listed grounds. The record does not indicate that the applicant was found to be inadmissible to the United States on any ground waivable by the filing of Form I-601. The instructions for Form I-601 can be found at <http://www.uscis.gov/i-601>.

As noted by the director in his decision to deny the applicant's Form I-485, Application to Register Permanent Residence or Adjust Status, the record establishes that the applicant entered the United States without inspection. He is thus not eligible to adjust status under section 245(a) of the Act. Furthermore, the record establishes that the applicant is not eligible to adjust status under section 245(i) of the Act as the Form I-130 petition was filed on his behalf after April 30, 2001, in addition to the fact that he entered without inspection. The applicant is thus not eligible to adjust status in the United States. The applicant will have to pursue consular processing at a U.S. embassy overseas. At the time of his consular interview he will be advised of any additional documentation needed to complete his application.

We note that the Form I-130, Petition for Alien Relative, filed on behalf of the applicant by his U.S. citizen wife has not been adjudicated. In the absence of an approved I-130 petition, the applicant is not eligible to obtain permanent residency. The Form I-130 will need to be adjudicated and approved before the applicant can pursue consular processing.

As the applicant was not found to be inadmissible to the United States on any ground waivable by the filing of Form I-601, the appeal will be dismissed.

ORDER: The appeal is dismissed.