



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

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

MATTER OF J-M-R-

DATE: DEC. 10, 2019

APPEAL OF NEBRASKA SERVICE CENTER DECISION

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

The Applicant has applied for an immigrant visa and has been found inadmissible for alien smuggling and seeks a waiver of that inadmissibility. Immigration and Nationality Act (the Act) section 212(d)(11), 8 U.S.C. § 1182(d)(11). U.S. Citizenship and Immigration Services (USCIS) may grant this discretionary waiver to serve humanitarian purposes or assure family unity, or when it is otherwise in the public interest, if the individual smuggled was at that time the Applicant's spouse, parent, son, or daughter. The Applicant has also been found inadmissible for unlawful presence and fraud/misrepresentation and seeks a waiver of these inadmissibilities. Section 212(a)(9)(B)(v), 8 U.S.C. § 1182(a)(9)(B)(v); section 212(i) of the Act, 8 U.S.C. § 1182(i).

The Director of the Nebraska Service Center denied the waiver application, concluding that the Applicant was not eligible for a waiver because the persons he attempted to assist in entering the United States unlawfully were not his spouse, parent, son, or daughter. On appeal, the Applicant requests that the waiver application be approved based upon humanitarian grounds.

The burden of proof in these proceedings rests solely with the Applicant. Section 291 of the Act, 8 U.S.C. § 1361. Upon *de novo* review, we will dismiss the appeal because the Applicant has not met this burden.

A waiver of inadmissibility under section 212(d)(11) of the Act is dependent upon a showing that the applicant (1) only aided an individual who, at the time of the offense, was the applicant's spouse, parent, son, or daughter (and no other individual) to enter the United States in violation of law; and (2) the applicant either had been admitted to the United States as a lawful permanent resident alien and did not depart the United States under an order of removal or is seeking admission as an eligible immigrant.

Here, the record establishes that in 2005, the Applicant attempted to assist his brother and sister in entering the United States unlawfully. Because the Applicant attempted to assist a foreign national other than his spouse, parent, son or daughter to enter the United States in violation of law, the Applicant is not statutorily eligible to obtain a waiver of inadmissibility under section 212(d)(11) of the Act.

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As the Applicant does not qualify for a waiver under section 212(d)(11) of the Act, we need not consider whether the Applicant merits a waiver in the exercise of discretion. Furthermore, because the Applicant remains inadmissible under section 212(a)(6)(E) of the Act, no purpose would be served in addressing his eligibility for a waiver of inadmissibility under section 212(a)(9)(B)(v) or 212(i) of the Act, as granting the waiver would not result in his admissibility.

**ORDER:** The appeal is dismissed.

Cite as *Matter of J-M-R-*, ID# 4853886 (AAO Dec. 10, 2019)