U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 8290291

Date: MAR. 8, 2021

Appeal of Nebraska Service Center Decision

Form I-601, Application to Waive Inadmissibility Grounds

The Applicant, a native and citizen of Bangladesh, has applied for an immigrant visa and seeks a waiver of inadmissibility under section 212(d)(11) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(d)(11).

The Director of the Nebraska Service Center denied the application, noting that the Applicant had been found inadmissible for knowingly encouraging or assisting another noncitizen to enter or try to enter the United States in violation of law (smuggling). The Director concluded that the record did not establish that the Applicant was statutorily eligible for a waiver of this inadmissibility because the individuals she smuggled, her nephews, do not have a qualifying familial relationship with her.

In these proceedings, it is the Applicant's burden to establish eligibility for the requested benefit. Section 291 of the Act, 8 U.S.C. § 1361. Upon *de novo* review, we will dismiss the appeal.

Any noncitizen who at any time knowingly has encouraged, induced, assisted, abetted, or aided any other noncitizen to enter or to try to enter the United States in violation of law is inadmissible. Section 212(a)(6)(E) of the Act, 8 U.S.C. § 1182(a)(6)(E).

Section 212(d)(11) of the Act provides that a discretionary waiver is available for humanitarian purposes, to assure family unity, or when it is otherwise in the public interest only if the individual who the applicant encouraged, induced, assisted, abetted, or aided in entering or trying to unlawfully enter the United States was, at the time of the offense, the applicant's spouse, parent, son, or daughter.

On appeal, the Applicant asserts that she filed the application upon the request of the Department of State and the Department of State correctly determined she was eligible for the waiver. The Applicant further claims that the individuals in question were her stepchildren and she was given no notice or opportunity to rebut the finding that they were her nephews.

Because the Applicant is residing abroad and applying for an immigrant visa, the U.S. Department of State makes the final determination concerning admissibility and eligibility for a visa. Here, a consular officer has determined that the Applicant knowingly assisted, abetted, or aided an individual who did not have a qualifying familial relationship to her to enter, or try to enter, the United States in violation

of law. The consular officer therefore found that the Applicant was inadmissible to the United States under section 212(a)(6)(E)(i) of the Act for smuggling.

The Applicant contends that the individuals she attempted to smuggle were her stepchildren. On appeal, the Applicant did not provide any evidence of the relationship to these individuals. She did not submit a marriage certificate, birth certificate, or any other official documentation. Although the Applicant claims she is eligible for the waiver, she has not supported this claim with independent evidence.

On appeal, the Applicant has not established that she assisted an individual with a relationship listed in section 212(d)(11) of the Act to try to enter the United States, and she is statutorily ineligible to apply for a waiver of section 212(a)(6)(E)(i) inadmissibility for smuggling. The application will remain denied.

ORDER: The appeal is dismissed.