



U.S. Citizenship  
and Immigration  
Services

(b)(6)

DATE: **JAN 10 2013**

Office: GUANGZHOU, CHINA

FILE: [REDACTED]

IN RE: [REDACTED]

APPLICATION: Application for Waiver of Grounds of Inadmissibility under Section 212(d)(11) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(d)(11)

ON BEHALF OF APPLICANT:

SELF-REPRESENTED

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,

A handwritten signature in cursive script, appearing to read "Ron Rosenberg".

Ron Rosenberg  
Acting Chief, Administrative Appeals Office

**DISCUSSION:** The waiver application was denied by the Field Office Director, Guangzhou, China, and the matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be sustained.

The applicant is a native and a citizen of China who was found to be inadmissible to the United States pursuant to section 212(a)(6)(E)(i) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(a)(6)(E)(i), for aiding and abetting the unlawful entry of her husband and son into the United States. The applicant is the parent of a U.S. citizen and the beneficiary of an approved Petition for Alien Relative. She seeks a waiver under section 212(d)(11) of the Act, 8 U.S.C. § 1182(d)(11), in order to reside in the United States with her daughter.

The director denied the applicant's Form I-601, Application for Waiver of Grounds of Inadmissibility, because she failed to demonstrate that she only aided in the smuggling of one family member. See *Field Office Director's Decision*, dated October 25, 2011.

On appeal, the applicant denies assisting her son and states that she only borrowed money to help her husband. See *Form I-290B, Notice of Appeal or Motion*, dated November 18, 2011.

The evidence of record includes statements from the applicant and her spouse, documents establishing identity and citizenship, and photographs. The entire record was reviewed and considered in rendering a decision on the appeal.

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

- (i) Any alien who at any time knowingly has encouraged, induced, assisted, abetted, or aided any other alien to enter or to try to enter the United States in violation of law is inadmissible.

Section 212(d)(11) of the Act provides:

The Attorney General may, in his discretion for humanitarian purposes, to assure family unity, or when it is otherwise in the public interest, waive application of clause (i) of subsection (a)(6)(E) in the case of . . . an alien seeking admission or adjustment of status as an immediate relative or immigrant under section 203(a) (other than paragraph (4) thereof), if the alien has encouraged, induced, assisted, abetted, or aided only an individual who at the time of the offense was the alien's spouse, parent, son, or daughter (and no other individual) to enter the United States in violation of law.

The record indicates that the applicant provided inconsistent statements about her role in helping her family members to unlawfully enter the United States. Although it is unclear whether she borrowed money to assist her husband or son, it is undisputed that the smuggled persons in question are her immediate family members.

The AAO notes that the Field Office Director erred in determining that section 212(d)(11) of the Act applies to someone who assists “only one person to enter illegally,” as there is no numerical limitation specified in that section. Section 212(d)(11) clearly indicates that a waiver may be granted if the individual is “the alien's spouse, parent, son, or daughter (and no other individual),” and in the present case, the applicant assisted her husband and son to enter the United States. *See Matter of Farias-Mendoza*, 21 I&N Dec. 269, 272 (BIA 1996) (summarizing Service’s position that the statute sets out the specific family members and the word “only” emphasizes “the exclusive nature” of the listed relationships, whereas the parenthetical “and no other individual” underscores the qualifying relationships).

The applicant has established that the individuals she aided to enter the United States illegally are her husband and son. She is eligible for a waiver under section 212(d)(11), which may be granted for humanitarian purposes, to assure family unity, or if it is otherwise in the public interest. Therefore, the AAO, in its discretion approves the applicant’s waiver under section 212(d)(11) of the Act to assure family unity. Accordingly, the appeal will be sustained.

In proceedings for application for waiver of grounds of inadmissibility under section 212(d)(11) 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.

**ORDER:** The appeal is sustained.