



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 black ink that reads "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 smuggling her 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 son.

The director denied the applicant's Form I-601, Application for Waiver of Grounds of Inadmissibility, for failing to respond to request for evidence. *See Field Office Director's Decision*, dated October 27, 2011.

On appeal, the applicant denies ever violating any immigration laws. *See Form I-290B, Notice of Appeal or Motion*, dated November 15, 2011.

The evidence of record includes but not limited to statements from the applicant and her spouse, and a handwritten statement in Chinese.

8 C.F.R. § 103.2(b) states:

- (3) Translations. Any document containing foreign language submitted to USCIS shall be accompanied by a full English language translation which the translator has certified as complete and accurate, and by the translator's certification that he or she is competent to translate from the foreign language into English.

As such, the Chinese-language document without English translation cannot be considered in analyzing this case. However, the rest of the record was reviewed and all relevant evidence was considered in reaching 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's son entered the United States without inspection and adjusted his status based on a petition filed by his employer; he became a U.S. citizen in 2009. During her visa interview, the applicant admitted to knowing that her son was leaving to be smuggled into the United States, and she assisted her son by helping him pack and giving him money. The director also suspected that she may have assisted her husband and other children to be smuggled and requested further evidence from the applicant.

The record indicates that the director interprets the waiver to be limited to those individuals assisting only one family member. The AAO notes that the director's interpretation of section 212(d)(11) is erroneous, 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)." *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).

In the present case, the applicant has established that the individual she aided to enter the United States illegally is her son. Even if she also assisted in the smuggling of her husband and other children, she would be 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.

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.