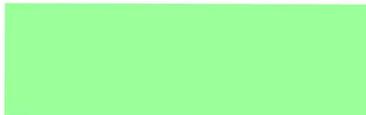




**U.S. Citizenship
and Immigration
Services**

(b)(6)



DATE: **MAR 18 2013** OFFICE: BALTIMORE, MARYLAND

FILE:

IN RE: Applicant:

APPLICATION: Application for Waiver of Grounds of Inadmissibility under Section 212(d)(1f) of the Immigration and Nationality 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.

If you believe the AAO inappropriately applied the law in reaching its decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen in accordance with the instructions on Form I-290B, Notice of Appeal or Motion, with a fee of \$630. The specific requirements for filing such a motion can be found at 8 C.F.R. § 103.5. **Do not file any motion directly with the AAO.** Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires any motion to be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you,

Ron Rosenberg
Acting Chief, Administrative Appeals Office

DISCUSSION: The waiver application was denied by the District Director, Baltimore, Maryland, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The record reflects the applicant is a native and citizen of Mexico 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 having knowingly encouraged, induced, assisted, abetted, or aided another alien to enter the United States in violation of the law. The applicant is the spouse of a U.S. citizen and the beneficiary of an approved Petition for Alien Relative (Form I-130). The applicant contests the finding of inadmissibility, but seeks a waiver of inadmissibility pursuant to section 212(d)(11) of the Act, 8 U.S.C. § 1182(d)(11), in order to reside with his wife in the United States.

The District Director concluded the applicant is currently statutorily ineligible to apply for a waiver of grounds of inadmissibility and denied the Application for Waiver of Grounds of Inadmissibility (Form I-601) accordingly. *See Decision of the District Director*, dated June 28, 2012.

On appeal, the applicant asserts the evidentiary documentation submitted in support of his appeal demonstrates he is not inadmissible under section 212(a)(6)(E)(i) of the Act.¹ *See Notice of Appeal or Motion (Form I-290B)*, dated July 23, 2012. Additionally, the applicant has submitted a request for an oral argument before the AAO to explain the particular circumstances of his case. *See Request for Oral Argument*, dated July 23, 2012.

The regulation at 8 C.F.R. § 103.3(b) lists the requirements for oral argument regarding an appeal before the AAO. 8 C.F.R. § 103.3(b)(1) requires that a request must be in writing and provide a specific explanation why oral argument is necessary. Additionally, the regulation at 8 C.F.R. § 103.3(b)(2) provides the U.S. Citizenship and Immigration Services (USCIS) the sole authority to grant or deny a request for oral argument as well as establish the conditions for oral argument. The AAO will grant argument only in cases involving unique factors or issues of law that cannot be adequately addressed in writing. In this instance, the applicant did not identify unique factors or issues of law to be resolved. In fact, the applicant did not set forth specific reasons why oral argument should be held other than his general statement that his argument cannot be adequately addressed in writing. Moreover, the written record of proceedings fully represents the facts and issues in this matter. Consequently, the request for oral argument is denied.

The record includes, but is not limited to: correspondence and letters of support from the applicant and his spouse as well as their religious community; identity, medical, employment, and financial

¹ The AAO notes the applicant indicated he would submit a signed affidavit of support from his brother in Mexico to supplement the record. The record does not include a statement from the applicant's brother, and accordingly, the record on appeal is deemed to be complete.

documents; photographs; and Internet articles. The entire record was reviewed and considered in rendering a decision on the appeal.

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

(E) SMUGGLERS.-

(i) **In General.-** 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.

...

(iii) **Waiver Authorized.-** For provision authorizing waiver of clause (i), see subsection (d)(11).

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

The Attorney General [now the Secretary of Homeland Security (Secretary)] 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 any alien lawfully admitted for permanent residence who temporarily proceeded abroad voluntarily and not under an order of removal, and who is otherwise admissible to the United States as a returning resident under section 211(b) and 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 such action was the alien's spouse, parent, son, or daughter (and no other individual) to enter the United States in violation of law.

The District Director determined the applicant provided financial assistance to his brother to enter the United States without inspection around January 1999. On appeal, the applicant indicates he initially agreed to lend his brother around \$900 for expenses related to his entry, but did not ultimately lend the money as he did not have it. The applicant indicates he forgot this detail after his interview with immigration officials as he suffers from high blood glucose and cholesterol levels and has been prescribed statins for his medical conditions, which the U.S. Food and Drug Administration has determined could result in memory loss and confusion. In support of his contentions, the applicant submitted a letter from his spouse, labels from medical prescriptions, medical laboratory results, and articles concerning statin drugs as well as the link between diabetes and memory impairment.

Based on the foregoing, the AAO finds the applicant has not demonstrated that he did not assist his brother in entering the United States illegally. The record does not include a letter from the

(b)(6)

Page 4

applicant's brother, explaining the circumstances of his illegal entry to the United States around 1999 and the applicant's participation in that entry. Moreover, the record does not include any discussion from the applicant's treating physician concerning the effects his medical conditions and prescriptions may have on his mental functions. Accordingly, the AAO finds the applicant is inadmissible pursuant to section 212(a)(6)(E)(i) of the Act. As the record shows that the smuggled alien was the applicant's brother, the AAO finds the applicant does not meet the requirements for a waiver to inadmissibility as stated in 212(d)(11).

As the applicant is inadmissible under section 212(a)(6)(E)(i) of the Act, he is currently statutorily ineligible for a waiver of grounds of inadmissibility. As such, no purpose would be served in adjudicating his waiver under any other applicable inadmissibility provisions of the Act.

In proceedings for application for waiver of grounds of inadmissibility under 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 not met that burden, in that he has not shown that a purpose would be served in adjudicating his waiver due to his inadmissibility under section 212(a)(6)(E)(i) of the Act. Accordingly, the appeal will be dismissed.

ORDER: The appeal is dismissed.