



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

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

In Re: 21283453

Date: JUL. 07, 2022

Appeal of San Fernando Valley Field Office Decision

Form I-601, Application for Waiver of Grounds of Inadmissibility

The Applicant, a native and citizen of Nigeria currently residing in the United States, has applied to adjust status to that of a lawful permanent resident (LPR). A noncitizen seeking to be admitted to the United States as an immigrant or to adjust status must be “admissible” or receive a waiver of inadmissibility. The Applicant has been found inadmissible for a crime involving moral turpitude and seeks a waiver of that inadmissibility. Immigration and Nationality Act (the Act) section 212(h), 8 U.S.C. § 1182(h).

The Director of the San Fernando Valley Field Office in Chatsworth, California denied the application, concluding that there was no purpose in adjudicating it because the approval of the Applicant’s underlying immigrant visa petition had been revoked. The matter is now before us on appeal.

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.

I. LAW

Section 212(a)(2)(A)(i)(I) of the Act, 8 U.S.C. § 1182(a)(2)(A)(i)(I), states in relevant part that any noncitizen convicted of a crime involving moral turpitude (other than a purely political offense) is inadmissible.

A discretionary waiver for this ground of inadmissibility is available under section 212(h)(1)(B) of the Act if denial of admission would result in extreme hardship to a qualifying relative or qualifying relatives or if the activities for which the noncitizen is inadmissible occurred at least 15 years ago, the noncitizen’s admission would not be contrary to the national welfare, safety, or security of the United States, and the noncitizen has been rehabilitated.

Section 204(c) of the Act, 8 U.S.C. § 1154(c), states that no petition shall be approved for a noncitizen who has previously been accorded or sought to be accorded a nonquota or preference status as the spouse of a U.S. citizen or LPR based on a marriage entered into for the purpose of evading the immigration laws, or for any noncitizen who has attempted or conspired to enter into a marriage for the purpose of evading the immigration laws.

II. ANALYSIS

The Applicant seeks to adjust her status to that of an LPR based on the Form I-130, Petition for Alien Relative, that was filed on her behalf by her U.S. citizen husband. The record indicates that the approval of this Form I-130 was revoked on January 15, 2020, due to the Director's finding that the Applicant had entered into her previous marriage for the purpose of evading immigration laws and that she was therefore ineligible for an immigrant visa pursuant to section 204(c) of the Act. The Applicant's husband appealed this decision, and the matter is currently pending with the Board of Immigration Appeals.

The Applicant's Form I-485, Application to Register Permanent Residence or Adjust Status, was denied on January 15, 2020, due to the revocation of the approval of the underlying Form I-130. The Applicant filed a motion to reopen and reconsider this decision, which was denied on March 30, 2020.

A waiver application serves the purpose of removing the inadmissibility bar to adjustment of status or issuance of an immigrant visa. *See* 8 C.F.R. § 212.7(a)(1). Since the approval of the Form I-130 filed on the Applicant's behalf has been revoked, she has no current basis from which to adjust her status.¹ The Director therefore denied the Form I-601, Application for Waiver of Grounds of Inadmissibility, as moot. On appeal, the Applicant states that the Form I-601 is not moot because the appeal of the Form I-130 revocation and the motion on the Form I-485 were pending as of the time the appeal was filed. As noted above, the motion on the Form I-485 decision has been denied. Furthermore, as of the time of adjudication, the approval of the Applicant's Form I-130 remains revoked, she is not currently eligible for an immigrant visa, and she cannot adjust her status. Because the purpose of the waiver application cannot be served in this case, the application is properly denied in the exercise of discretion.

ORDER: The appeal is dismissed.

¹ On appeal, the Applicant submits materials regarding the revocation of the approval of the Form I-130 and the denial of her Form I-485. The issue of whether these decisions were proper is beyond the scope of our review of the Form I-601 on appeal, and so we will not address it in this decision.