



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

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

In Re: 25942717

Date: APR. 4, 2023

Appeal of Nebraska Service Center Decision

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

The Applicant seeks a waiver of inadmissibility under the Immigration and Nationality Act (the Act) section 212(d)(11), 8 U.S.C. § 1182(d)(11), for alien smuggling under section 212(a)(6)(E) of the Act, 8 U.S.C. § 1182(a)(6)(E).

The Director of the Nebraska Service Center denied the application, concluding that the Applicant did not meet the eligibility requirements for a smuggling waiver, which is available only in cases involving smuggling of certain relatives. The matter is now before us on appeal. 8 C.F.R. § 103.3.

The Applicant bears the burden of proof to demonstrate eligibility by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (AAO 2010). We review the questions in this matter de novo. *Matter of Christo's, Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015). 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)(i) of the Act.

A discretionary waiver is available for humanitarian purposes, to assure family unity, or when it is otherwise in the public interest in the case of an applicant seeking admission or adjustment of status as an immediate relative or immigrant under section 203(a) (other than paragraph (4) thereof), if the applicant has encouraged, induced, assisted, abetted, or aided only an individual who at the time of the offense was the applicant's spouse, parent, son, or daughter (and no other individual) to enter the United States in violation of law. Section 212(d)(11) of the Act.

Because the Applicant is residing abroad and applying for an immigrant visa, the U.S. Department of State (DOS) makes the final determination concerning admissibility and eligibility for a visa. In April 2008, a counselor officer found the Applicant inadmissible under section 212(a)(6)(E) of the Act for knowingly assisting a foreign national in trying to enter the United States in violation of law. Specifically, the Applicant assisted a child in an attempt to obtain an immigrant visa by claiming she was his child although she was not his biological or adopted child. This finding of inadmissibility under section 212(a)(6)(E) of the Act was upheld when the Applicant applied for an immigrant visa

again in April 2014 and most recently in January 2020. The Director of the Nebraska Service Center denied the Applicant's waiver application, noting the consular officer's inadmissibility finding for smuggling and concluding that the Applicant was statutorily ineligible for a waiver because the individual he aided in smuggling was not his spouse, parent, son, or daughter.

On appeal, the Applicant asserts that the individual he is accused of attempting to smuggle is his adopted daughter. He asserts, through counsel, that he adopted his biological niece in accordance with his culture and tradition when his brother was unable to support her financially, and he included her as his child in his immigration visa application. The Applicant argues that his "traditionally adopted child, should be considered his daughter for the waiver application purposes." He has provided a document entitled AGREEMENT REGARDING HANDING OVER THE MINOR [REDACTED] issued on Pakistani stamp paper as evidence of the adoption. The U.S. Department of State's Reciprocity Schedule for Pakistan indicates that Pakistani law does not recognize adoption and Pakistanis often obtain documents identified as "adoption deeds," including those written on "rupee paper" or stamp paper and signed by the biological and adoptive parents.¹ It is further explained that "as adoptions are not recognized in Pakistan, and 'rupee paper' is not a legal document, these documents are not evidence of a legal adoption and, as such, are not acceptable for immigration purposes." Therefore, the Applicant's traditional adoption of his niece is not acceptable for immigration purposes, and he is inadmissible under section 212(a)(6)(E) of the Act.

A waiver is only available for smuggling if the individual smuggled is the Applicant's spouse, parent, son, or daughter (and no other individual). We find that the Applicant is not eligible for a waiver as the individual was not his spouse, parent, son, or daughter at the time he assisted her in trying to enter the United States in violation of law.

The Applicant has the burden of proving eligibility for a waiver of inadmissibility. Section 291 of the Act, 8 U.S.C. § 1361. Here, he has not met that burden.

ORDER: The appeal is dismissed.

¹ U.S. Department of State, *U.S. Visa: Reciprocity and Civil Documents by Country, Pakistan*, <https://travel.state.gov/content/travel/en/us-visas/Visa-Reciprocity-and-Civil-Documents-by-Country/Pakistan.html>.