



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

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

In Re: 19853094

Date: APR. 07, 2022

Appeal of Nebraska Service Center Decision

Form I-601, Application to Waive Inadmissibility Grounds

The Applicant, who has applied for an immigrant visa abroad, was found inadmissible for human smuggling and seeks a waiver of this inadmissibility ground pursuant to section 212(d)(11) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(d)(11).

The Director of the Nebraska Service Center denied the application, concluding that the Applicant was statutorily ineligible for a waiver under section 212(d)(11) of the Act because he did not have a qualifying familial relationship with the noncitizens he assisted in attempting to enter the United States unlawfully. On appeal, the Applicant argues that the Director incorrectly determined that he knowingly assisted other noncitizens to enter the United States in violation of law.

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 as moot.

I. LAW

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.

II. ANALYSIS

As the Applicant is residing abroad and applying for an immigrant visa, the U.S. Department of State (DOS) makes a final determination concerning his eligibility for the visa and any applicable inadmissibility grounds. Here, DOS determined that the Applicant is inadmissible under section 212(a)(6)(E)(i) of the Act because he knowingly aided several noncitizens to enter the United States

in violation of law.¹ The Director of the Nebraska Service Center denied the waiver, noting the consular officer's inadmissibility finding for human smuggling and concluding that the Applicant was statutorily ineligible for a waiver of this inadmissibility because the individuals he aided in smuggling were not his spouse, parent, son, or daughter. On appeal, the Applicant states that he did not knowingly assist those noncitizens to enter the United States in violation of law and, therefore, he does not require a waiver.

We note that since the Director's decision, DOS has now determined that the Applicant is not inadmissible under section 212(a)(6)(E)(i) of the Act. As this is the sole ground of inadmissibility identified in the Director's decision, the Applicant does not require a waiver based on the current inadmissibility determination of DOS. Accordingly, the appeal will be dismissed as moot.

ORDER: The appeal is dismissed.

¹ The record shows that the Applicant was admitted to the United States with a Border Crossing Card on or about May 22, 2001. On [] 2001, he was apprehended in [] Texas by Customs and Border Protection (CBP) and investigated for human smuggling for having provided transportation to 12 Mexican citizens who had entered the country illegally. The record further indicates that CBP was "unable to substantiate Alien Smuggling," and the Applicant was deported from the United States on [] 2001, for having overstayed his authorized period of admission.