

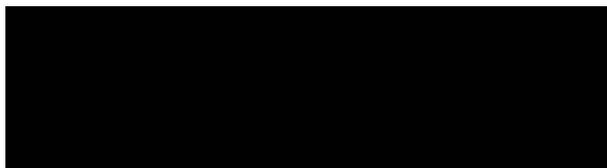
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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Office of Administrative Appeals MS 2090
Washington, DC 20529-2090



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



HI

FILE: [REDACTED]

Office: TAMPA, FL Date:

JAN 20 2010

IN RE: [REDACTED]

APPLICATION: Application for Waiver of Grounds of Inadmissibility under section 212(g)(2)
of the Act, 8 U.S.C. § 1182(g)(2)

ON BEHALF OF PETITIONER:



INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

A handwritten signature in cursive script, appearing to read "Perry Rhew".

Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The waiver application was denied by the District Director, Tampa, Florida, and is now before the Administrative Appeals Office on appeal. The appeal will be sustained.

The applicant is a native of Dominica and citizen of the Netherlands who was found to be inadmissible to the United States under section 212(a)(1)(A)(ii) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(a)(1)(A)(ii), for having failed to present documentation of having received vaccination against vaccine-preventable diseases. The applicant is the daughter of a United States citizen mother and is the beneficiary of an approved petition for alien relative. The applicant seeks a waiver of this permanent bar to admission as provided under section 212(g)(2) of the Act, 8 U.S.C. § 1182(g)(2), in order to remain in the United States.

The district director concluded that the applicant had failed to establish that she is opposed to vaccinations in any form based on sincere religious or moral convictions, and denied the application accordingly. *See Decision of the District Director* dated August 14, 2009.

On appeal, counsel for the applicant asserts that U.S. Citizenship and Immigration Services (USCIS) failed to correctly apply the relevant legal standards in finding that that the applicant had failed to establish that vaccinations were contrary to her religious beliefs or moral convictions. *Brief in Support of Appeal* at 7. Specifically, counsel asserts that USCIS erred in requesting evidence and eliciting testimony related only to her church's doctrines and her religious beliefs and deprived her of the opportunity to explain why being vaccinated would violate her moral convictions. *Brief* at 7-8. Counsel additionally asserts that USCIS erroneously concluded that the applicant's opposition to vaccinations appeared to be based on her son's negative reaction to a vaccine and thus constituted a mere preference not based on or religious or moral opposition to vaccinations. *Brief* at 9. Counsel contends that her son's adverse reaction "served as a catalyst" for the applicant to further study the teachings of the bible as well as natural and holistic health disciplines, leading her to believe vaccinations are wrong. *Brief* at 10. In support of the appeal counsel submitted an affidavit from the applicant, letters and affidavits from relatives of the applicant and members of her church, letters from the applicant's health care providers, excerpts of bible passages referred to by the applicant in her affidavit, information on vaccines including lists of ingredients published by the U.S. Department of Health and Human Services and the Center for Disease Control, and documentation of courses on healthcare alternatives taken by the applicant. The entire record was reviewed and considered in arriving at a decision on the appeal.

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

CLASSES OF ALIENS INELIGIBLE FOR VISAS OR ADMISSION.-Except as otherwise provided in this Act, aliens who are ineligible under the following paragraphs are ineligible to receive visas and ineligible to be admitted to the United States:

(1) HEALTH RELATED GROUNDS.-

(A) IN GENERAL.- Any alien-

(ii) who seeks admission as an immigrant, or who seeks adjustment of status to the status of an alien lawfully admitted for permanent residence, and who has failed to present documentation of having received vaccination against vaccination-preventable diseases, which shall include at least the following diseases: mumps, measles, rubella, polio, tetanus and diphtheria toxoids, pertussis, influenza type B and hepatitis, and any other vaccinations against vaccine preventable diseases recommended by the Advisory Committee for Immunization Practices,

(B) WAIVER AUTHORIZED.-For provisions authorizing waiver of certain clauses of subparagraph (A), see subsection(g).

Section 212(g)(2) provides that the [Secretary] may waive the application of subsection (a)(1)(A)(ii) in the case of any alien-

(A) who receives vaccination against the vaccine-preventable disease or diseases for which the alien has failed to present documentation of previous vaccination,

(B) for whom a civil surgeon, medical officer, or panel physician (as those terms are defined by section 34.2 of title 42 of the Code of Federal Regulations) certifies according to such regulations as the Secretary of Health and Human Services may prescribe, that such vaccination would not be medically appropriate, or

(c) under such circumstances as the Attorney General provides by regulation, with respect to whom the requirement of such a vaccination would be contrary to the alien's beliefs or moral convictions; . . .

USCIS guidelines provide that an applicant who is inadmissible under section 212(a)(1)(A)(ii) of the Act and seeks a waiver of inadmissibility under section 212(g)(2)(C) of the Act must demonstrate the following criteria for the waiver to be approved: (1) he or she is opposed to vaccinations in any form; and (2) the objection is based on religious belief or moral convictions (whether or not a member of a recognized religion); and (3) the religious belief or moral conviction (whether or not as a part of a "mainstream" religion) is sincere. When the waiver application is for a child, the child's parent must satisfy these three requirements.

The record reflects that the applicant is a forty-three year-old native of Dominica and citizen of the Netherlands who requested a waiver of vaccinations due to religious beliefs and moral convictions that cause her to oppose being vaccinated. Counsel asserts that the applicant's objection to being vaccinated is based on a sincere moral conviction and significant research, and that her opposition to vaccines is based, in part, on a severe reaction her son experienced after being vaccinated in 2003, which led her to further study the bible as well as natural and holistic health disciplines. *Brief* at 10.

In her affidavit the applicant states that she is a devout Christian and member of the Seventh Day Adventist church and that she is opposed to vaccinations in any form. *Affidavit of* [REDACTED] dated October 12, 2009.

She further states that she and her son have not been vaccinated since 2003, when an adverse reaction to a vaccine her son received led her to reevaluate her own religious beliefs and moral convictions. She states,

From my religious studies, I have come to believe that the human body is the temple of God, and that we should honor God by caring for our bodies, avoiding the use of that which may be harmful and abstaining from all unclean foods. The Bible teaches us that there are clean and unclean animals and acts Furthermore, the Bible teaches that we shall keep the blood pure, and keep the seed from being mixed. My understanding is that when genetic materials from bacteria, viruses, yeasts, animals, birds, and other humans are injected . . . during routine vaccination, the blood gets contaminated, and genetic changes occur. My understating is that God does not want us to do this, and being vaccinated would violate God's command. Leviticus 11:1-47, I Corinthians 3:16-17.

A letter from Sandels Primary Healthcare Center states that the applicant had not been vaccinated since 2003, when her son was not able to receive any more vaccines. *Letter from* [REDACTED] dated April 20, 2009. A letter from [REDACTED] states that he knows that applicant because they both attend the Thonotosassa Seventh-Day Adventist Church, where he serves as an elder. He states that the applicant follows the doctrine of the church very closely and that among the three fundamental principles of their faith is the health message. *Letter from* [REDACTED] dated April 10, 2009. He states that they believe the body is the temple of God and they should abstain from consuming certain foods, take care of the body, and follow a vegetarian diet. *Letter from* [REDACTED] He states, "On this point [REDACTED] has greater discipline than many, including myself. [REDACTED] is s strict vegan . . ." He further states, "[REDACTED] has taken a stand against the injection of any chemical substance into the body (considered the temple of God). This position is consistent with taking care of her body to the best of her abilities." *Letter from* [REDACTED]

The record also includes a letter from a fellow parishioner stating that the applicant is a devout and sincere Christian and works with the church's Health and Temperance Department, and a letter from friends stating that she is morally opposed to vaccination and believes that the body is the temple of God and that no unclean things should be put into the body. *See letter from* [REDACTED] dated April 4, 2009 and *letter from* [REDACTED] and [REDACTED] dated April 1, 2009. Additional letters from a member of the applicant's church and from a member of the Christian Family Homeschool Group submitted with the appeal also state that the applicant objects to the injection of foreign substances into the body and believes she has a moral obligation to protect herself and her family from the ill effects of vaccination, and she "strenuously follows the laws of heath as much as possible, and is convinced that using natural methods and products . . . is the right lifestyle." *See letters from* [REDACTED] and [REDACTED] dated October 29, 2009.

The evidence on the record establishes that the applicant is an active member of the Seventh Day Adventist Church, and that a main tenet of her religion is a belief that the body is the temple of God and that healthful living should be promoted and certain foods and substances should be avoided. The record further establishes that the applicant is actively involved through her church in promoting a healthy lifestyle, she follows a strictly vegan diet, and has stated that she is morally opposed to being injected with vaccines and other foreign substances, even though the SDA church does not have an official stand prohibiting vaccinations. She states that this belief is based on her study of the bible, including passages specifically prohibiting certain foods because they are unclean and more general passages related to treating the body as the temple of God as advocated by her church.

The AAO finds that the applicant has established that she is opposed to vaccinations in any form and that the objection is based on sincere religious beliefs or moral convictions. Accordingly, the appeal will be sustained.

ORDER: The appeal is sustained.