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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

H3

FILE: [REDACTED]

Office: BALTIMORE

Date: AUG 11 2009

IN RE: [REDACTED]

APPLICATION: Application for Waiver of of the Foreign Residence Requirement under Section 212(e)  
of the Immigration and Nationality Act; 8 U.S.C. § 1182

ON BEHALF OF APPLICANT:

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been forwarded to the Director, California Service Center, for review and adjudication. Any further inquiry must be made to that office.

A handwritten signature in black ink, appearing to read "John F. Grissom".

John F. Grissom  
Acting Chief, Administrative Appeals Office

**DISCUSSION:** The Form I-612, Application for Waiver of the Foreign Resident Requirement (Form I-612) was denied by the District Director, Baltimore, Maryland, and is now before the Administrative Appeals Office (AAO) on appeal. The decision of the district director will be withdrawn due to lack of jurisdiction. The matter will be remanded to the Director, California Service Center, to review and issue a new decision on the applicant's Form I-612 application.

The applicant is a native and citizen of Cote d'Ivoire who was admitted to the United States in J-1 nonimmigrant exchange status in February 2000. He is subject to the two-year foreign residence requirement under section 212(e) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(e) based on U.S. government financing. The applicant presently seeks a waiver of his two-year foreign residence requirement, based on the claim that his U.S. citizen spouse would suffer exceptional hardship if she moved to Cote d'Ivoire temporarily with the applicant and in the alternative, if she remained in the United States while the applicant fulfilled his two-year foreign residence requirement in Cote d'Ivoire.

The district director determined that the applicant failed to establish that a qualifying relative would experience exceptional hardship if the applicant fulfilled his two-year foreign residence requirement in Cote d'Ivoire. *District Director's Decision*, dated December 2, 2008. The application was denied accordingly.

Pursuant to the Form I-612 instructions, applicants residing in the United States must submit the Form I-612 application to the Service Center with jurisdiction over the applicant's place of residence. See *Instructions for I-612, Application for Waiver of the Foreign Residence Requirement*. Moreover, pursuant to a Memorandum of Understanding, all Form I-612 applications are now to be adjudicated by the USCIS California Service Center. *Memorandum of Understanding-I-612 Hardship/Persecution Waiver Transfer to California Service Center*, dated December 6, 2006.

The AAO thus concludes that the district director erred in adjudicating the applicant's Form I-612, due to lack of jurisdiction over Form I-612 applications. As such, the decision of the district director will be withdrawn and the matter remanded to the Director, California Service Center, to issue a new decision on the applicant's Form I-612.

**ORDER:** The decision of the district director is withdrawn due to lack of jurisdiction. The matter is remanded to the Director, California Service Center, to review and issue a new decision on the applicant's Form I-612 application. If that decision is adverse to the applicant, the director shall certify the decision to the AAO for review.