



U.S. Department of Justice  
Immigration and Naturalization Service

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OFFICE OF ADMINISTRATIVE APPEALS  
425 Eye Street N.W.  
ULLB, 3rd Floor  
Washington, D.C. 20536



FILE: [REDACTED] Office: California Service Center

Date: OCT 30 2000

IN RE: Applicant: [REDACTED]

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

IN BEHALF OF APPLICANT:



INSTRUCTIONS:

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

If you believe the law was inappropriately applied or the analysis used in reaching the decision was inconsistent with the information provided or with precedent decisions, you may file a motion to reconsider. Such a motion must state the reasons for reconsideration and be supported by any pertinent precedent decisions. Any motion to reconsider must be filed within 30 days of the decision that the motion seeks to reconsider, as required under 8 C.F.R. 103.5(a)(1)(i).

If you have new or additional information which you wish to have considered, you may file a motion to reopen. Such a motion must state the new facts to be proved at the reopened proceeding and be supported by affidavits or other documentary evidence. Any motion to reopen must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires may be excused in the discretion of the Service where it is demonstrated that the delay was reasonable and beyond the control of the applicant or petitioner. Id.

Any motion must be filed with the office which originally decided your case along with a fee of \$110 as required under 8 C.F.R. 103.7.

FOR THE ASSOCIATE COMMISSIONER,  
EXAMINATIONS

Terrance M. O'Reilly, Director  
Administrative Appeals Office

**Public Copy**  
Identifying data removed to prevent clearly unwarranted invasion of personal privacy

**DISCUSSION:** The application was denied by the Director, California Service Center, and is now before the Associate Commissioner for Examinations on appeal. The director's decision will be withdrawn and the matter will be remanded.

The applicant is a native and citizen of Egypt who is subject to the two-year foreign residence requirement of § 212(e) of the Immigration and Nationality Act (the Act), 8 U.S.C. 1182(e), because he participated in a program which was financed by a government agency. The applicant was admitted to the United States as a nonimmigrant exchange visitor in December 1989 with authorization to remain until March 10, 1990. The applicant married a native of Egypt and now naturalized U.S. citizen on December 16, 1989. He is now seeking the above waiver after alleging that his departure from the United States would impose exceptional hardship on his U.S. citizen spouse and children.

The director determined the record failed to establish that the qualifying relatives would suffer exceptional hardship and denied the application accordingly.

On appeal, counsel states that the Service did not state any reason whatsoever for its denial of the application, other than just stating the facts and the documents submitted. Counsel asserts that the decision mistakes counsel for the applicant.

It is noted that copy of the decision placed on top of the application is missing the final page. That missing final page is located elsewhere in the record but it is unclear whether the applicant received the final page.

Since it appears that the applicant failed to receive a complete copy of the director's decision and was unable to file an adequate appeal, the director's decision will be withdrawn. The matter will be remanded to the director for further action based on the foregoing determination and the entry of or the serving of a complete decision, which if adverse to the applicant shall be certified to the Associate Commissioner for review.

**ORDER:** The director's decision is withdrawn and the matter is remanded to her for further action based on the foregoing discussion and the entry of or the serving of a complete decision which, if adverse to the applicant, shall be certified to the Associate Commissioner for review.