



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

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

In Re: 23842378

Date: OCT. 31, 2023

Appeal of Nebraska Service Center Decision

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

The Applicant has been found inadmissible for alien smuggling and seeks a waiver of inadmissibility under section 212(d)(11) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(d)(11). U.S. Citizenship and Immigration Services (USCIS) may grant a discretionary waiver for this ground of inadmissibility to serve humanitarian purposes, to assure family unity, or when it is otherwise in the public interest, but only if the individual smuggled was at that time the foreign national's spouse, parent, son, or daughter.

The Director of the Nebraska Service Center denied the waiver application, noting the Applicant's inadmissibility for alien smuggling¹ and concluding that she was statutorily ineligible for a waiver because the individual she smuggled does not have a qualifying familial relationship with her.

On appeal, the Applicant submits a statement contending that she did not engage in alien smuggling because "she did not know the passenger in the car with her lacked authorization to enter the United States." She further contends that she is eligible for the benefit sought.

We adopt and affirm the Director's decision. *See Matter of Burbano*, 20 I&N Dec. 872, 874 (BIA 1994); *see also Giday v. INS*, 113 F.3d 230, 234 (D.C. Cir. 1997) (noting that the practice of adopting and affirming the decision below has been "universally accepted by every other circuit that has squarely confronted the issue"); *Chen v. INS*, 87 F.3d 5, 8 (1st Cir. 1996) (joining eight U.S. Courts of Appeals in holding that appellate adjudicators may adopt and affirm the decision below as long as they give "individualized consideration" to the case.").

Because the Applicant is residing abroad and applying for an immigrant visa, the U.S. Department of State makes the final determination concerning admissibility and eligibility for a visa. Here, a consular officer has determined that the Applicant knowingly assisted, abetted, or aided an individual to enter, or try to enter, the United States in violation of law. The consular officer therefore found that the Applicant was inadmissible to the United States under section 212(a)(6)(E)(i) of the Act for alien smuggling.

¹ The Director noted that the Applicant has also been found inadmissible for fraud or willful misrepresentation pursuant to section 212(a)(6)(C)(i) of the Act, and for being a drug abuser or addict pursuant to section 212(a)(1)(A)(iv) of the Act.

On appeal the Applicant has not established that she assisted an individual with a relationship listed in section 212(d)(11) of the Act to try to enter the United States, and she is statutorily ineligible to apply for a waiver of section 212(a)(6)(E)(i) inadmissibility for alien smuggling.²

ORDER: The appeal is dismissed.

² Because the Applicant is statutorily ineligible for a waiver of inadmissibility for alien smuggling as discussed above, we need not address the merits of the Applicant's contentions on appeal with respect to a waiver of inadmissibility for fraud or willful misrepresentation and for being a drug abuser or addict.