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U.S. Department of Homeland Security  
U. S. Citizenship and Immigration Services  
Office of Administrative Appeals MS 2090  
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U.S. Citizenship  
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FILE: [REDACTED] Office: CALIFORNIA SERVICE CENTER

Date: **SEP 21 2009**

IN RE: Applicant: [REDACTED]

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

ON BEHALF OF APPLICANT:



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.

John F. Grissom  
Acting Chief, Administrative Appeals Office

**DISCUSSION:** : The waiver application was denied by the Director, California Service Center, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed, the previous decision of the director will be withdrawn and the application declared moot.

The record establishes that the applicant, a native and citizen of Romania, was admitted to the United States in J1 nonimmigrant status on June 6, 1999 and 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 the Exchange Visitor Skills List. The applicant applied for a waiver of her two-year foreign residence requirement, based on the claim that her U.S. citizen spouse would suffer exceptional hardship if he moved to Romania temporarily with the applicant and in the alternative, if he remained in the United States while the applicant fulfilled her two-year foreign residence requirement in Romania.

The director determined that the applicant failed to establish that her U.S. citizen spouse would experience exceptional hardship if the applicant fulfilled her two-year foreign residence requirement in Romania. The director further noted that USCIS records indicated that the applicant was already granted a Form I-612, Application for Waiver of the Foreign Residence Requirement (Form I-612), approval on January 15, 2008 (under receipt number EAC-08-060-10293) and as such, the adjudication of the instant waiver would serve no useful purposes. The application was denied accordingly. *Director's Decision*, dated June 9, 2009.

In support of the appeal, counsel for the applicant submitted the Form I-290B, Notice of Appeal, dated July 6, 2009, and an attachment. Counsel further requested 30 days to submit a brief and/or additional evidence in support of the appeal. On August 10, 2009, the AAO received a second request for extension of time to submit a brief and/or additional evidence in support of the instant appeal.

As noted by the director, the record establishes that on January 15, 2008, the applicant was issued a Form I-797, Notice of Action (Form I-797), confirming approval of her Form I-612, based on a No Objection recommendation from the U.S. Department of State, dated November 28, 2007. Although the record does not contain a copy of the referenced Form I-797, the AAO notes that the USCIS electronic database confirms that the case number assigned to the No Objection recommendation from the U.S. Department of State and the Form I-612 approval match (EAC-08-060-10293), and correspond to the receipt number referenced in the director's decision.<sup>1</sup>

As such, based on the record, it has been established that the applicant's two-year home residency requirement has been waived. Thus, no purpose would be served in discussing whether she has established exceptional hardship to a qualifying relative under section 212(e) of the Act.

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<sup>1</sup> Counsel notes that neither the applicant and/or counsel received the Form I-797, confirming the Form I-612 approval referenced by the director. Pursuant to the USCIS website ([www.uscis.gov](http://www.uscis.gov)), the Form I-797 confirming the Form I-612 approval was returned to the USCIS on January 30, 2008 as undeliverable. To obtain a duplicate approval notice, the Form I-824, Application for Action on an Approved Application or Petition, should be submitted. See [www.uscis.gov](http://www.uscis.gov) for further information and instructions.

Accordingly, the appeal will be dismissed, the prior decision of the director is withdrawn and the instant application for a waiver of the two-year foreign residency requirement is declared moot.

**ORDER:** The appeal is dismissed, the prior decision of the director is withdrawn and the instant application for a waiver of the two-year foreign residency requirement is declared moot.