MATTER OF HERSH

In Section 212(e) Proceedings

A-13246787

Decided by District Director March 30, 1965

An exchange visitor is granted a waiver of the two-year-foreign-residence requirement of section 212(e), Immigration and Nationality Act, as amended, since compliance therewith would result in exceptional hardship to her United States citizen husband, a second-year medical student, who is dependent upon her income for living expenses; who faculty members of 3 different colleges agree is a brilliant student with great promise in his chosen field and a separation from his wife at this time would adversely affect the course of his studies; whose career would be set back if he were to either interrupt his education here or attempt to continue his studies in France in order to accompany his wife; and whose departure for two years would only serve to aggravate his estrangement from his parents.

The applicant is a 25-year-old native and citizen of France. She resided in that country prior to her admission to the United States, on August 5, 1960, as an exchange visitor. The applicant participated in Exchange Visitor Programs G-I-1, under the sponsorship of the International Educational Exchange Service of the Department of State, Washington, D.C., from September 1960 to August 1961, and P-I-157, under the sponsorship of the University of Massachusetts, Amherst, Massachusetts, for the academic years 1961-1962, and 1962-1963, at the University's Department of Romance Languages as a graduate student and instructor of French. During this time the applicant left the United States for a number of brief vacations abroad. Since September 1963, she has been employed as an instructor of French at the Dalton School, New York, New York.

Evidence has been presented establishing the applicant's marriage to Mr. Stephen P. Hersh, a citizen of the United States, on August 2, 1962, in Paris, France.

Mr. Hersh is a second year medical student at the New York University School of Medicine, New York, New York. Faculty members of New York University, Harvard Medical School, and Amherst

College agree that Mr. Hersh is a brilliant student with great promise in his chosen field. They also state that a separation from his wife at this time would adversely affect the course of his studies. Mr. Hersh's career would be set back if he were to either interrupt his education or attempt to continue his studies in France, so that he might accompany his wife to that country.

Mrs. Hersh, moreover, states that her husband is not employed and is dependent upon her income for living expenses. Mr. Hersh also revealed and he is estranged from his parents. His departure for two years would only serve to aggravate this situation.

In view of the foregoing, it has been determined that the applicant's compliance with the foreign residence requirement would impose exceptional hardship upon her United States citizen spouse. The Department of State has reviewed this matter and recommends that the waiver be granted.

ORDER: It is ordered that the application of Mrs. Claudine A. Hersh for a waiver of the two-year foreign residence requirement of section 212(e) of the Immigration and Nationality Act, as amended, be and the same is hereby granted.