

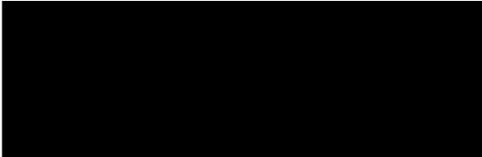
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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Office of Administrative Appeals MS 2090
Washington, DC 20529-2090



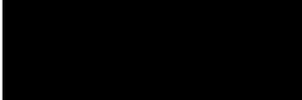
U.S. Citizenship
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FILE:



Office: MIAMI (WEST PALM BEACH)

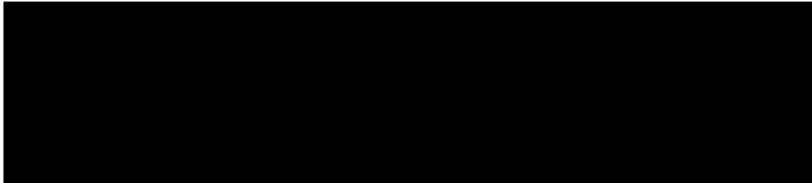
Date: FEB 23 2010

IN RE:



APPLICATION: Application for Waiver of Grounds of Inadmissibility under Section 212(g) of the Immigration and Nationality Act (INA), 8 U.S.C. § 1182(g)

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.

If you believe the law was inappropriately applied or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. Please refer to 8 C.F.R. § 103.5 for the specific requirements. All motions must be submitted to the office that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion, with a fee of \$585. Any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen, as required by 8 C.F.R. § 103.5(a)(1)(i).

Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The waiver application was denied by the District Director, Miami, Florida. The matter is now before the Administrative Appeals Office (AAO) on appeal. The decision of the district director will be withdrawn as the applicant is not inadmissible, the waiver application will be declared moot, and the appeal will be dismissed.

The record reflects that the applicant is a native and citizen of Colombia and the beneficiary of an approved Petition for Special Immigrant (Form I-360). The district director found the applicant inadmissible to the United States pursuant to section 212(a)(1)(A)(i) of the Immigration and Nationality Act (INA, the Act), 8 U.S.C. § 1182(a)(1)(A)(i), as an alien determined to have a communicable disease of public health significance, to wit: human immunodeficiency virus (HIV). The applicant filed an application for a waiver of inadmissibility in order to reside in the United States.

The district director found that the applicant had failed to establish eligibility for waiver in that he failed to show the requisite relationship to a U.S. citizen or LPR as required in the statute authorizing waiver. The district director therefore denied the application.

Section 212(a)(1)(A)(i) of the Act provides:

[Any alien] who is determined (in accordance with regulations prescribed by the Secretary of Health and Human Services) to have a communicable disease of public health significance, which shall include infection with the etiologic agent for acquired immune deficiency syndrome [is inadmissible].

The AAO notes that on January 4, 2010, the Centers for Disease Control and Prevention (CDC), within the U.S. Department of Health and Human Services (HHS), amended its regulations to remove HIV infection from the definition of communicable disease of public health significance. Therefore, the AAO finds that the applicant is no longer inadmissible into the United States based solely on the ground that he is infected with HIV. As such, the issue of whether the applicant has established eligibility for a waiver under section 212(g)(1) of the Act is moot and need not be addressed.

ORDER: The decision of the district director is withdrawn as the applicant is not inadmissible, the waiver application is declared moot, and the appeal is dismissed. The matter is returned to the district director for continued processing.