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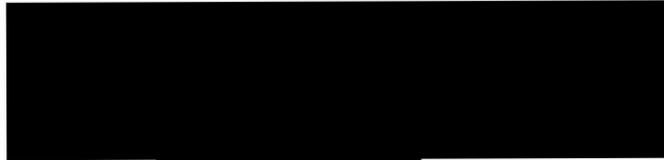
U.S. Department of Homeland Security
U. S. Citizenship and Immigration Services
Office of Administrative Appeals MS 2090
Washington, DC 20529-2090



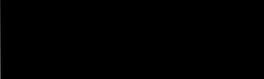
U.S. Citizenship
and Immigration
Services

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FILE:



Office: MEXICO CITY (PANAMA CITY)

Date: **JAN 20 2010**

IN RE:



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

ON BEHALF OF PETITIONER:

SELF-REPRESENTED

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.

A handwritten signature in black ink that reads "Perry Rhew".

Perry Rhew
Chief, Administrative Appeals Office

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 The appeal will be dismissed, the previous decision of the district director will be withdrawn and the application declared moot.

The applicant is a native and citizen of Ecuador who was found to be inadmissible to the United States under section 212(a)(1)(A)(i) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(a)(1)(A)(i), as an alien who is determined to have a communicable disease of public health significance, namely HIV infection. The applicant does not contest this finding. He thus seeks a waiver of the bar of admission provided under section 212(g) in order to reside in the United States with his lawful permanent resident mother and U.S. citizen step-father.

The district director denied the Application for Waiver of Grounds of Excludability (Form I-601) after determining that although the requisite family relationship existed, the applicant had failed to establish that no cost would be incurred by any government agency with respect to his medical condition. *Decision of the District Director*, dated June 29, 2007.

Section 212(a)(1)(A)(i) of the Act provides that 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 is inadmissible. Upon meeting certain conditions, inadmissibility under section 212(a)(1)(A)(i) may be waived.

Effective January 4, 2010, HIV is no longer defined as a communicable disease of public health significance and as such, an individual infected with HIV is no longer inadmissible to the United States under section 212(a)(1)(A)(i) of the Act. *See Public Law 110-293, 42 CFR 34.2(b), and Inadmissibility Due to Human Immunodeficiency Virus (HIV) Infection, Revision to Adjudicator's Field Manual (AFM) Chapters 24.2, 40.1, 41.3, and Appendix 41-1, 41-2, and 41-3 (AD 10-03)*, dated November 24, 2009.

Accordingly, as the ground of inadmissibility set forth in the district director's decision is no longer applicable in the instant case, the AAO concludes that the applicant is not inadmissible under the Act.¹ The applicant's appeal will be dismissed, the prior decision of the district director is withdrawn and the application for a waiver of inadmissibility will be declared moot.

ORDER: The appeal is dismissed, the prior decision of the district director is withdrawn and the application for a waiver of inadmissibility is declared moot.

¹ Admissibility is determined based on the law in effect at the time of the final decision. *Matter of Alarcon*, 20 I&N Dec. 557 (BIA 1992).