

U.S. Department of Homeland Security

Citizenship and Immigration Services

PUBLIC COPY

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ADMINISTRATIVE APPEALS OFFICE  
CIS, AAO, 20 Mass, 3/F  
425 Eye Street N.W.  
Washington, D.C. 20536

[Redacted]

FILE [Redacted]

Office: PHOENIX, AZ

Date:

DEC 18 2003

IN RE: Applicant: [Redacted]

APPLICATION:

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

ON BEHALF OF APPLICANT:

[Redacted]

identifying data deleted to prevent disclosure of unclassified information

INSTRUCTIONS:

This is the decision 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 the analysis used in reaching the decision was inconsistent with the information provided or with precedent decisions, you may file a motion to reconsider. Such a motion must state the reasons for reconsideration and be supported by any pertinent precedent decisions. Any motion to reconsider must be filed within 30 days of the decision that the motion seeks to reconsider, as required under 8 C.F.R. § 103.5(a)(1)(i).

If you have new or additional information that you wish to have considered, you may file a motion to reopen. Such a motion must state the new facts to be proved at the reopened proceeding and be supported by affidavits or other documentary evidence. Any motion to reopen must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires may be excused in the discretion of Citizenship and Immigration Services (CIS) where it is demonstrated that the delay was reasonable and beyond the control of the applicant or petitioner. *Id.*

Any motion must be filed with the office that originally decided your case along with a fee of \$110 as required under 8 C.F.R. § 103.7.

Robert P. Wiemann, Director  
Administrative Appeals Office

**DISCUSSION:** The waiver application was denied by the District Director, Phoenix, Arizona, and is now before the Administrative Appeals Office (AAO) on appeal. The application will be deemed unnecessary and all action on it will be terminated.

The applicant is a native and citizen of Mexico who was found to be inadmissible to the United States under section 212(a)(6)(C)(i) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(a)(6)(C)(i), for attempting to procure admission to the United States by fraud or willful misrepresentation on November 18, 1994. The applicant was prosecuted, pleaded guilty to Possession of False Documents, served 20 days in jail and was voluntarily returned to Mexico. The applicant married a U.S. citizen on July 20, 1996. The applicant seeks a waiver of inadmissibility pursuant to section 212(i) of the Act, 8 U.S.C. § 1182(i), in order to remain in the United States with his wife and children.

The district director concluded that the applicant had failed to establish that extreme hardship would be imposed on a qualifying relative and denied the application accordingly.

On appeal, counsel asserts that the Immigration and Naturalization Service [now Citizenship and Immigration Service] failed to correctly assess the emotional, financial and psychological damage to the applicant's wife and children.

Section 212(a)(6)(C) of the Act provides, in pertinent part, that:

(i) Any alien who, by fraud or willfully misrepresenting a material fact, seeks to procure (or has sought to procure or has procured) a visa, other documentation, or admission into the United States or other benefit provided under this Act is inadmissible.

Section 212(i) of the Act provides that:

(1) The Attorney General [now the Secretary of Homeland Security (Secretary)] may, in the discretion of the Attorney General [Secretary], waive the application of clause (i) of subsection (a)(6)(C) in the case of an alien who is the spouse, son or daughter of a United States citizen or of an alien lawfully admitted for permanent residence, if it is established to the satisfaction of the Attorney General [Secretary] that the refusal

of admission to the United States of such immigrant alien would result in extreme hardship to the citizen or lawfully resident spouse or parent of such an alien.

A section 212(i) waiver of the bar to admission resulting from section 212(a)(6)(C) of the Act is dependent first upon a showing that the bar imposes an extreme hardship to the citizen or lawfully resident spouse or parent.

The record contains a letter from America Felix, the applicant's wife, dated October 15, 2003, stating that she wishes to immediately withdraw the Petition for Alien Relative (Form I-130) and Application to Register Permanent Residence or Adjust Status (Form I-485) that she had previously filed on behalf of the applicant. Without a petition on his behalf, the applicant has no basis under which to file the Form I-485 and the Application for Waiver of Ground of Inadmissibility (Form I-601) that is the subject of this appeal is rendered moot. Therefore, the application will be deemed unnecessary and all action on it will be terminated.

**ORDER:** The application is deemed unnecessary and all action on it is terminated.