



HA

U.S. Department of Justice

Immigration and Naturalization Service

identifying data deleted to prevent clearly unwarranted invasion of personal privacy



OFFICE OF ADMINISTRATIVE APPEALS
425 Eye Street N.W.
ULLB, 3rd Floor
Washington, D.C. 20536

FEB 12 2003

FILE [Redacted]

Office: Spokane (SEA)

Date:

IN RE: Applicant:



APPLICATION:

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

IN BEHALF OF APPLICANT:



PUBLIC COPY

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 the Service 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.

FOR THE ASSOCIATE COMMISSIONER,
EXAMINATIONS

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The application was denied by the District Director, Seattle, Washington, and is before the Associate Commissioner for Examinations on appeal. The appeal will be summarily dismissed.

The applicant is a native and citizen of Mexico who was present in the United States without a lawful admission or parole in December 1988. She 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 having attempted to procure a visa by fraud or willful misrepresentation in August 1999. The applicant is the beneficiary of a Petition for Alien Relative filed by her lawful permanent resident mother. The applicant seeks the above waiver under section 212(i) of the Act, 8 U.S.C. § 1182(i).

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. Further, he noted that the applicant's Form I-485, Application to Register Permanent Residence or Adjust Status, was denied because an immigrant visa was not immediately available at the time of filing and therefore, lacking Form I-485, there was no basis for granting a waiver.

On appeal, counsel states that the district director abused his discretion in denying the waiver application. Counsel indicates that the applicant does not have copies of the documents submitted and, therefore, a FOIA request is being made. Counsel states that she needs 120 days in which to receive the requested documentation and prepare a brief in support of the appeal.

More than 120 days have elapsed since the appeal was filed on May 20, 2002 and no brief or new evidence has been provided. Since the district director's decision is unrebutted on appeal, the appeal will be summarily dismissed pursuant to 8 C.F.R. § 103.3(v). This decision is without prejudice to the filing of a new petition supported by the appropriate documentation.

ORDER: The appeal is summarily dismissed.