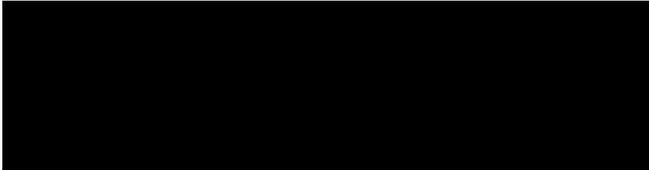




U.S. Citizenship
and Immigration
Services

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prevent clearly unwarranted
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FILE:



Office: LOS ANGELES

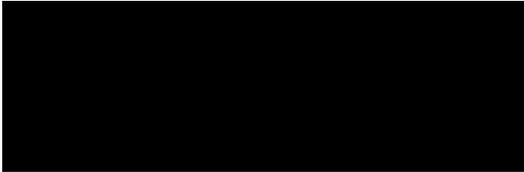
Date: **OCT 20 2005**

IN RE:



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

ON BEHALF OF PETITIONER:



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, appearing to read "Robert P. Wiemann".

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The District Director, Los Angeles denied the waiver application. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The applicant is a native and citizen of Mexico who was found to be inadmissible to the United States under section 212(a)(2)(A)(i)(I) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(a)(2)(A)(i)(I), for having been convicted of crimes involving moral turpitude. The record reflects that on November 27, 2002, the district director denied the applicant's request for a waiver of inadmissibility. The applicant sought the waiver on the basis of being the spouse and father of United States citizens, and having a lawful permanent resident mother and step-father. The applicant filed an Application for Adjustment of Status (Form I-485) on September 15, 1997.¹ The applicant seeks a waiver of inadmissibility in order to remain in the United States with his family pursuant to section 212(a)(2)(A)(i)(I) of the Act, 8 U.S.C. § 1182(a)(2)(A)(i)(I). The district director denied the applicant's waiver application, after finding that the applicant had not demonstrated extreme hardship to his qualifying relatives.

A brief review of the procedural history in the case is important to the AAO's analysis of the appeal. The record reflects that the applicant entered the United States without inspection in July of 1990. He married his United States citizen spouse on June 5, 1997, in Los Angeles, California. The spouse filed a Petition for Alien Relative on the applicant's behalf on September 15, 1997.² The applicant simultaneously filed the I-485. The applicant was requested to submit additional information subsequent to his interview held on March 10, 2000. The record reflects that when the requested information was not submitted, the district director denied the application. *Decision of the District Director*, dated January 18, 2001. On or about December 19, 2001, the applicant filed a motion to reopen the denial of the Form I-485, stating that he had submitted the requested information to the INS, but had not received a response until he received the denial of the I-485. The applicant's motion to reopen was granted on January 13, 2002, and subsequently, on November 6, 2002, the applicant filed the I-601 waiver application. The district director denied the application on November 27, 2002, finding that the applicant and his spouse had divorced, and that the applicant had failed to show that denial of the waiver would result in extreme hardship to a qualifying relative. *Decision of the District Director*, dated November 27, 2002. No appeal was received from this decision. Subsequently, on September 10, 2003, the district director again denied the application for adjustment of status. *See Decision of the District Director*, dated September 10, 2003.

The applicant, with the assistance of counsel, filed an appeal from the district director's decision. The record reflects that the appeal was supported by a brief statement on the Notice of Appeal (Form I-290B), and a letter from counsel. The statement on the Form I-290B states simply that due to "mailing problems" he didn't receive "the document" and consequently would like the appeal to be considered. *Notice of Appeal*, filed March 1, 2004. The letter elaborates further, explaining that when the applicant went to the offices of the former Immigration and Naturalization Service (INS) for his final appointment, the INS requested additional documents. Counsel states that the application was denied after the applicant failed to submit the requested documents, but that the applicant's failure to respond to the request was not intentional, but was due to a mailing error. Counsel does not elaborate further, but requests that the denial of the waiver be reconsidered. *Letter from Counsel in Support of the Appeal*, dated February 12, 2004. The Form I-290B indicated that a

¹ The applicant is the beneficiary of a Petition for Alien Relative (Form I-130) filed by the United States citizen spouse.

² While not entirely clear from the record, it does not appear that the I-130 was ever approved. Instead, it appears that the processing of the application was terminated on September 10, 2003, upon learning that the applicant and his spouse had divorced.

brief and/or additional evidence would be submitted within thirty days, yet no brief or evidence has been received by the AAO.

Examining the submissions on appeal, the AAO is unable to detect any issue raised by counsel with respect to the district director's denial of the waiver. Instead, counsel's assertions are directed at the district director's decision denying the adjustment of status application based upon the applicant's failure to submit the requested information. However, as described in the procedural history of the case, that issue was previously addressed through the district director's decision granting the applicant's motion to reopen the January 18, 2001 denial. Thus, the issues raised by counsel are moot and not relevant to the issue of whether the decision denying the I-601 waiver was supportable. Counsel has provided no reason to disturb the district director's findings.³

8 C.F.R. § 103.3(a)(v) states in pertinent part:

(v) Summary dismissal. An officer to whom an appeal is taken shall summarily dismiss any appeal when the party concerned fails to identify specifically any erroneous conclusion of law or statement of fact for the appeal.

The applicant has not articulated any specific errors of law or fact made by the director, and appears not to take issue with the waiver decision, but seeks to address issues previously resolved through the motion to reopen. This is an insufficient basis for an appeal of the director's decision.

ORDER: The appeal is summarily dismissed.

³ The AAO notes further that as the district director issued the denial of the waiver application in 2002, the time for an appeal from that decision has long since expired. However, the AAO notes that counsel has noted in the I-290B that there was no date shown in the decision. As the record contains both a dated and undated copy of the I-601 denial, the AAO will give the applicant the benefit of the doubt and accept the notice of appeal.