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U.S. Department of Homeland Security
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U.S. Citizenship
and Immigration
Services

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H2

FILE:



Office: LOS ANGELES

Date:

JUL 26 2006

IN RE:



APPLICATION: 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 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.

A handwritten signature in black ink, appearing to read "Robert P. Wiemann".

Robert P. Wiemann, Chief
Administrative Appeals Office

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

8 C.F.R. § 103.2(b)(13) provides that if all requested initial evidence is not submitted by the required date, the application or petition shall be considered abandoned and, accordingly, shall be denied. 8 C.F.R. § 103.2(b)(15) provides that a denial due to abandonment may not be appealed, but an applicant may file a motion to reopen under 8 C.F.R. § 103.5.

The record indicates that the applicant failed to provide a full response to the district director's request for further evidence. Accordingly, the district director denied the application due to abandonment. *See District Director's Decision*, dated January 21, 2005.

The official having jurisdiction over a motion to reopen is the official who made the last decision in the proceeding, in this case the district director, Los Angeles, California. *See* 8 C.F.R. § 103.5(a)(1)(ii). The district director declined to treat the appeal as a motion and forwarded the matter to the AAO.

As the district director declined to treat the applicant's appeal as a motion to reopen and a denial due to abandonment may not be appealed to the AAO, the appeal must be rejected.

ORDER: The appeal is rejected.