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U.S. Citizenship  
and Immigration  
Services

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FILE:

Office: CHICAGO, IL

Date: MAY 01 2007

IN RE:

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:

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 waiver application was denied by the District Director, Chicago, Illinois, and 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)(9)(C)(i)(II) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(a)(9)(C)(i)(II), for having been removed from the United States and re-entering without admission. The applicant was also found inadmissible under Section 204(c) of the Act for entering into a marriage for the purpose of evading immigration laws. The applicant is married to a lawful permanent resident and has three U.S. citizen children. He seeks a waiver of inadmissibility pursuant to section 212(i) of the Act, 8 U.S.C. § 1182(i).

The district director concluded that the applicant was inadmissible to the United States under section 212(a)(9)(C)(i)(II) of the Act for having been removed from the United States and re-entering without admission. He also concluded that the applicant was inadmissible under Section 204(c) of the Act for entering into a marriage for the purpose of evading immigration laws in 1983. The district director found that based on these grounds of inadmissibility, the applicant is not eligible for a waiver of inadmissibility. The application was denied accordingly. *Decision of the District Director*, dated April 26, 2005.

On appeal, the applicant states that the district director was incorrect in denying his waiver application because his waiver application was not frivolously filed and the waiver was available to him when his alleged reentry occurred in 1996. *Form I-290B*, dated May 25, 2005.

The record indicates that the applicant's son filed a Petition of an Alien Relative, Form I-130 for the applicant on November 18, 1996. This petition was approved on December 17, 2002. On October 21, 2005, the district director revoked this Form I-130 approval because of a previously submitted Form I-130 based on a fraudulent marriage. *District Director's Decision*, dated October 21, 2005.

Section 204(c) of the Act states:

...no petition shall be approved if (1) the alien has previously been accorded, or has sought to be accorded, an immediate relative or preference status as the spouse of a citizen of the United States or the spouse of an alien lawfully admitted for permanent residence, by reason of a marriage determined by the Attorney General to have been entered into for the purpose of evading the immigration laws...

As stated above, the Citizenship and Immigration Service (CIS) determined that the applicant entered into a marriage in 1983 for the purpose of evading immigration laws. There is no waiver available for this ground of inadmissibility. Therefore, his waiver application must be denied.

In proceedings for application for waiver of grounds of inadmissibility under section 212(i) of the Act, the burden of proving eligibility remains entirely with the applicant. *See* section 291 of the Act, 8 U.S.C. § 1361. Here, the applicant has not met that burden.

**ORDER:** The appeal is dismissed. The application is denied.