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

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[REDACTED]

FILE:

[REDACTED]

Office: LOS ANGELES (SANTA ANA) CA

Date APR 15 2008

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]

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.

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The waiver application was denied by the District Director, Los Angeles, California, and is now before the Administrative Appeals Office (AAO) on appeal. The District Director's decision will be withdrawn and the matter remanded for entry of a new decision.

The applicant is a native and citizen of Mexico who was found to be inadmissible to the United States pursuant to section 212(a)(6)(C)(i) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(a)(6)(C)(i), for seeking admission into the United States by fraud or willful misrepresentation. The applicant sought a waiver of inadmissibility pursuant to section 212(i) of the Act, 8 U.S.C. § 1182(i), which the District Director denied, finding the record did not contain an underlying Form I-485 Application for Adjustment of Status (Form I-485) on which to base the adjudication of the waiver application. *Decision of the District Director*, dated December 14, 2005. The applicant submitted a timely appeal.

On appeal, counsel contends that the District Director erred in concluding that there was no underlying Form I-485 in the record. Counsel states that the Form I-485 was received by the Chicago Lockbox on October 26, 2005 along with the I-601 waiver application and supporting documents.

The AAO finds that the record contains the applicant's unadjudicated Form I-485 which was received by CIS on October 26, 2005, the same date as the Form I-601 waiver application. Thus, the District Director was incorrect in finding that the record failed to contain the underlying Form I-485 upon which the waiver was based. The applicant is, therefore, entitled to a full adjudication of her waiver application once her Form I-485 has been properly adjudicated.

ORDER: The waiver application is remanded to the District Director for entry of a new decision.