



U.S. Citizenship
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FILE:

Office: LOS ANGELES, CA

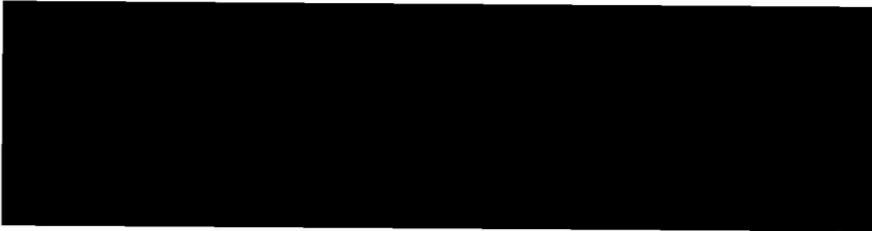
Date: JUL 15 2008

IN RE: Applicant:



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.

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The waiver application was denied by the Field Office Director, Los Angeles, California, and the matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be summarily dismissed.

The applicant, a native and citizen of Honduras, was found 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 a crime involving moral turpitude. The applicant sought a waiver of inadmissibility pursuant to section 212(h) of the Act, 8 U.S.C. § 1182(h), in order to remain in the United States with his lawful permanent resident spouse.

The field office director concluded that the applicant had failed to establish that extreme hardship would be imposed on any qualifying relative and denied the Form I-601, Application for Waiver of Grounds of Inadmissibility (Form I-601). *Decision of the Field Office Director*, dated October 3, 2007.

The record indicates that counsel filed an appeal on November 1, 2007. On the Form I-290B, Notice of Appeal or Motion (Form I-290B), counsel requested "...that due date for the appellate brief be continued to 30 days after receipt of the Record of Proceedings..." See *Form I-290B*. On November 30, 2007, counsel wrote a letter requesting "...the Record of Proceedings and an additional 30 days upon receipt of the Record to file Appellant's opening brief..." See *Letter from [REDACTED]*, dated November 30, 2007. On January 2, 2008, counsel again sent a written request for an extension to submit the brief 30 days from the receipt of the Record of Proceedings. See *Letter from [REDACTED]*, dated January 2, 2008. The AAO notes that it has no obligation to withhold adjudication of an appeal pursuant to a request for a copy of the record. In addition, there is no indication that counsel has filed a request for a copy of the record through the Freedom of Information Act (FOIA).¹ As such, the record is deemed to be complete.

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. 8 C.F.R. § 103.3(a)(1)(v).

The applicant has failed to specifically identify any erroneous conclusion of law or statement of fact for the appeal. As no additional evidence is presented on appeal to overcome the decision of the field office director, the appeal will be summarily dismissed in accordance with 8 C.F.R. § 103.3(a)(1)(v).

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

ORDER: The appeal is summarily dismissed.

¹ The AAO notes that counsel has represented the applicant since the filing of Form I-485, Application to Register Permanent Residence or Adjust Status (Form I-485) in March 2005. As such, it is unclear why counsel is requesting a record of proceedings and moreover, why an extension to file a brief is requested, as counsel has been involved with the case for over three years and should presumably have copies of his client's filings.