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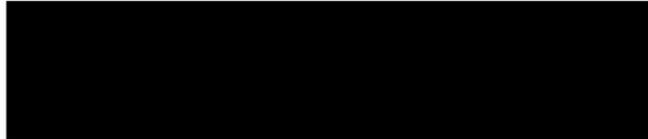
U.S. Department of Homeland Security
20 Massachusetts Avenue NW, Rm. 3000
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U.S. Citizenship
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FILE: [REDACTED] Office: CALIFORNIA SERVICE CENTER Date: NOV 05 2008

IN RE: Applicant: [REDACTED]

APPLICATION: Application for Waiver of the Foreign Residence Requirement under Section 212(e) of the Immigration and Nationality Act; 8 U.S.C. § 1182(e).

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 Director, California Service Center, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed as the underlying application for a waiver of the two-year foreign residency requirement is declared moot.

The applicant is a native and citizen of the Philippines. The record establishes that she was admitted to the United States in J-2 nonimmigrant status in 1991, as the derivative spouse of [REDACTED] (who she divorced in April 1997), a J-1 visa holder, and is subject to the two-year foreign residence requirement under section 212(e) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(e) due to U.S. government financing. The applicant presently seeks a waiver of her two-year foreign residence requirement, based on the claim that her U.S. citizen spouse and children, born in 1993 and 2001, would suffer exceptional hardship if they moved to the Philippines temporarily with the applicant and in the alternative, if they remained in the United States while the applicant fulfilled her two-year foreign residence requirement in the Philippines.

The director determined that the applicant failed to establish that her U.S. citizen spouse and/or children would experience exceptional hardship if the applicant fulfilled her two-year foreign residence requirement in the Philippines. *Director's Decision*, dated March 1, 2007. The application was denied accordingly.

In support of the appeal, counsel for the applicant submitted a brief, dated April 28, 2007, and referenced exhibits.

Subsequent to the above-referenced appeal filing, the record establishes that on or around December 5, 2007, the applicant received an approval of her Application to Waive Foreign Residence Requirement (Form I-612), based on a No Objection recommendation from the U.S. Department of State, dated August 29, 2007. As such, based on the record, it has been established that the applicant's two-year foreign residency requirement has been waived. Therefore, the instant appeal is moot. Thus, no purpose would be served in discussing whether she had established extreme hardship to a qualifying relative under section 212(e) of the Act. Accordingly, the appeal will be dismissed, the prior decision of the director is withdrawn and the instant application for a waiver of the two-year foreign residency requirement is declared moot. In addition, it is noted that the applicant was granted adjustment of status by an immigration judge on February 22, 2008.

ORDER: The appeal is dismissed, the prior decision of the director is withdrawn and the instant application for a waiver of the two-year foreign residency requirement is declared moot.