



U.S. Citizenship
and Immigration
Services

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FILE:



Office: PHOENIX, AZ

Date: MAR 14 2007

IN RE:



APPLICATION: Application for Waiver of Grounds of Inadmissibility under Section 212(a)(9)(C) of
the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(a)(9)(C)

ON BEHALF OF APPLICANT:

SELF-REPRESENTED

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 District Director, Phoenix, Arizona denied the waiver application. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed and the application declared moot.

The applicant, [REDACTED] is a native and citizen of Mexico who was found to be inadmissible to the United States pursuant to section 212(a)(9)(C)(i)(I) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(a)(9)(C)(i)(I), as an alien unlawfully present after a previous immigration violation who had been unlawfully present in the United States for an aggregate period of more than one year. He has filed a waiver of inadmissibility in order to remain in the United States and reside with his U.S. citizen (USC) wife, [REDACTED] and their USC child.

The district director found that the applicant was inadmissible based on his being unlawfully present in the United States for an aggregate period of more than one year, departing in May 1998, then reentering without inspection one month later. The district director further found that the applicant improperly filed the Application for Waiver of Grounds of Inadmissibility (Form I-601) rather than on the Application for Permission to Reapply for Admission into the United States after Deportation or Removal (Form I-212). *Decision of the district director*, dated October 19, 2004.

On appeal, the applicant asserts that he did not depart the United States in May 1998.

An alien who is inadmissible under section 212(a)(9)(C)(i) of the Act may not apply for consent to reapply unless the alien is “seeking admission more than ten years after the date of the alien’s last departure. . .” See Section 212(a)(9)(C)(ii) of the Act, 8 U.S.C. section 1182(a)(9)(C)(ii).

The record reflects that [REDACTED] entered the United States without inspection in 1986 and remained in the United States in unlawful status until his departure on an unknown date, on or before November 14, 1997. [REDACTED] a married a USC on March 19, 2001. On April 28, 2001, he filed an application for adjustment of status to lawful permanent resident (Form I-485) based on an approved family visa petition (Form I-130) as the spouse of a USC.

The district director denied the application for adjustment of status based on the applicant’s inadmissibility under section 212(a)(9)(C)(i) of the Act. As noted by the district director, [REDACTED] was required to file a Form I-212, Application for Permission to Reapply for Admission into the United States after Deportation or Removal.

The applicant did not, however, file Form I-212. Instead, he submitted an Application for a Waiver of Grounds of Inadmissibility, Form I-601. As [REDACTED] has failed to file the correct form, the appeal will be dismissed. The Form I-601 application will be declared moot.

ORDER: The appeal is dismissed and the application for waiver of inadmissibility is declared moot.