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U.S. Department of Homeland Security  
20 Mass. Ave., N.W., Rm. 3000  
Washington, DC 20529-2090



U.S. Citizenship  
and Immigration  
Services

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[REDACTED]

FILE:

[REDACTED]

Office: DENVER

Date: NOV 12 2008

MSC 06 098 12503

IN RE:

Applicant:

[REDACTED]

APPLICATION:

Application for Waiver of Inadmissibility pursuant to Section 245A of the  
Immigration and Nationality Act, as amended, 8 U.S.C. § 1255a

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 Los Angeles office that originally decided your case legalization application.

A handwritten signature in black ink, appearing to read "Robert P. Wiemann".

Robert P. Wiemann, Chief  
Administrative Appeals Office

**DISCUSSION:** The Application for Waiver of Inadmissibility was denied by the Director, Los Angeles, California, and is now before the Administrative Appeals Office (AAO) on appeal. The director's decision will be withdrawn and the appeal will be rejected.

On January 6, 2006, the applicant submitted Form I-690, Application for Waiver of Grounds of Excludability. The director denied the waiver on September 14, 2006. It appears the applicant in this matter believed it necessary to file a waiver for the time of her illegal presence during the requisite period. This is not the case. The director should have rejected the application for waiver as noted below.

The director determined that the applicant is inadmissible under section 212(a)(9)(B)(i)(II) of the Act, 8 U.S.C. § 1182(a)(9)(B)(i)(II), as an alien who has been unlawfully present in the United States for one year or more, and who again seeks admission within ten (10) years of the date of such alien's departure or removal from the United States. The director's determination of the applicant's inadmissibility under section 212(a)(9)(B)(i)(II) of the Act is in error and shall be withdrawn. Citizenship and Immigration Services (CIS) has designated applicants for temporary resident status under section 245A of the Act to be in a period of authorized stay pending the final adjudication of their application. This period of authorized stay is applicable to applications for temporary resident status under section 245A of the Act that are pending appeal before the AAO. Therefore, the applicant is not subject to this ground of inadmissibility.

**ORDER:** The director's September 14, 2006 decision on the Application for Waiver of Inadmissibility is withdrawn. The appeal is rejected as unnecessary.