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U.S. Department of Homeland Security
20 Mass, Rm. A3042, 425 I Street, N.W.
Washington, DC 20529

U.S. Citizenship and Immigration Services

[redacted]

FILE: [redacted] Office: LOS ANGELES, CA Date: SEP 10 2004

IN RE: [redacted]

APPLICATION: Application for Waiver of Grounds of Inadmissibility under Section 212(d)(11) of the Immigration and Nationality Act, 8 U.S.C. § 1182(d)(11)

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, Director
Administrative Appeals Office

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

The applicant is a native and citizen of Mexico who was found inadmissible to the United States under section 212(a)(6)(E)(i) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(a)(6)(E)(i), for having knowingly encouraged, induced, assisted, abetted or aided another alien to enter or to try to enter the United States in violation of law. The applicant is the spouse of a naturalized citizen of the United States and the father of a United States citizen and two lawful permanent residents of the United States. The applicant seeks a waiver of inadmissibility pursuant to section 212(d)(11) of the Act, 8 U.S.C. § 1182(d)(11), in order to remain in the United States with his spouse and children.

The interim district director concluded that the applicant had failed to establish that he was eligible for a waiver and denied the Application for Waiver of Grounds of Excludability (Form I-601) accordingly. *Decision of the Interim District Director*, dated September 4, 2003.

On appeal, the applicant states that he has demonstrated that he is an exemplary citizen, husband, father and grandfather for more than 24 years. The applicant indicates that his spouse depends on him for care. The applicant requests a pardon for his actions. *Form I-290B*, dated September 10, 2003.

The record reflects that on July 29, 1979, the applicant was convicted of Knowingly Transporting an Alien in Furtherance of the Alien's Illegal Presence in the United States. The applicant was sentenced to 60 days incarceration for this offense.

Section 212(a)(6)(E) of the Act provides, in pertinent part:

> (i) In general. – Any alien who at any time knowingly has encouraged, induced, assisted, abetted, or aided any other alien to enter or to try to enter the United States in violation of law is inadmissible.

Section 212(d) of the Act provides that:

> (11) The Attorney General [now the Secretary of Homeland Security (Secretary)] may, in his discretion for humanitarian purposes, waive the application of clause (i) of subsection (a)(6)(E) ... in the case of an alien seeking admission or adjustment of status as an immediate relative or immigrant section 203(a) (other than paragraph (4) thereof), if the alien has encouraged, induced, assisted, abetted, or aided only an individual who at the time of the offense was the alien's spouse, parent, son, or daughter (and no other individual) to enter the United States in violation of law.

The interim district director determined that the applicant was not convicted of encouraging, inducing, assisting, abetting, or aiding his spouse, parent, son or daughter. On appeal, the applicant fails to submit documentation establishing that he is eligible for waiver pursuant to section 212(d)(11) of the Act. Having found the applicant

statutorily ineligible for relief, no purpose would be served in discussing whether he merits a waiver as a matter of discretion.

In proceedings for application for waiver of grounds of inadmissibility under section 212(d)(11) of the Act, the burden of proving eligibility remains entirely with the applicant. *See* Section 291 of the Act, 8 U.S.C. § 1361. Here, the applicant has not met that burden. Accordingly, the appeal will be dismissed.

**ORDER:** The appeal is dismissed.