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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Office of Administrative Appeals MS 2090
Washington, DC 20529-2090



U.S. Citizenship
and Immigration
Services

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FILE:

Office: NEW YORK, NY

Date: OCT 06 2009

IN RE:

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

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.

A handwritten signature in cursive script, appearing to read "Perry Khew".

Perry Khew
Chief, Administrative Appeals Office

DISCUSSION: The waiver application was denied by the District Director, New York, New York and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed as moot.

The applicant is a native and citizen of Colombia who was found to be inadmissible to the United States under section 212(a)(9)(B)(i)(II) of the Act, 8 U.S.C. § 1182(a)(9)(B)(i)(II), for having been unlawfully present in the United States for more than one year and seeking readmission within ten years of her last departure from the United States. The applicant is married to a naturalized United States citizen. She seeks a waiver of inadmissibility in order to reside in the United States with her spouse and their U.S. citizen children.

The District Director found that, based on the evidence in the record, the applicant had failed to establish that the bar to her admission would result in extreme hardship to her qualifying relative. The application was denied accordingly. *Decision of the District Director*, dated June 14, 2007.

On appeal, the applicant asserts that her qualifying relative would suffer extreme hardship as necessary for a waiver. *Form I-290B, Notice of Appeals to the Administrative Appeals Office (AAO) and attached statement*.

In support of the waiver, the record includes, but is not limited to, statements from the applicant and her spouse; earnings statements; a credit card statement; bank statements; and tax returns. The entire record was reviewed and considered in rendering this decision.

Section 212(a)(9)(B) of the Act provides, in pertinent part:

(B) Aliens Unlawfully Present.-

(i) In general. - Any alien (other than an alien lawfully admitted for permanent residence) who-

....

(II) has been unlawfully present in the United States for one year or more, and who again seeks admission within 10 years of the date of such alien's departure or removal from the United States, is inadmissible.

....

(v) Waiver. - The Attorney General [now the Secretary of Homeland Security (Secretary)] has sole discretion to waive clause (i) in the case of an immigrant who is the spouse or son or daughter of a United States citizen or of an alien lawfully admitted for permanent residence, if it is established to

the satisfaction of the Attorney General [Secretary] that the refusal of admission to such immigrant alien would result in extreme hardship to the citizen or lawfully resident spouse or parent of such alien.

Prior to addressing whether the applicant qualifies for a waiver, the AAO finds it necessary to address the issue of inadmissibility. The AAO notes that, on August 25, 2007, United States Citizenship and Immigration Services approved the applicant's Form I-601, Application for Waiver of Ground of Excludability. *Form I-601*. As the applicant's waiver application has been approved, the AAO will dismiss the instant appeal as moot.

ORDER: The appeal is dismissed as moot as the underlying waiver application has been approved.