

U.S. Department of Homeland Security  
U.S. Citizenship and Immigration Services  
Administrative Appeals Office (AAO)  
20 Massachusetts Ave., N.W., MS 2090  
Washington, DC 20529-2090



U.S. Citizenship  
and Immigration  
Services

H5

[REDACTED]

Date: NOV 23 2012

Office: HARLINGEN, TX

FILE: [REDACTED]

IN RE: Applicant: [REDACTED]

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

ON BEHALF OF APPLICANT:

[REDACTED]

INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office in your case. All of the documents related to this matter have been returned to the office that originally decided your case. Please be advised that any further inquiry that you might have concerning your case must be made to that office.

If you believe the AAO inappropriately applied the law in reaching its decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen in accordance with the instructions on Form I-290B, Notice of Appeal or Motion, with a fee of \$630. The specific requirements for filing such a motion can be found at 8 C.F.R. § 103.5. **Do not file any motion directly with the AAO.** Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires any motion to be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you,

A handwritten signature in black ink that reads "Ron Rosenberg".

Ron Rosenberg  
Acting Chief, Administrative Appeals Office

**DISCUSSION:** The waiver application was denied by the Field Office Director, Harlingen, Texas. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The record reflects that the applicant is a native and citizen of Mexico. The applicant is the daughter of lawful permanent resident parents and seeks a waiver of inadmissibility in order to reside with her parents in the United States.

The field office director found that the applicant did not establish a valid reason that made her inadmissible and denied the waiver application accordingly.

On appeal, counsel contends that the applicant was unlawfully present in the United States. Counsel also contends the applicant's parents hired a notary who was not qualified or knowledgeable of immigration law.

In this case, the applicant has not been found to be inadmissible under the Act. As such, the applicant has filed an application that is currently inapplicable. The AAO also notes that a Form I-601 waiver application is viable when there is a pending adjustment of status application (Form I-485) or immigrant visa application. In this case, the applicant's Form I-485 was denied on September 17, 2010, and the applicant's motion to reopen the Form I-485 was denied on October 20, 2011. In both of the decisions denying the Form I-485, the field office director specified that the applicant failed to establish her eligibility to adjust her status under section 245 of the Act. The AAO notes counsel's assertions regarding the applicant's eligibility to apply for adjustment of status, however, the AAO does not have jurisdiction over the Form I-485 and therefore, cannot address counsel's assertions. Because the applicant does not have an underlying adjustment application to support the filing of her Form I-601 waiver application, no purpose would be served in examining the hardship to the applicant's parents. As such, the appeal must be dismissed.

**ORDER:** The appeal is dismissed.