



U.S. Citizenship
and Immigration
Services

(b)(6)



DATE: FEB 21 2013 OFFICE: PANAMA

FILE:

IN RE:

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

ON BEHALF OF APPLICANT:

SELF-REPRESENTED

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,

Ron Rosenberg
Acting Chief, Administrative Appeals Office

DISCUSSION: The Form I-601 Application for Waiver of Grounds of Inadmissibility (Form I-601) was denied by the Field Office Director, Panama City, Panama, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The applicant is a native and citizen of Colombia who was found to be inadmissible to the United States pursuant to 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 removal from the country, and section 212(a)(9)(A) of the Act, 8 U.S.C. § 1182(a)(9)(A), as an alien previously removed.¹ The applicant is married to a U.S. citizen and is the beneficiary of an approved Form I-130, Petition for Alien Relative. She seeks a waiver of inadmissibility under section 212(a)(9)(B)(v) of the Act, 8 U.S.C. § 1182(a)(9)(B)(v), in order to reside in the United States with her U.S. citizen spouse.

When considering the applicant's request for a Form I-601 waiver of inadmissibility, the director determined that the applicant was also inadmissible to the United States pursuant to section 212(a)(6)(B) of the Act, 8 U.S.C. § 212(a)(6)(B), for failing to attend removal proceedings and seeking admission to the United States within five years of her subsequent removal. *See Decision of the Field Office Director*, dated June 28, 2012. The application was denied accordingly.

On appeal, the applicant does not contest her inadmissibility. *See Form I-290B, Notice of Appeal or Motion*, dated July 17, 2012.

The record reflects that the applicant entered the United States without admission or parole in December 1999. The applicant was placed into removal proceedings, and on May 1, 2007 the applicant was ordered removed *in absentia* after she failed to appear for her removal hearing. The applicant departed the United States in 2008 or 2009.² The applicant is therefore inadmissible to the United States under section 212(a)(6)(B) of the Act for seeking admission to the United States within five years of her departure. The applicant does not contest these facts on appeal.

Section 212(a)(6)(B) of the Act states:

Failure to attend removal proceeding. -Any alien who without reasonable cause fails or refuses to attend or remain in attendance at a proceeding to determine the alien's inadmissibility or deportability and who seeks admission to the United States within 5 years of such alien's subsequent departure or removal is inadmissible.

¹ The applicant's Form I-212, Application for Permission to Reapply for Admission into the United States after Deportation or Removal (Form I-212) also was denied on June 28, 2012 and has been appealed separately.

² The record contains inconsistent information about the applicant's departure date, indicating she departed in June 2008, in December 2008, and in August 2009. All information indicates, however, that less than 5 years have passed since her departure from the United States. The discrepancies therefore do not change the director's finding of inadmissibility under section 212(a)(6)(B) of the Act.

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There is no statutory waiver available for the ground of inadmissibility arising under section 212(a)(6)(B) of the Act.

The object of a Form I-601 waiver application, in the context of an application for an immigrant visa filed at a consulate or embassy abroad, is to remove inadmissibility as a basis of ineligibility for that visa. An alien is not required to file a separate waiver application for each ground of inadmissibility, but rather one application that, if approved, extends to all inadmissibilities specified in the application. However, where an alien is subject to an inadmissibility that cannot be waived, approval of the waiver application would not have the intended effect. Thus, no purpose is served in adjudicating such a waiver application, and USCIS may deny it for that reason as a matter of discretion. *Cf. Matter of J- F- D-*, 10 I&N Dec. 694 (Reg. Comm. 1963).

As the applicant is inadmissible under section 212(a)(6)(B) of the Act, for which there is no waiver, the AAO finds that no purpose is served in adjudicating the applicant's Form I-601 application for a waiver of inadmissibility pursuant to section 212(a)(9)(B)(v) of the Act.

Section 291 of the Act, 8 U.S.C. § 1361, provides that the burden of proof is on the applicant to establish eligibility for the benefit sought. The applicant has failed to overcome the basis of denial of her Form I-601 waiver application. The appeal shall therefore be dismissed.

ORDER: The appeal is dismissed.