

identifying data deleted to  
prevent clearly unwarranted  
invasion of personal privacy



U.S. Citizenship  
and Immigration  
Services

**PUBLIC COPY**

[REDACTED]

HZ

FILE: [REDACTED] Office: SAN ANTONIO, TEXAS Date:

DEC 18 2008

IN RE: [REDACTED]

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

ON BEHALF OF PETITIONER:

[REDACTED]

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.

If you believe the law was inappropriately applied or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. Please refer to 8 C.F.R. § 103.5 for the specific requirements. All motions must be submitted to the office that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion, with a fee of \$585. Any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen, as required by 8 C.F.R. § 103.5(a)(1)(i).

  
John F. Grissom, Acting Chief  
Administrative Appeals Office

**DISCUSSION:** The application was denied by the District Director, San Antonio, Texas. The matter 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 to be inadmissible to the United States under section 212(a)(2)(A)(i)(I) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(a)(2)(A)(i)(I), for having been convicted of a crime involving moral turpitude (indecent exposure) in 1999, and again in 2001. The applicant is the beneficiary of an approved Petition for a Widower of a U.S. Citizen and seeks a waiver of inadmissibility pursuant to section 212(h) of the Act, 8 U.S.C. § 1182(h), in order to remain in the United States.

The district director concluded that the applicant was statutorily ineligible for a waiver because he did not have a U.S. Citizen or Lawful Permanent Resident spouse or parent. The application was denied accordingly. *See Decision of the District Director* dated March 14, 2007.

On appeal, counsel for the applicant states that the waiver application was denied because the application was convicted of two crimes involving moral turpitude and no hardship to a qualifying relative was established. Counsel requested 30 days in order to submit a brief and/or additional evidence in support of the appeal. As of this date, over one year later, no additional statement or evidence has been submitted.

Section 212(a)(2)(A) of the Act states in pertinent part:

(i) [A]ny alien convicted of, or who admits having committed, or who admits committing acts which constitute the essential elements of-

(I) a crime involving moral turpitude (other than a purely political offense) or an attempt or conspiracy to commit such a crime . . . is inadmissible.

Section 212(h) states in pertinent part:

The Attorney General may, in his discretion, waive the application of subparagraphs (A)(i)(I) . . . of subsection (a)(2) . . . if-

(1)(A) [I]t is established to the satisfaction of the Attorney General that-

(i) [T]he activities for which the alien is inadmissible occurred more than 15 years before the date of the alien's application for a visa, admission, or adjustment of status,

(ii) the admission to the United States of such alien would not be contrary to the national welfare, safety, or security of the United States, and

(iii) the alien has been rehabilitated; or

(B) in the case of an immigrant who is the spouse, parent, son, or daughter of a citizen of the United States or an alien lawfully admitted for permanent residence if it is established to the satisfaction of the Attorney General that the alien's denial of admission would result in extreme hardship to the United States citizen or lawfully resident spouse, parent, son, or daughter of such alien.

The record reflects that the applicant is a fifty year-old native and citizen of Mexico who was convicted of indecent exposure, a crime involving moral turpitude, in Hay County, Texas on July 15, 1999 and in Guadalupe County, Texas on March 27, 2001. Since less than fifteen years has passed since the conduct for which the applicant was convicted took place, he is ineligible for a waiver under section 212(h)(1)(A) of the Act. On his application for a waiver of inadmissibility (Form I-601), the applicant indicated that he does not have a qualifying relative. Section 212(h)(1)(B) of the Act provides that a waiver of section 212(a)(2)(A)(i)(I) of the Act is applicable solely where the applicant establishes extreme hardship to his or her citizen or lawfully resident spouse, parent, son, or daughter. Since the applicant does not have a qualifying relative, he is ineligible for a waiver of inadmissibility.

Because the applicant is statutorily ineligible for relief, no purpose would be served in discussing whether the applicant has established he would merit the waiver as a matter of discretion.

In proceedings for application for waiver of grounds of inadmissibility under section 212(h) of the Act, the burden of proving eligibility remains entirely with the applicant. 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.