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



U.S. Citizenship
and Immigration
Services

H2

[REDACTED]

FILE:

[REDACTED]

Office: CHICAGO, ILLINOIS

Date:

AUG 24 2009

IN RE:

[REDACTED]

APPLICATION:

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

ON BEHALF OF APPLICANT:

[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 waiver application was denied by the District Director, Chicago, Illinois, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The record reflects that the applicant is a 37-year-old native and citizen of Mexico who is inadmissible to the United States pursuant to section 212(a)(6)(A)(i) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(a)(6)(A)(i), as an alien present in the United States without admission or parole. The applicant is married to a citizen of the United States, and is the beneficiary of an approved Petition for Alien Relative (Form I-130). He seeks a waiver of inadmissibility in order to reside with his wife and children in the United States.

The District Director determined that the applicant was inadmissible pursuant to section 212(a)(6)(A)(i) of the Act, for which there is no waiver available. *See Decision of the District Director on Application for Waiver*, dated Feb. 7, 2007. The District Director denied the Application for Waiver of Ground of Excludability, Form I-601, accordingly. *Id.*¹

Individuals seeking adjustment of status may use Form I-601 to file for waivers of inadmissibility under sections 212(a), (g), (h) and (i) of the Act. *See* 8 C.F.R. § 212.7(a), (b). The regulation does not authorize the use of Form I-601 when an applicant for adjustment of status is inadmissible under section 212(a)(6)(A)(i) of the Act. Accordingly, the applicant may not seek a waiver of inadmissibility by filing the Form I-601, Application for Waiver of Grounds of Inadmissibility.

In proceedings for an application for waiver of grounds of inadmissibility under 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.

¹ The applicant contends, through counsel, that his U.S. citizen spouse will suffer extreme hardship if he is denied a waiver. *See Notice of Appeal; Brief in Support of Appeal*. Counsel failed to address the basis for the District Director's denial.