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U.S. Department of Homeland Security
20 Massachusetts Ave. N.W., Room 3000
Washington, DC 20529-2090



U.S. Citizenship
and Immigration
Services

PUBLIC COPY

H2

[REDACTED]

FILE:

[REDACTED]

Office: MIAMI, FLORIDA

Date:

JAN 22 2009

IN RE:

[REDACTED]

APPLICATION:

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

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, Miami, Florida. 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 sixty-year old native and citizen of Argentina. The district director found the applicant to be inadmissible to the United States pursuant to section 212(a)(6)(C)(i) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(a)(6)(C)(i), for having attempted to enter the United States by fraud or willful misrepresentation, section 212(a)(9)(B)(i)(I) of Act, 8 U.S.C. § 1182(a)(9)(B)(i)(I), as an alien unlawfully present in the United States for more than 180 days but less than one year, and section 212(a)(9)(A)(i) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(a)(9)(A)(i), as an alien who has been ordered removed and seeks admission within five years of the date of removal. The applicant is married to a naturalized U.S. citizen and seeks a waiver of inadmissibility pursuant to section 212(i) of the Act, 8 U.S.C. § 1182(i), in order to reside with her husband and children in the United States.

The district director found that the applicant did not have a qualifying relative and, therefore, that she was not entitled to file a waiver application. The district director denied the application accordingly. *Decision of the District Director*, dated September 25, 2006.

On appeal, counsel contends that the applicant's husband was recently granted legal permanent residence and, therefore, is a qualifying relative who would suffer extreme hardship if the applicant's waiver application were denied.

The regulation at 8 C.F.R. 103.2(b)(1) requires that "[a]n applicant or petitioner must establish that he or she is eligible for the requested benefit *at the time of filing the application or petition.*" It is uncontested that at the time the applicant filed the Form I-601, Application for Waiver of Grounds of Inadmissibility, she did not have a qualifying relative. Although she may file a new Form I-601 application, the district director's decision denying the instant waiver application was proper. Accordingly, the appeal will be dismissed.

ORDER: The appeal is dismissed.