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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Office of Administrative Appeals MS 2090
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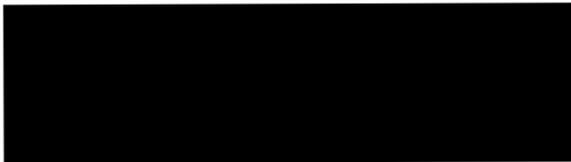
Office: CALIFORNIA SERVICE CENTER Date: **JUN 01 2009**

IN RE:

APPLICATION:

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

ON BEHALF OF PETITIONER:



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 Director, California Service Center, 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 under 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 entered into a marriage solely to obtain a benefit under the Act. The applicant is the husband of a U.S. Citizen and was the beneficiary of an approved Petition for Alien Relative filed by his daughter. The applicant seeks a waiver of inadmissibility pursuant to section 212(i) of the Act, 8 U.S.C. § 1182(i), in order to remain in the United States with his wife.

The service center director concluded that the applicant failed to establish that extreme hardship would be imposed on a qualifying relative and denied the application accordingly. *See Decision of the Service Center Director denying Form I-601* dated January 23, 2007. The service center director also denied the Petition for Alien Relative (Form I-130) filed on the applicant's behalf because he had previously been found to have entered into a marriage for the purposes of evading the immigration laws, and approval of the petition was therefore prohibited pursuant to section 204(c) of the Act, 8 U.S.C. § 1154(c). *See Decision of the Service Center Director denying Form I-130* dated January 23, 2007. The applicant appealed the denial of the I-130 Petition to the Board of Immigration Appeals (BIA), and the matter was remanded to the California Service Center due to insufficiency of the record. *See Decision of the BIA* dated August 14, 2007. There is no documentation on the record indicating that any action was taken concerning the petition since the matter was remanded to the service center.

On appeal, counsel for the applicant asserts that U.S. Citizenship and Immigration Services (USCIS) erred in denying the waiver application because the applicant's wife would suffer extreme emotional and financial hardship if the applicant were removed from the United States. *See Notice of Appeal to the AAO* dated February 21, 2007. Counsel further asserts that the applicant entered into a bona fide marriage with his wife and did not marry her for the purpose of evading the immigration laws. *See Notice of Appeal to the AAO*.

The viability of the Form I-601, Application for Waiver of Grounds of Inadmissibility, is dependent on an adjustment of status application that is, in turn, based on an approved Form I-130, Petition for Alien Relative. In the absence of an underlying approved Form I-130, Petition for Alien Relative, the Form I-601, Application for Waiver of Grounds of Inadmissibility, is moot.

The AAO notes that after the applicant appealed the denial of the petition to the BIA, the record was remanded to the service center director for further action. No action has been taken, however, and the applicant is therefore not the beneficiary of an approved petition. Accordingly, the appeal will be dismissed as there would be no purpose served in granting a waiver of inadmissibility.

ORDER: The appeal is dismissed.