

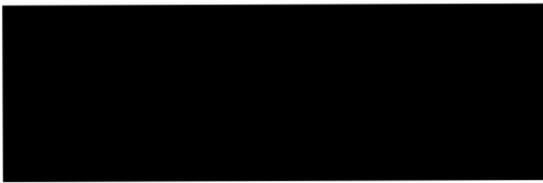


U.S. Citizenship
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Services

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FILE: [REDACTED] Office: LOS ANGELES Date: JUN 25 2009

IN RE: [REDACTED]

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:

SELF-REPRESENTED

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, Los Angeles, California, and 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 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 crimes involving moral turpitude. The applicant is the father of a U.S. Citizen daughter and was the beneficiary of a Petition for Alien Relative filed by his son, who is now deceased. The applicant 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 no longer qualified for adjustment of status or a waiver of inadmissibility because his son, who had filed the Petition for Alien Relative on his behalf, was deceased and the petition was therefore automatically revoked. *See Decision of the District Director denying Form I-601 dated January 20, 2005.* The district director also issued the applicant a notice of revocation of the petition indicating that it was automatically revoked upon the death of the petitioner. *See Notice of Revocation dated January 20, 2004.*

On appeal, the applicant asserts that after the death of his son, he and his daughter attended an interview with U.S. Citizenship and Immigration Services (USCIS) in which they informed the officer of the death of the petitioner and asked if it was necessary for the applicant's daughter to file a new petition. He states that they were told it was not necessary. *See Statement in Support of Notice of Appeal to the AAO dated February 5, 2005.* In support of the appeal the applicant submitted an affidavit from his daughter, birth certificates for his three U.S. Citizen children, and death certificates for his two sons. The entire record was reviewed and considered in arriving at a decision on the appeal.

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 the applicant submitted a copy of his son's death certificate when he filed his I-601 Application. Further, in her affidavit his daughter states that she and the applicant inquired about his case and informed the officer of the death of the petitioner, and they were not informed that the petition was automatically revoked and that it would be necessary for her to file a new petition for the applicant to apply for adjustment of status. *See Affidavit of [REDACTED] dated February 14, 2005.* It is not clear from the record whether the petition filed by the applicant's son was ever approved, but if it had been approved, it would have been automatically revoked in accordance with 8 C.F.R. § 205.1 upon the petitioner's death on December 13, 2003. Therefore, the applicant is not currently 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.