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

U.S. Citizenship
and Immigration
Services

H₂

FILE:

[REDACTED]

Office: SAN FRANCISCO, CA
(FRESNO)

Date: **MAY 11 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 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, San Francisco, California and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed as moot.

The applicant is a native and citizen of Mexico 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 procured admission into the United States by fraud or willful misrepresentation. The applicant states he is married to a lawful permanent resident and is the father and stepfather of three U.S. citizen children. He seeks a waiver of inadmissibility pursuant to section 212(i) of the Act, 8 U.S.C. § 1182(i), in order to reside in the United States with his family.

The District Director concluded that the applicant had failed to establish that he had a qualifying relative for the purpose of seeking a waiver under section 212(i) of the Act. *Decision of the District Director*, dated April 18, 2006.

On appeal, counsel contends that the applicant has a lawful permanent resident spouse who is a qualifying relative for purposes of this case and that his spouse would suffer extreme hardship, as necessary for a waiver under section 212(i) of the Act. *Form I-290B*.

In support of the waiver, counsel submits a brief. The record also includes, but is not limited to, a bank statement; a statement from the applicant; a statement from the applicant's spouse; W-2 forms for the applicant and his spouse; earnings statements for the applicant and his spouse; mortgage statements; a letter concerning auto insurance; a home insurance policy; a vehicle registration renewal notice; a cable bill; a utility bill; a telephone bill and money transfers to Mexico. The entire record was reviewed and considered in rendering this decision.

Section 212(a)(6)(C) of the Act provides, in pertinent part, that:

- (i) Any alien who, by fraud or willfully misrepresenting a material fact, seeks to procure (or has sought to procure or has procured) a visa, other documentation, or admission into the United States or other benefit provided under this Act is inadmissible.

Section 212(i) of the Act provides that:

- (1) The Attorney General [now the Secretary of Homeland Security (Secretary)] may, in the discretion of the Attorney General [Secretary], waive the application of clause (i) of subsection (a)(6)(C) in the case of an alien who is the spouse, son or daughter of a United States citizen or of an alien lawfully admitted for permanent residence, if it is established to the satisfaction of the Attorney General [Secretary] that the refusal of admission to the United States of such immigrant alien would result in extreme hardship to the citizen or lawfully resident spouse or parent of such an alien.

The AAO will not, however, consider whether the applicant qualifies for a waiver under section 212(i) of the Act as it notes that, on November 8, 2007, his Form I-485, Application to Register Permanent Resident or Adjust Status was approved. *Form I-485*. In that the applicant is a lawful permanent resident, his waiver application is moot. Accordingly, the appeal will be dismissed.

ORDER: The appeal is dismissed as the underlying waiver application is moot.