



U.S. Citizenship  
and Immigration  
Services

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[Redacted]

FILE:

[Redacted]

Office: LOS ANGELES, CA

Date: NOV 05 2009

IN RE: Applicant:

[Redacted]

APPLICATION:

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

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).

Perry Rhew  
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 application shall be remanded back to the director for action consistent with the directives of this opinion.

The applicant, [REDACTED], is a native and citizen of Mexico who the director found to be inadmissible to the United States. However, the district director's denial letter does not state the specific ground of inadmissibility under the Act for which the applicant is inadmissible. *Decision of the Director*, dated February 16, 2007. [REDACTED] submitted an Application for Waiver of Grounds of Inadmissibility (Form I-601) pursuant to section 212(h) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(h). A section 212(h) waiver is sought when a person is inadmissible to the United States for having been convicted of committing a crime involving moral turpitude, which is the ground of inadmissible under section 212(a)(2)(A)(i)(I) of the Act, 8 U.S.C. § 1182(a)(2)(A)(i)(I). Counsel states on appeal that the applicant has no criminal record; the AAO finds there is no documentation in the record suggesting that the applicant was ever convicted of committing a crime.

On appeal, counsel states that in June 2006, [REDACTED] was requested by U.S. Citizenship and Immigration Services (USCIS), to file a waiver application due to inadmissibility for fraud or misrepresentation. The record contains a Notice of Intent to Revoke (NOIR) the approved visa petition filed by [REDACTED] on [REDACTED] behalf. The NOIR was issued because the district director determined that [REDACTED] and [REDACTED] entered into a marriage for the primary purpose of evading the immigration laws. The NOIR was mailed to [REDACTED] on March 26, 1998, and was returned to the district director as unclaimed.

The district director never resolved whether [REDACTED] and [REDACTED] entered into a marriage for the primary purpose of evading the immigration laws, and needs to make a determination as to this matter. If the director finds that [REDACTED] and [REDACTED] entered into a marriage for the purpose of evading the immigration laws, [REDACTED] is subject to section 204(c) of the Act and is ineligible to apply for any visa. However, if it is found that [REDACTED] and [REDACTED] did not engage in marriage fraud, the district director needs to render a new denial on the Form I-601 waiver application indicating the specific reason for the applicant's inadmissibility.

As the district director has not resolved the issue of whether [REDACTED] and [REDACTED] entered into a marriage for the purpose of evading the immigration laws, this matter shall be remanded to the district director to issue a new decision on the waiver application. If the district director's decision is adverse to the applicant the decision is to be certified to the AAO for review.

**ORDER:** The matter is remanded to the district director for action consistent with the directives of this opinion.