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

U.S. Citizenship  
and Immigration  
Services

[Redacted]

H2

FILE: [Redacted] Office: MEXICO CITY (TEGUCIGALPA) Date: SEP 02 2009

IN RE: [Redacted]

APPLICATION: Application for Waiver of Grounds of Inadmissibility under section 212(a)(9)(B) of the Immigration and Nationality Act, 8 U.S.C. § 1182(a)(9)(B)

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 Officer-in-Charge, Tegucigalpa, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed as the underlying application is moot.

The applicant is a native and citizen of Honduras who was found to be inadmissible to the United States pursuant to section 212(a)(9)(B)(i)(I) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(a)(9)(B)(i)(I), for having been unlawfully present in the United States for more than 180 days, but less than one year, and seeking readmission within three years of her last departure. The applicant seeks a waiver of inadmissibility in order to reside in the United States as a permanent resident pursuant to an approved Form I-130 relative petition filed on her behalf.

The officer-in-charge found that the applicant failed to establish extreme hardship to a qualifying relative and denied the Form I-601 application for a waiver accordingly. *Decision of the Officer-in-Charge*, dated April 11, 2007.

On appeal, counsel for the applicant asserts that the applicant has shown extreme hardship to a qualifying relative, and that the waiver application should be approved. *Brief from Counsel*, dated June 14, 2007.

Section 212(a)(9)(B) of the Act provides, in pertinent part:

(B) Aliens Unlawfully Present.-

(i) In general. - Any alien (other than an alien lawfully admitted for permanent residence) who-

(I) was unlawfully present in the United States for a period of more than 180 days but less than 1 year, voluntarily departed the United States . . . prior to the commencement of proceedings under section 235(b)(1) or section 240, and again seeks admission within 3 years of the date of such alien's departure or removal, . . . is inadmissible.

....

(v) Waiver. - The Attorney General [Secretary] has sole discretion to waive clause (i) in the case of an immigrant who is the spouse or 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 such immigrant alien would result in extreme hardship to the citizen or lawfully resident spouse or parent of such alien.

The record indicates that the applicant entered the United States without inspection on or about July 9, 2002. The applicant reached age 18 on March 26, 2005, and she began accruing unlawful

presence on that date. Section 212(a)(9)(B)(iii) of the Act. She departed on or about October 2, 2005, thus she accrued approximately seven months of unlawful presence. She now seeks reentry pursuant to an approved Form I-130 relative petition filed on her behalf. Accordingly, she was found inadmissible under section 212(a)(9)(B)(i)(I) of the Act for having been unlawfully present in the United States for more than 180 days, but less than one year, and seeking readmission within three years of her last departure.

Upon review, pursuant to section 212(a)(9)(B)(i)(I) of the Act the applicant was barred from seeking admission to the United States within three years of the date of her last departure. As she last departed in October 2005, she was barred from seeking admission until October 2008. As October 2008 has passed, and the record does not show that the applicant has been in the United States since October 2005, she is no longer inadmissible pursuant to section 212(a)(9)(B)(i)(I) of the Act. The record does not show that the applicant is inadmissible based on other grounds. Accordingly, she does not require a waiver of inadmissibility and the present application for a waiver will be declared moot. As such, the applicant is free to apply for an immigrant visa pursuant to the approved Form I-130 relative petition filed on her behalf.

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