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U.S. Citizenship  
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Services

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Htz

**FEB 19 2010**

FILE:

Office: CALIFORNIA SERVICE CENTER

Date:

IN RE: Applicant:

APPLICATION:

Application for Waiver of the Foreign Residence Requirement of Section 212(e) of the  
Immigration and Nationality Act, 8 U.S.C. § 1182(e).

ON BEHALF OF APPLICANT:

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 Director, California Service Center, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be summarily dismissed.

The applicant, a native and citizen of the Philippines, obtained J-1 nonimmigrant exchange status in November 2000. The record indicates that she is subject to the foreign residence requirement under section 212(e) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(e). The applicant presently seeks a waiver of her two-year foreign residence requirement, based on the claim that her U.S. citizen spouse and child, born in 2007, would suffer exceptional hardship if they moved to the Philippines temporarily with the applicant and in the alternative, if they remained in the United States while the applicant fulfilled the foreign residence requirement in the Philippines.

The director determined that the applicant failed to establish that a qualifying relative would experience exceptional hardship if the applicant fulfilled her two-year foreign residence requirement in the Philippines. *Director's Decision*, dated August 28, 2009. The application was denied accordingly.

Counsel for the applicant filed the Form I-290B, Notice of Appeal to the Administrative Appeals Office (Form I-290B) on September 25, 2009. On the Form I-290B, counsel for the applicant indicated that a separate brief and/or evidence would be submitted within 30 days and noted that the "applicant's hardship met the requirements for the waiver...." See *Form I-290B*, dated September 25, 2009. Counsel and/or the applicant failed to specifically identify any erroneous conclusion of law or statement of fact and/or provide additional documentation in support of extreme hardship to the applicant's U.S. citizen spouse and/or child. As of today, no brief and/or additional evidence has been submitted by counsel and/or the applicant. As such, the record is considered complete.

An officer to whom an appeal is taken shall summarily dismiss any appeal when the party concerned fails to identify specifically any erroneous conclusion of law or statement of fact for the appeal. 8 C.F.R. § 103.3(a)(1)(v).

Counsel and/or the applicant have failed to specifically identify any erroneous conclusion of law or statement of fact for the appeal. As no additional evidence is presented on appeal to overcome the decision of the director, the appeal will be summarily dismissed in accordance with 8 C.F.R. § 103.3(a)(1)(v).

The burden of proving eligibility for a waiver under section 212(e) of the Act rests with the applicant. See section 291 of the Act, 8 U.S.C. § 1361. The AAO finds that in the present case, the applicant has not met her burden. Accordingly, the appeal will be summarily dismissed.

**ORDER:** The appeal is summarily dismissed.