

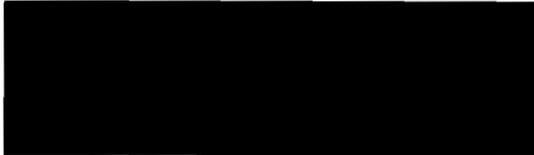


U.S. Citizenship
and Immigration
Services

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FILE:



Office: CALIFORNIA SERVICE CENTER

Date: JUN 23 200

IN RE:



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:

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.

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The waiver application was denied by the Director, California Service Center. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed as the applicant is not inadmissible under section 212(a)(9)(B) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(a)(9)(B), thus the relevant waiver application is moot.

The applicant is a native and citizen of Mexico who filed a waiver application under section 212(a)(9)(B)(i)(II) of the Act, 8 U.S.C. § 1182(a)(9)(B)(i)(II), for having been unlawfully present in the United States for more than one year. The applicant is married to a naturalized citizen of the United States. She is seeking a waiver of inadmissibility in order to reside in the United States with her spouse.

The director states that the applicant submitted a waiver application on the basis of entering the United States without inspection on July 17, 2001 and residing in the United States without a lawful status. The director found that the record shows that the applicant has not departed the United States and therefore, has not accrued unlawful presence under section 212(a)(9)(B)(i)(II) of the Act and does not need to file a waiver application. *Decision of Director*, dated December 4, 2007.

On appeal, the applicant's spouse states that he understands that his spouse broke the law by entering the United States illegally and that she will have to leave the country for six to twelve months. He states that they have plans to buy a house, for his spouse to work and that his spouse requires medical treatment for a thyroid problem. *Spouse's Letter*, dated December 24, 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-

(II) has been unlawfully present in the United States for one year or more, and who again seeks admission within 10 years of the date of such alien's departure or removal from the United States, is inadmissible.

(v) Waiver. - The Attorney General [now the Secretary of Homeland Security (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 does not show that the applicant has departed the United States since her entry on July 17, 2001. Thus, no unlawful presence has accrued in the applicant's case. She is not inadmissible under section 212(a)(9)(B) of the Act and does not need to file the Form I-601. The appeal will be dismissed as the underlying waiver application is moot.

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