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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

H3

FILE:

Office: MEXICO CITY

Date: MAY 05 2009

IN RE:

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

ON BEHALF OF PETITIONER:

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.

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 Acting District Director, Mexico City, Mexico, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The applicant is a native and citizen of Colombia who was found to be inadmissible to the United States under section 212(a)(9)(B)(i)(II) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(a)(9)(B)(i)(II), for having been unlawfully present in the United States for a period of one year or more. The applicant was the husband of a U.S. Citizen and the beneficiary of an approved Petition for Alien Relative. The applicant seeks a waiver of inadmissibility pursuant to section 212(a)(9)(B)(v) of the Act, 8 U.S.C. § 1182(a)(9)(B)(v), in order to remain in the United States with his wife.

The acting district director concluded that the applicant failed to establish that extreme hardship would be imposed on a qualifying relative and denied the application accordingly. *See Decision of the Acting District Director* dated February 13, 2008. .

On appeal, the applicant asserts that U.S. Citizenship and Immigration Services (USCIS) erred in denying the waiver application without providing his wife the opportunity to provide evidence of circumstances that would cause her to suffer extreme emotional hardship if the applicant is denied admission to the United States. *See Notice of Appeal* dated March 12, 2008. On April 16, 2009, the applicant's wife submitted a letter indicating that she and the applicant were now divorced and that she wished to withdraw any petition she had filed on behalf of the applicant. *See letter from [REDACTED] and copy of divorce decree dated January 29, 2009.*

The applicant is no longer eligible for an immigrant visa because the underlying Petition for Alien Relative has been withdrawn and the petitioner has divorced the applicant. Accordingly, the appeal will be dismissed as the applicant no longer has a qualifying relative and would be no purpose served in granting a waiver of inadmissibility.

**ORDER:** The appeal is dismissed.