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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

MAY 15 2009

FILE

Office: PHOENIX

Date:

IN RE: Applicant:

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 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).

John F. Grissom  
Acting Chief, Administrative Appeals Office

**DISCUSSION:** The waiver application was denied by the District Director, Phoenix, Arizona, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be summarily dismissed.

The record reflects that the applicant, a native and citizen of Mexico, entered the United States without authorization in March 1997. The applicant filed Form I-485, Application to Register Permanent Resident or Adjust Status (Form I-485) on December 9, 1999. In August 2000, the applicant was issued Form I-512, Authorization for Parole of an Alien into the United States (Form I-512) and subsequently used the advance parole authorization to depart and re-enter the United States.

The proper filing of an affirmative application for adjustment of status has been designated by the Attorney General [Secretary] as an authorized period of stay for purposes of determining bars to admission under section 212 (a)(9)(B)(i)(I) and (II) of the Act. *See Memorandum by Johnny N. Williams, Executive Associate Commissioner, Office of Field Operations dated June 12, 2002.* As such, the applicant accrued unlawful presence from April 1, 1997, the date of the enactment of the unlawful presence provisions, until December 9, 1999, the date of her proper filing of the Form I-485. The applicant was thus found to be inadmissible to the United States pursuant to 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 more than one year. The applicant seeks a waiver of inadmissibility in order to reside in the United States with her U.S. citizen spouse and children.

The district director concluded that the applicant had failed to establish that extreme hardship would be imposed on a qualifying relative and denied the Form I-601, Application for Waiver of Grounds of Excludability (Form I-601) accordingly. *Decision of the District Director, dated February 27, 2006.*

The applicant filed the Form I-290B, Notice of Appeal to the Administrative Appeals Office (Form I-290B) on March 20, 2006. On the Form I-290B, the applicant asserted that the government “was wrong in denying my waiver request.” *See Form I-290B, dated March 20, 2006.* The applicant did not specifically identify any erroneous conclusion of law or statement of fact and/or provide documentation in support of her assertion.

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).

As noted above, the applicant has 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 district director, the appeal will be summarily dismissed in accordance with 8 C.F.R. § 103.3(a)(1)(v).

In proceedings for application for waiver of grounds of inadmissibility under § 212(a)(9)(B)(v) of the Act, the burden of proving eligibility remains entirely with the applicant. Section 291 of the Act, 8 U.S.C. § 1361. Here, the applicant has not met that burden.

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