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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Administrative Appeals Office (AAO)
20 Massachusetts Ave., N.W., MS 2090
Washington, DC 20529-2090



**U.S. Citizenship
and Immigration
Services**



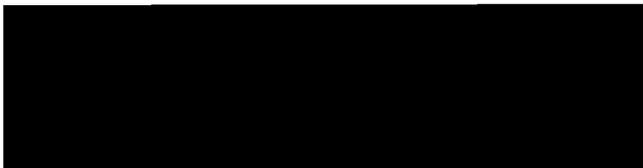
H4

DATE: FEB 29 2012 OFFICE: LOS ANGELES, CALIFORNIA FILE: [REDACTED]

IN RE: Applicant: [REDACTED]

APPLICATION: Application for Waiver of Grounds of Inadmissibility under Section 212(i) of the Immigration and Nationality Act, 8 U.S.C. § 1182(i) and Application for Permission to Reapply for Admission into the United States after Deportation or Removal under Section 212(a)(9)(C) of the Immigration and Nationality Act, 8 U.S.C. § 1182(a)(9)(C)

ON BEHALF OF APPLICANT:



INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office in your case. All of the documents related to this matter have been returned to the office that originally decided your case. Please be advised that any further inquiry that you might have concerning your case must be made to that office.

If you believe the law was inappropriately applied by us in reaching our decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. The specific requirements for filing such a request can be found at 8 C.F.R. § 103.5. 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 \$630. Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires that any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you,


Perry Rhew

Chief, Administrative Appeals Office

DISCUSSION: The waiver application was denied by the Field Office Director, Los Angeles, California, and it is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be summarily dismissed.

The applicant is a native and citizen of Mexico who was found to be inadmissible to the United States pursuant to section 212(a)(6)(C)(i) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(a)(6)(C)(i), for having sought to procure admission through fraud or misrepresentation. The applicant also was found to be inadmissible pursuant to section 212(a)(9)(C)(i)(II) of the Act, 8 U.S.C. § 1182(a)(9)(C)(i)(II), for having been ordered removed under the Act, and for having reentered the United States without being properly admitted. The applicant is the spouse of a U.S. citizen and the beneficiary of an approved Petition for Alien Relative (Form I-130). The applicant through counsel seeks a waiver of inadmissibility pursuant to section 212(i) of the Act, 8 U.S.C. § 1182(i), and seeks permission to reapply for admission into the United States after removal in order to reside in the United States with her husband and children.¹

The Field Office Director concluded that the applicant failed to meet the requirements for consent to reapply for admission, and denied the applicant's Form I-601 and Form I-212 accordingly. *See Decision of the Field Office Director*, dated June 8, 2009.

The record reflects that counsel filed a Notice of Appeal or Motion (Form I-290B) on behalf of the applicant on July 8, 2009. The Form I-290B does not identify specifically any erroneous conclusion of law or statement of fact for the appeal. Part 3 of the Form I-290B, which asks for a statement explaining the basis of the appeal, indicates that the United States Citizenship and Immigration Services (USCIS) denied the applicant's Form I-601 and Form I-212 in error and that an appellate brief with legal arguments will be submitted within 30 days. Part 2 of the Form I-290B also indicates that a brief and/or additional evidence will be submitted to the AAO within 30 days. However, no such brief or evidence appears in the record.

The regulation at 8 C.F.R. § 103.3(a)(1)(v) states, in pertinent part:

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.

¹ The AAO notes that although counsel indicates that the applicant wishes to appeal the denial of both her Waiver of Grounds of Inadmissibility (Form I-601) and Application for Permission to Reapply for Admission into the United States after Deportation or Removal (Form I-212), only one Form I-290B and fee have been submitted. A Form I-290B and filing fee must be filed for each individual application appealed. In situations where an applicant files both a Form I-212 and a Form I-601, the Adjudicator's Field Manual (AFM) states that the Form I-601 is to be adjudicated first. Chapter 43.2(d) of the AFM states, "If the alien has filed both applications (Forms I-212 and I-601), adjudicate the waiver application first. If the Form I-601 waiver is approved, then consider the Form I-212 on its merits; if the Form I-601 is denied (and the decision is final), deny the Form I-212 since its approval would serve no purpose." Accordingly, pursuant to Chapter 43.2(d) of the AFM, the AAO will consider the applicant's Form I-601.

Inasmuch as the applicant has failed to identify specifically an erroneous conclusion of law or a statement of fact in this proceeding, the appeal must be summarily dismissed.

In proceedings regarding a waiver of grounds of inadmissibility under section 212(i) of the Act, the burden of proving eligibility remains entirely with the applicant, See Section 291 of the Act, 8 U.S.C. § 1361. Here, the applicant has not met that burden. Accordingly, the appeal will be summarily dismissed.

ORDER: The appeal is summarily dismissed.