



U.S. Citizenship
and Immigration
Services

(b)(6)

DATE: **JAN 02 2013** Office: SAN SALVADOR, EI SALVADOR

F [REDACTED]

IN RE: Applicant: [REDACTED]

APPLICATION: Application for Waiver of Grounds of Inadmissibility under Section 212(6)(B) of the Immigration and Nationality Act, 8 U.S.C. § 1182(6)(B) and Application for Permission to Reapply for Admission under section 212(a)(9)(A)(iii) of the Act, 8 U.S.C. § 1182(a)(9)(A)(iii).

ON BEHALF OF APPLICANT: Self-represented

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 AAO inappropriately applied the law in reaching its decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen in accordance with the instructions on Form I-290B, Notice of Appeal or Motion, with a fee of \$630. The specific requirements for filing such a motion can be found at 8 C.F.R. § 103.5. **Do not file any motion directly with the AAO.** Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires any motion to be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you,

Ron Rosenberg
Acting Chief, Administrative Appeals Office

DISCUSSION: The waiver application was denied by the Field Office Director, San Salvador, El Salvador, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The applicant is a native and citizen of El Salvador who was found to be inadmissible to the United States pursuant to section 212(a)(6)(B) of the Act, 8 U.S.C. § 1182(a)(6)(B), for failing to attend her removal proceeding. The applicant is married to a United States citizen, and seeks a waiver of inadmissibility in order to reside in the United States with her spouse. The applicant has also filed a Form I-212, Application for Permission to Reapply for Admission into the United States After Deportation or Removal, under section 212(a)(9)(A)(ii) of the Act, 8 U.S.C. § 1182(a)(9)(A)(iii).¹

In his decision of August 30, 2011, the field office director concluded that because the applicant had failed to attend her removal proceedings, she was statutorily inadmissible to the United States for five years and that no waiver was available. Accordingly, the Form I-601, Application for Waiver of Grounds of Inadmissibility, was denied. The field office director also denied the applicant's Form I-212 as a matter of discretion stating that its consideration would serve no purpose because of her inadmissibility under section 212(a)(6)(B) of the Act.

On appeal, the applicant requests permission to return to the United States as her spouse is suffering from extreme hardship; that her own life has been threatened in El Salvador by her ex-husband; and that the lives of her daughters have been threatened by gangs in El Salvador.

Section 212(a)(6)(B) of the Act states:

Failure to attend removal proceeding. -Any alien who without reasonable cause fails or refuses to attend or remain in attendance at a proceeding to determine the alien's inadmissibility of deportability and who seeks admission to the United States within 5 years of such alien's subsequent departure or removal is inadmissible.

The record reflects that the applicant the applicant entered the United States without inspection on February 6, 1999. A removal hearing was held on March 22, 2000, and the applicant was ordered removed *in absentia* pursuant to section 240 of the Act. The order of the immigration judge dated March 22, 2000 indicates that a notice of hearing was mailed to the applicant's last known address of record. The applicant did not depart the United States until April 25, 2010. As the applicant is seeking admission to the United States within five years of her departure, she

¹ The AAO notes that the applicant is also inadmissible under section 212(a)(9)(B) of the Act. Although section 212(a)(9)(B) was not addressed by the field office director in his decision, this inadmissibility is in effect for ten years after the date of the applicant's last departure from the United States.

is inadmissible under section 212(a)(6)(B) of the Act. The applicant does not contest her inadmissibility.

Based on the *in absentia* removal order, the applicant is inadmissible to the United States and not eligible for admission for a period of five years from the date of 2010 her departure from the United States. There is no statutory waiver available for the ground of inadmissibility arising under section 212(a)(6)(B) of the Act.

The AAO notes that the field office director denied the applicant's Form I-212 in the same decision. *Matter of Martinez-Torres*, 10 I&N Dec. 776 (Reg. Comm. 1964), held that an application for permission to reapply for admission is denied, in the exercise of discretion, to an alien who is mandatorily inadmissible to the United States under another section of the Act, and no purpose would be served in granting the application. As the applicant is inadmissible under section 212(a)(6)(B) of the Act, the AAO also finds that no purpose would be served in considering the applicant's Form I-212.

The applicant is inadmissible under section 212(a)(6)(B) and section 212(a)(9)(A)(ii) of the Act. As no waiver is available to the applicant for her section 212(a)(6)(B) inadmissibility, the AAO will not consider her Form I-212. Accordingly, the appeal will be dismissed.

ORDER: The appeal is dismissed.