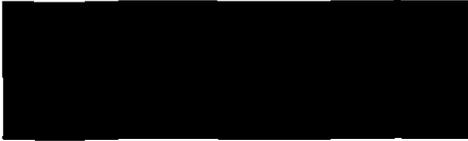


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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Administrative Appeals Office (AAO)
20 Massachusetts Ave., N.W., MS 2090
Washington, DC 20529-2090



U.S. Citizenship
and Immigration
Services



#5

DATE: JUL 05 2012

Office: TUCSON, AZ

FILE:

IN RE: Applicant:

APPLICATION: Application for Waiver of Grounds of Inadmissibility under Section 212(i) of the Immigration and Nationality Act, 8 U.S.C. § 1182(i).

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 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,

Perry Rhew
Chief, Administrative Appeals Office

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

The applicant is a native and a citizen of Mexico. The applicant 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 entering into a marriage for the purpose of evading the immigration laws of the United States. She is the spouse of a U.S. citizen. The applicant is seeking a waiver under section 212(i) of the Act, 8 U.S.C. § 1182(i) in order to reside in the United States.

The Field Office Director concluded that the applicant had failed to establish that the bar to her admission would impose extreme hardship on a qualifying relative, her U.S. citizen spouse and Lawful Permanent Resident (LPR) parent, and denied the Application for Waiver of Grounds of Inadmissibility (Form I-601) on June 25, 2010.

On appeal, counsel for the applicant poses several questions regarding the relationship between the alleged appeal of the denial of the Form I-130 petition on behalf of the applicant before the Board of Immigration Appeals (BIA) and the adjudication of the present Form I-601 waiver application. *Form I-290B*, received July 27, 2010.

On May 20, 2010, the District Director denied the Form I-130, Petition for Alien Relative, underlying the applicant's adjustment of status application. Counsel contends that the denial has been appealed to the BIA but the record lacks information or documentation to show whether an appeal has been filed or decided, and if so, the result of decision. Accordingly, the record establishes that the Form I-130 petition remains denied, and the applicant is not presently the beneficiary of an approved immigrant petition. On May 20, 2010, the applicant's Form I-485, Application to Register Permanent Residence or Adjust Status, was denied, based on the fact that the applicant was not the beneficiary of an approved immigrant visa petition.

The viability of the Form I-601, Application for Waiver of Grounds of Inadmissibility, is dependent on the applicant's Form I-485 application that is, in turn, based on an approved immediate relative petition (Form I-130). The applicant's Form I-485 application has been denied pursuant to 8 C.F.R. 245.1(c) because the *Form I-130 petition on his behalf has been denied*. In the absence of an underlying approved Form I-130 petition and viable Form I-485 application, no purpose would be served in adjudicating the applicant's Form I-601 application for a waiver. The regulations do not provide any basis upon which to defer adjudication of a Form I-601 application due to a pending appeal of the denial of an underlying Form I-130 petition. Accordingly, the appeal will be dismissed.

ORDER: The appeal is dismissed.