

identifying data deleted to  
prevent clearly unwarranted  
invasion of personal privacy

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



**PUBLIC COPY**



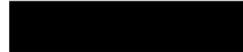
#5

**MAY 17 2012**

Date:

Office: LAWRENCE, MA

FILE:



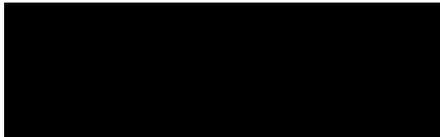
IN RE:

Applicant:



APPLICATION: Application for Waiver of Grounds of Inadmissibility under Section 212(i) of the Immigration and Nationality Act (the 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 with the field office or service center that originally decided your case by filing a 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, Lawrence, Massachusetts. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The record reflects that 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 Act for willful misrepresentation of a material fact in order to procure an immigration benefit. The applicant is married to a U.S. citizen and seeks a waiver of inadmissibility pursuant to section 212(i) of the Act in order to reside with her husband in the United States.

The field office director found that the applicant's Form I-485 was denied for abandonment and for failure to establish eligibility to adjust status. Specifically, the field office director found that the applicant failed to establish that she was inspected and admitted or paroled into the United States, and, therefore, is ineligible to adjust her status to that of a lawful permanent resident. The field office director denied the waiver application accordingly. *Decision of the Field Office Director*, dated March 8, 2010.

On appeal, counsel contends that the applicant established her misrepresentation and the circumstances surrounding her entry into the United States and qualifies for a waiver of inadmissibility.

A Form I-601 waiver application is viable when there is a pending adjustment of status application (Form I-485) or immigrant visa application. In this case, the applicant's Form I-485 was denied on March 8, 2010. The field office director found the applicant failed to establish that she was inspected and admitted or paroled into the United States and that the applicant failed to respond to a Request for Evidence to establish her eligibility to adjust her status. The field office director summarily denied the applicant's Form I-485 for abandonment and found that the applicant is ineligible to adjust her status under section 245(a) of the Act. There is no indication in the record that the applicant has filed a motion to reopen the denial of this most recent Form I-485 and no indication any such motion was approved. To the extent counsel contends the applicant established her entry into the United States, the AAO does not have appellate jurisdiction over the denial of an application for adjustment of status. The authority to adjudicate appeals is delegated to the AAO by the Secretary of the Department of Homeland Security (DHS) pursuant to the authority vested in her through the Homeland Security Act of 2002, Pub. L. 107-296. *See DHS Delegation Number 0150.1* (effective March 1, 2003); *see also* 8 C.F.R. § 2.1 (2003).

Because the applicant was found ineligible to adjust status for reasons other than her inadmissibility under section 212(a)(6)(C), no purpose would be served in examining the hardship to the applicant's husband. Accordingly, the waiver application must be dismissed.

**ORDER:** The appeal is dismissed.