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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

**PUBLIC COPY**



H5

DATE: **MAY 17 2012**

OFFICE: PANAMA CITY, PANAMA

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:

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 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, Panama City, Panama and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The applicant is a native and citizen of Ecuador who was found to be inadmissible to the United States under section 212(a)(6)(C)(i) of the Act, 8 U.S.C. § 1182(a)(6)(C)(i), for seeking to procure a visa, other documentation, or admission into the United States or other benefit provided under the Act by fraud or willful misrepresentation. The applicant seeks a waiver of inadmissibility in order to reside in the United States with her U.S. citizen fiancé and child.<sup>1</sup>

The Field Office Director concluded that the applicant failed to establish that extreme hardship would be imposed on a qualifying relative and denied the Application for Waiver of Grounds of Inadmissibility (Form I-601) accordingly. See *Decision of the Field Office Director*, dated February 8, 2010. The Field Office Director additionally determined that due to prior marriage fraud by the applicant under section 204(c) of the Act, her Form I-129F, *Petition for Alien Fiancé*, was approved in error. *Id.* The Field Office Director noted that it is not necessary to revoke the previously approved Form I-129F as it is no longer valid, having statutorily expired on January 4, 2009. *Id.* Accordingly, the Field Office Director held that the Form I-129F will not be revalidated. *Id.* On February 8, 2010 the applicant's Form I-601, *Application for Waiver of Grounds of Inadmissibility* filed on December 4, 2008 was denied, and on March 15, 2010 the present appeal was received.

The viability of the Form I-601, Application for Waiver of Grounds of Inadmissibility, is dependent on an approved underlying petition. Here, in the absence of an approved Form I-129F, Petition for Alien Fiancé or Form I-130, Petition for Alien Relative, no purpose would be served in adjudicating the Form I-601, Application for Waiver of Grounds of Inadmissibility. The appeal of the denial of the waiver must therefore be dismissed.

**ORDER:** The appeal is dismissed.

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<sup>1</sup> The Consular Officer found the applicant to be additionally inadmissible for having been unlawfully present in the United States and for having been ordered removed by the Immigration Judge. The Field Office Director determined that the applicant is not inadmissible under section 212(a)(9)(B)(i)(ii) because she did not accrue unlawful presence while first maintaining student status and later while her adjustment of status application was pending, and she is not inadmissible under section 212(a)(9)(A)(i) because the Immigration Judge's removal order was issued after the applicant departed the United States. The AAO concurs that the applicant is not inadmissible under sections 212(a)(9)(B)(i)(ii) or 212(a)(9)(A)(i).