

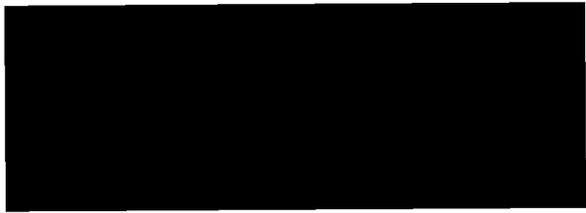
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U.S. Department of Homeland Security
Citizenship and Immigration Services
Office of Administrative Appeals MS 2090
Washington, DC 20529-2090



U.S. Citizenship and Immigration Services

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FILE: [redacted] Office: MEXICO CITY, MEXICO (CIUDAD JUAREZ) Date: **APR 30 2010**
CDJ 2004 794 030

IN RE: [redacted]

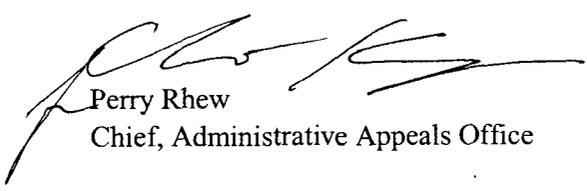
APPLICATION: Application for Waiver of Ground of Inadmissibility under section 212(a)(9)(B)(v) of the Immigration and Nationality Act, 8 U.S.C. § 1182(a)(9)(B)(v)

ON BEHALF OF APPLICANT:

SELF-REPRESENTED

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.


Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The waiver application was denied by the District Director, Mexico City, Mexico, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed as moot because the applicant is no longer inadmissible .

The record reflects that the applicant is a 53-year-old native and citizen of Mexico who was found to be inadmissible to the United States pursuant to section 212(a)(9)(B)(i)(II) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(a)(9)(B)(i)(II), for having been unlawfully present in the United States for more than one year. The applicant is married to a lawful permanent resident of the United States, and he seeks a waiver of inadmissibility under section 212(a)(9)(B)(v) of the Act, 8 U.S.C. § 1182(a)(9)(B)(v), in order to reside with his wife in the United States.

The director found that the applicant failed to establish extreme hardship to his spouse, and denied the application accordingly. *Decision of the Director*, dated Jan. 26, 2007. On appeal, the applicant contends that he did not accrue unlawful presence in the United States because he had a pending application for legalization. *See Form I-290B, Notice of Appeal*, dated Feb. 20, 2007.

Section 212(a)(9) of the Act provides in pertinent part:

(B) Aliens Unlawfully Present -

(i) In general

Any alien (other than an alien lawfully admitted for permanent residence) who-

....

(II) has been unlawfully present in the United States for one year or more, and who again seeks admission within 10 years of the date of such alien's departure or removal from the United States, is inadmissible.

The record reflects that the applicant last entered the United States without being inspected and admitted or paroled in or around 1991 or 1992, and he departed from the United States in June, 1999. Accordingly, the applicant was inadmissible to the United States under section 212(a)(9)(B)(i)(II) of the Act for being unlawfully present in the United States for a period of one year or more. Because it has now been more than ten years since the applicant's departure, he is no longer inadmissible under section 212(a)(9)(B)(i)(II) of the Act. A waiver of inadmissibility under section 212(a)(9)(B)(v) of the Act is no longer required. Consequently, the appeal will be dismissed as moot.

ORDER: The appeal is dismissed.