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



U.S. Citizenship
and Immigration
Services

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H6

FILE: [REDACTED] (relates)

Office: CIUDAD JUAREZ

DATE:

JUL 02 2010

IN RE: Applicant: [REDACTED]

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

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 law was inappropriately applied by us in reaching our decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. The specific requirements for filing such a request can be found at 8 C.F.R. § 103.5. All motions must be submitted to the office that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion, with a fee of \$585. Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires that any motion must 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 United States Consulate, [REDACTED] found the applicant inadmissible to the United States on multiple grounds, and ineligible for a waiver. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected.

The record reflects that the applicant, a native and citizen of Mexico, 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 was also found to be inadmissible to the United States pursuant to section 212(a)(9)(C)(i)(I) of the Act, 8 U.S.C. § 1182(a)(9)(C)(i)(I), for unlawful presence after a previous immigration violation, specifically, unlawful presence.

In a form letter to the applicant the field office director noted that the applicant “was given written information as to the fact that he was not eligible to file for an I-601 waiver. Applicant confirmed at interview and under oath that he entered the USA in 1997, turned 18 on August 13, 1997 and remained until 1999 when he returned to Mexico. He also stated he re-entered without inspection in February 2000 and remained in the US until November 2006. He won’t be eligible for a waiver until November 2016. Attached you will find form I-290B and receipts for \$585.00 US Dollars that he sent to Appeal the decision on an I-601 waiver that obviously it was not submitted. Even though he new (sic) about the ineligibility and that there was not a waiver relief for him he decided to apply for an Appeal. Money Orders are not refundable....” *Letter from Field Office Director*, dated May 22, 2009.

Despite the field office director’s findings, the applicant submitted a Form I-601, Application for Waiver of Grounds of Inadmissibility (Form I-601) and a Form I-290B, Notice of Appeal (Form I-290B). It is unclear whether the Form I-601 was ever properly received and the fee accepted.

As the Form I-601 remains adjudicated, the instant appeal will be rejected as there is no underlying application or denial on which to base the appeal.

ORDER: The appeal is rejected.