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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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MAR 05 2010

FILE:

Office: MANILA, PHILLIPPINES

Date:

IN RE:

APPLICATION: Application for Waiver of Grounds 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:

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.

If you believe the law was inappropriately applied or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. Please refer to 8 C.F.R. § 103.5 for the specific requirements. 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. Any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen, as required by 8 C.F.R. § 103.5(a)(1)(i).

Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The waiver application was denied by the Officer-in-Charge (OIC), Manila, Philippines, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The applicant, [REDACTED], is a native and citizen of the Philippines. She 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 and seeking admission within 10 years of her last departure from the United States. The applicant seeks a waiver of inadmissibility pursuant to section 212(a)(9)(B)(v) of the Act, 8 U.S.C. §§ 1182(a)(9)(B)(v), in order to return to the United States to join her U.S. citizen spouse.

The OIC concluded that the applicant had failed to establish that her bar to admission would impose extreme hardship on a qualifying relative, her United States citizen spouse, and denied the Application for Waiver of Grounds of Inadmissibility (Form I-601) accordingly. The waiver application was denied on April 17, 2007, and this appeal followed.

The record reflects that on October 23, 2006, the National Visa Center notified the applicant that her registration had been terminated, pursuant to section 203(g) of the Act, because she failed to apply for an immigrant visa within one year of being advised that there was a visa available for her and the two-year period for reinstatement of her registration had passed. The regulation at 8 C.F.R. § 205.1(a)(1) states that an immediate relative petition (Form I-130) is automatically revoked if the Secretary of State terminates the registration of the beneficiary pursuant to section 203(g) of the Act. Accordingly, on July 30, 2009, the Director, Vermont Service Center, revoked the Form I-130, Petition for Alien Relative, underlying the applicant's immigrant visa application.

The viability of the Form I-601, Application for Waiver of Grounds of Inadmissibility, is dependent on an immigrant visa application that is, in turn, based on an approved Form I-130, Petition for Alien Relative. *See* 8 C.F.R. § 212.7(a). In the absence of an underlying approved Form I-130, Petition for Alien Relative, the Form I-601, Application for Waiver of Grounds of Inadmissibility, is moot. The appeal of the denial of the waiver must therefore be dismissed as moot.

ORDER: The appeal is dismissed.