

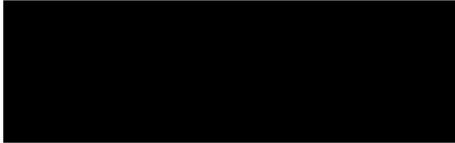
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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Administrative Appeals Office (AAO)
20 Massachusetts Ave., N.W., MS 2090
Washington, DC 20529-2090



U.S. Citizenship
and Immigration
Services

He



FILE: [REDACTED] Office: CALIFORNIA SERVICE CENTER Date: FEB 03 2011

IN RE: [REDACTED]

APPLICATION: Application for Waiver of Grounds of Inadmissibility pursuant to 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:

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.

Thank you,

A handwritten signature in black ink, appearing to read "Perry Rhew".

for

Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The application was denied by the Director, California Service Center and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The applicant is a native and citizen of Honduras who is inadmissible to the United States pursuant to section 212(a)(9)(B)(i)(II) of 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 readmission within ten years of his last departure from the United States. The applicant is married to a United States citizen. He seeks a waiver of inadmissibility in order to reside in the United States with his U.S. citizen spouse.

The Director found that, based on the evidence in the record, the applicant had failed to establish extreme hardship to his qualifying relative. The application was denied accordingly. *Decision of the Director*, dated April 25, 2007.

On appeal, the applicant's spouse asserts that she depends upon the applicant one-hundred percent and this is extremely painful for her. *Form I-290B, Notice of Appeal or Motion*.

The record reflects that the applicant entered the United States without inspection on January 19, 1991 through San Ysidro, California. *Form I-213, Record of Deportable/Inadmissible Alien*. On October 7, 1996 the applicant was granted voluntary departure until April 7, 1997 by an immigration judge. *Order of the Immigration Judge*, dated October 7, 1996. There is nothing in the record to show that the applicant voluntarily departed the United States. On July 12, 2000, a Form I-130, Petition for Alien Relative was approved for the applicant through his United States citizen spouse. *Form I-130*. On May 2, 2006 immigration authorities enforced a Warrant of Removal/Deportation upon the applicant. *Id.* The applicant was removed from the United States on May 11, 2006. *Memorandum, United States Immigration and Customs Enforcement*, dated September 18, 2006. On August 23, 2006 the applicant filed a Form I-601, Application for Waiver of Grounds of Inadmissibility which was denied by the Director of the California Service Center on April 25, 2007. *Form I-601; Decision of the Director*, dated April 25, 2007.

Although the applicant submitted an application for a waiver of ground of inadmissibility, the record does not contain an underlying application for relief upon which to base the Form I-601 waiver. Furthermore, the applicant has been outside the United States since he was removed in 2006, and the Director of the California Service Center does not have jurisdiction in this case. Rather, it is necessary that the applicant file a Form DS-230, Application for Immigrant Visa and Alien Registration with the United States Consulate in Tegucigalpa, Honduras, where he resides. If it is determined that the applicant is inadmissible to the United States and is in need of a waiver of inadmissibility, the Field Office Director of U.S. Citizenship and Immigration Services (USCIS) in Tegucigalpa, Honduras has jurisdiction to adjudicate the Form I-601 waiver application. If Form I-601 is submitted to the Field Office Director and subsequently denied, the applicant would have a right to appeal that decision to the Administrative Appeals Office (AAO).

As there is no underlying application for admission upon which to base a Form I-601 waiver application, The appeal in the present matter will be dismissed.

ORDER: The appeal is dismissed, as there is no underlying application for admission upon which to base a Form I-601 waiver application.