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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

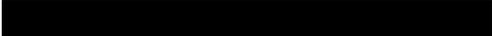


HG

DATE: **FEB 01 2012**

OFFICE: GUATEMALA CITY

FILE: 

IN RE: Applicant: 

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:

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 \$630. 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

for

Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The waiver application was denied by the Field Office Director, Guatemala City, Guatemala. The matter is now before the Administrative Appeals Office on appeal.

The applicant is a native and citizen of Guatemala who was found to be inadmissible to the United States under 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 a period of one year or more. The applicant was the wife of a U.S. Citizen and the beneficiary of an approved Petition for Alien Relative. 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 remain in the United States with her husband.

The Field Office Director concluded that the applicant is inadmissible pursuant to section 212(a)(6)(B) of the Act because she failed to demonstrate that her failure to attend removal proceedings were due to exceptional circumstances, and denied the application accordingly. See *Decision of the Field Office Director* dated March 11, 2011.

On appeal, the applicant asserts that there was government delay in filing the Notice to Appear and that the applicant did not receive the notice in the time frame she expected.

The record reflects that on November 11, 2011, counsel for the applicant forwarded a letter to the Field Office Director, Guatemala City, stating that the petitioner for the applicant is in the process of divorcing the applicant and that he wishes to withdraw all petitions that he has submitted on the applicant's behalf, including the Form I-130, Petition for Alien Relative. The letter included a statement and signature from the petitioner attesting to his wish to withdraw all outstanding petitions, applications, and appeals filed on behalf of the applicant. Accordingly, the applicant is no longer eligible for an immigrant visa because the underlying Petition for Alien Relative has been withdrawn. The appeal will be dismissed, as there is no longer an approved petition based upon which the applicant can adjust her status in the United States. Accordingly, no purpose would be served in granting a waiver of inadmissibility.

ORDER: The appeal is dismissed.