(b)(6)

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

U.S. Citizenship and Immigration Services

DATE: APR 0 9 2013 OFFICE: SANTA ANA, CALIFORNIA File: [redacted]

IN RE: Applicant: [redacted]

APPLICATION: Form I-601, Application for Waiver of Grounds of Inadmissibility

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.

If you believe the AAO inappropriately applied the law in reaching its decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen in accordance with the instructions on Form I-290B, Notice of Appeal or Motion, with a fee of $630. The specific requirements for filing such a motion can be found at 8 C.F.R. § 103.5. **Do not file any motion directly with the AAO.** Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires any motion to be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you,

Ellen C. Johnson

Ron Rosenberg
Acting Chief, Administrative Appeals Office

DISCUSSION: The waiver application was denied by the Field Office Director, Santa Ana, California, and a subsequent appeal was dismissed by the Administrative Appeals Office (AAO). The matter is now before the AAO on motion. The motion will be granted, however, the underlying application remains denied.

The applicant is a native and citizen of Mexico who was found to be inadmissible to the United States under section 212(a)(6)(A)(i) of the Immigration and Nationality Act, 8 U.S.C. § 1182(a)(6)(A)(i), for having been present in the United States without being admitted or paroled, or who arrived in the United States at any time or place other than as designated by the Attorney General. The applicant seeks a waiver of inadmissibility in order to remain in the United States with his U.S. citizen spouse and children.

The Field Office Director concluded that the applicant is statutorily ineligible for the relief requested as there is no waiver available for inadmissibility under section 212(a)(6)(A)(i) of the Act and denied the Application for Waiver of Grounds of Inadmissibility (Form I-601) accordingly. *See Decision of the Field Office Director,* dated January 6, 2011.

The AAO affirmed, finding there was no waiver for the applicant's inadmissibility, and dismissed the appeal. *See AAO Decision,* dated September 25, 2012.

On motion, the applicant contends that the AAO failed to consider the hardship experienced by his U.S. Citizen spouse due to his inadmissibility. *See applicant's brief,* dated October 24, 2012. The applicant asserts that his spouse would experience extreme hardship without him because she would be unable to take care of their daughter, who has cerebral palsy, microcephaly, and scoliosis. *Id.* Medical records are submitted in support.

The record contains, but is not limited to: medical records, statements from the applicant and his spouse, various immigration applications and petitions, employment and financial records, and marriage and birth certificates. The entire record was reviewed and considered in rendering a decision on the motion.

Section 212(a)(6) of the Act provides:

> (6) Illegal entrants and immigration violators.-
>
> (A) ALIENS PRESENT WITHOUT admission or parole.-
>
> (i) In general.-An alien present in the United States without being admitted or paroled, or who arrives in the United States at any time or place other than as designated by the Attorney General, is inadmissible.

The record reflects that on or about March 5, 2005, the applicant entered the United States without inspection. The applicant has not departed the United States since. Based upon the foregoing, the Field Office Director and the AAO found that the applicant is inadmissible under section

212(a)(6)(A)(i) of the Act, 8 U.S.C. § 1182(a)(6)(A)(i). There is no waiver of inadmissibility under section 212(a)(6)(A)(i) of the Act.

The applicant contends that the AAO erred by not considering the hardship his spouse would suffer given his inadmissibility. While the AAO reviewed the record on appeal and on motion, hardship to the applicant's spouse could not be considered in adjudication of the I-601 waiver application. As stated by the Field Office Director and the AAO, the applicant is inadmissible under a section of law for which there is no waiver. Therefore, even if the record contained sufficient proof of extreme hardship to a qualifying relative and the applicant merited a favorable exercise of discretion, the applicant still would not obtain a waiver because no waiver is currently available to the applicant.

There is no waiver available for this ground of inadmissibility, and the present Form I-601 application serves no purpose. As there is no waiver of inadmissibility that may be properly examined pursuant to the present Form I-601 application, the application is unnecessary. Therefore, although the motion is granted, the I-601 waiver application remains denied.

ORDER: The motion is granted, but the underlying application remains denied.