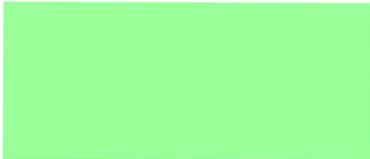




U.S. Citizenship
and Immigration
Services

(b)(6)

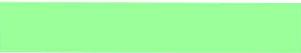


DATE: FEB 19 2013

OFFICE: SAN SALVADOR

FILE: 

IN RE:

APPLICANT: 

APPLICATION:

Applications for Waiver of Grounds of Inadmissibility under section 212(a)(9)(B) of the Immigration and Nationality Act, 8 U.S.C. § 1182(a)(9)(B) and Permission to Reapply for Admission after Deportation or Removal under section 212(a)(9)(A) of the Act, 8 U.S.C. § 1182(a)(9)(A)

ON BEHALF OF APPLICANT:

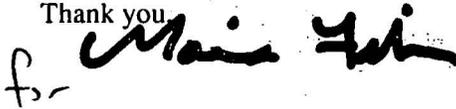
SELF REPRESENTED

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



Ron Rosenberg, Acting Chief
Administrative Appeals Office

(b)(6)

DISCUSSION: The Form I-601 Application for Waiver of Grounds of Inadmissibility (Form I-601) was denied by Field Office Director, San Salvador, El Salvador, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The applicant is a native and citizen of El Salvador. 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 again seeking admission within ten years of his last departure from the United States and section 212(a)(9)(A) of the Act, 8 U.S.C. § 1182(a)(9)(A), as an alien previously removed. The applicant is the spouse of a U.S. citizen and is 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 reside in the United States with her U.S. citizen spouse.

When considering the applicant's request for waiver of this ground of inadmissibility, the Field Office Director determined that the applicant was also inadmissible to the United States pursuant to section 212(a)(6)(B) of the Act for failing to attend removal proceedings and seeking admission to the United States within five years of her subsequent removal. *See Decision of Field Office Director, May 22, 2012.* The application was accordingly denied.

On appeal, the applicant does not contest her inadmissibility. *Form I-290B (Notice of Appeal or Motion)*, dated June 1, 2012.

The record reflects that on November 28, 2005, the applicant was issued an order of removal in absentia by an immigration judge due to her failure to attend an immigration hearing. The applicant filed a Motion to Reopen on July 27, 2006, that was denied and the applicant was removed from the United States on March 26, 2009. The applicant has not contested these facts.

Section 212(a)(6)(B) of the Act states:

Failure to attend removal proceeding. -Any alien who without reasonable cause fails or refuses to attend or remain in attendance at a proceeding to determine the alien's inadmissibility or deportability and who seeks admission to the United States within 5 years of such alien's subsequent departure or removal is inadmissible.

There is no statutory waiver of available for the ground of inadmissibility arising under section 212(a)(6)(B) of the Act.

The object of a waiver application, in the context of an application for an immigrant visa filed at a consulate or embassy abroad, is to remove inadmissibility as a basis of ineligibility for that visa. An alien is not required to file a separate waiver application for each ground of inadmissibility, but rather one application that, if approved, extends to all inadmissibilities specified in the application. However, where an alien is subject to an inadmissibility that cannot be waived, approval of the waiver application would not have the intended effect. Thus, no purpose is served in adjudicating

such a waiver application, and USCIS may deny it for that reason as a matter of discretion. *Cf. Matter of J- F- D-*, 10 I&N Dec. 694 (Reg. Comm. 1963).

As the applicant is clearly inadmissible under section 212(a)(6)(B) of the Act for which there is no waiver, the AAO finds that no purpose is served in adjudicating the application for a waiver of inadmissibility pursuant to under section 212(a)(9)(B) of the Act.

The AAO notes that the Field Office Director denied the applicant's Form I-212, Application for Permission to Reapply for Admission into the United States After Deportation or Removal (Form I-212) in the same decision. *Matter of Martinez-Torres*, 10 I&N Dec. 776 (reg. Comm. 1964) held that an application for permission to reapply for admission is denied, in the exercise of discretion, to an alien who is mandatorily inadmissible to the United States under another section of the Act, and no purpose would be served in granting the application. As the applicant is inadmissible under section 212(a)(6)(B) of the Act, no purpose would be served in granting the applicant's Form I-212.

Section 291 of the Act, 8 U.S.C. § 1361, provides that the burden of proof is on the applicant to establish eligibility for the benefit sought. The applicant has failed to overcome the basis of denial of her Form I-601 waiver application.

ORDER: The appeal is dismissed.