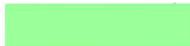


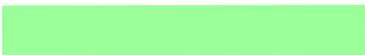


U.S. Citizenship
and Immigration
Services

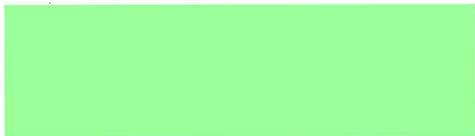
(b)(6)



DATE: **OCT 03 2013** OFFICE: NEBRASKA SERVICE CENTER FILE: 

IN RE: 

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:


INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office (AAO) in your case.

This is a non-precedent decision. The AAO does not announce new constructions of law nor establish agency policy through non-precedent decisions. If you believe the AAO incorrectly applied current law or policy to your case or if you seek to present new facts for consideration, you may file a motion to reconsider or a motion to reopen, respectively. Any motion must be filed on a Notice of Appeal or Motion (Form I-290B) within 33 days of the date of this decision. **Please review the Form I-290B instructions at <http://www.uscis.gov/forms> for the latest information on fee, filing location, and other requirements.** See also 8 C.F.R. § 103.5. **Do not file a motion directly with the AAO.**

Thank you,

Ron Rosenberg
Chief, Administrative Appeals Office

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

The applicant is a native and citizen of Mexico. 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 one year or more and seeking readmission within 10 years of her last departure from the United States. Additionally, the applicant was found inadmissible under section 212(a)(9)(C)(i) of the Act, 8 U.S.C. § 1182(a)(9)(C)(i), for having entered the United States without being admitted after having been unlawfully present in the United States for an aggregate period of more than one year. The applicant is the beneficiary of an approved Petition for Alien Relative (Form I-130) filed on her behalf by her U.S. citizen husband and seeks a waiver of inadmissibility under section 212(a)(9)(B)(v) of the Act, 8 U.S.C. § 1182(a)(9)(B)(v).

On April 26, 2013, the Director denied the applicant's Form I-601 stating that the applicant is inadmissible under section 212(a)(9)(C)(i) of the Act, and is not eligible to apply for permission to reapply for admission after removal until she has remained outside of the United States for ten years after her last departure. As a result of the applicant's ineligibility for consent to apply for admission at this time, the Director denied the applicant's Form I-601 as a matter of discretion.

On appeal, counsel for the applicant indicated that a brief and/or evidence would be submitted to the AAO within 30 days of the filing of the appeal. Pursuant to 8 C.F.R. § 103.3(a)(2)(vii) and (viii), an affected party may request additional time to file a brief, which is to be submitted directly to the AAO.

8 C.F.R. § 103.3(a)(1) states in pertinent part:

(v) *Summary dismissal.* An officer to whom an appeal is taken shall summarily dismiss any appeal when the party concerned fails to identify specifically any erroneous conclusion of law or statement of fact for the appeal.

On Form I-290B, Part 3, counsel did not *specifically* identify any erroneous conclusion of law or statement of fact in the Director's decision. Moreover, counsel indicated that a brief would be being submitted to the AAO in support of the appeal; however, the record does not contain a brief or additional evidence. As a result, the AAO finds that the applicant's appeal failed to specifically identify any erroneous conclusion of law or statement of fact in the Service Center Director's decision denying Form I-601. Going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. *Matter of Soffici*, 22 I&N Dec. 158, 165 (Comm. 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm. 1972)). In proceedings for an application for waiver of grounds of inadmissibility under section 212(a)(9)(B)(v) of the Act, the burden of proving eligibility remains entirely with the applicant. Section 291 of the Act, 8 U.S.C. § 1361. Here, the applicant has not met that burden. The appeal is therefore summarily dismissed.

(b)(6)

NON-PRECEDENT DECISION

Page 3

ORDER: The appeal is summarily dismissed.