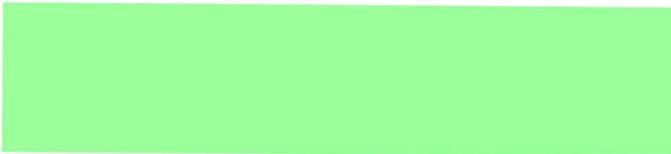




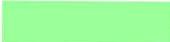
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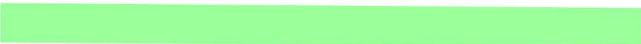
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DATE: **SEP 04 2013**

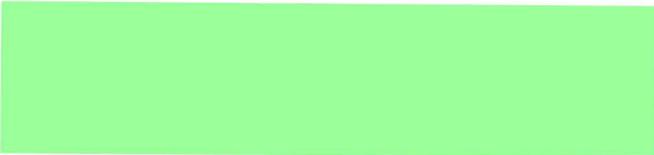
OFFICE: TEGUCIGALPA

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 (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 Field Office Director, Tegucigalpa, Honduras, and the ensuing appeal remanded by the Administrative Appeals Office (AAO) for possible revocation of the underlying Petition for Alien Relative (Form I-130). The matter is again before the AAO on appeal. The appeal will be dismissed.

The applicant is a native and citizen of Costa Rica who 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 being unlawfully present for one year or more. She is seeking a waiver of inadmissibility in order to remain in the United States as the beneficiary of the approved Petition for Alien Relative (Form I-130) filed by her husband.

The applicant was also found to be inadmissible under section 212(a)(6)(B) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(a)(6)(B), for failing to attend her removal proceeding. No waiver exists for an inadmissibility under this section of the Act. In addition, the applicant was found to be inadmissible under section 212(a)(9)(A)(ii) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(a)(9)(A)(ii), for having been ordered removed, and seeking admission within ten years of removal.¹

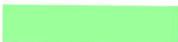
The field office director found the applicant ineligible for a waiver and denied the applicant's Form I-601 waiver application, accordingly. *See Decision of the Field Office Director, May 22, 2012.*

On appeal, counsel for the applicant asserts that the director improperly applied section 212(a)(6)(B) of the Act, and 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).

We noted in our previous decision having received on January 17, 2013 a letter signed by the petitioner, [REDACTED] on January 7, 2013, stating that he and the applicant had divorced. On this basis, the petitioner requested a formal withdrawal of the I-212 application, and his attorney asserted that the Form I-130 had been automatically revoked. As the divorce decree was not submitted with this letter, the AAO remanded the matter to determine the marriage had been terminated. The field office subsequently received a copy of the divorce decree into the record and issued notice to the petitioner on April 30, 2013 that his alien relative petition had been revoked.

The viability of the Form I-601, Application for Waiver of Grounds of Inadmissibility, is dependent on an immigrant visa application that is, in turn, based on an approved Form I-130, Petition for Alien Relative. In the absence of an underlying approved Form I-130, Petition for Alien Relative, no purpose would be served in granting the Form I-601, Application for Waiver of Grounds of Inadmissibility.

¹ The applicant's Form I-212, Application for Permission to Reapply for Admission into the United States after Deportation or Removal (Form I-212) was denied on April 30, 2012 and has not been appealed



(b)(6)

NON-PRECEDENT DECISION

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As the record establishes that the approved Form I-130 underlying the applicant's immigrant visa application has been automatically revoked by termination of the marriage, granting the waiver would serve no purpose. Accordingly, the appeal will be dismissed as the waiver application in this matter is moot.

ORDER: The appeal is dismissed as the underlying waiver application is moot.