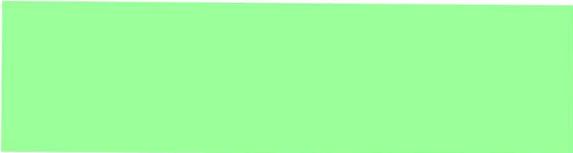


(b)(6)

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



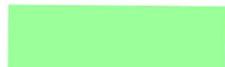
U.S. Citizenship
and Immigration
Services



Date: **JUN 19 2014**

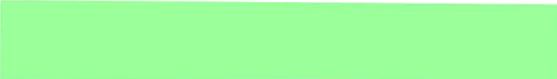
Office: NEBRASKA SERVICE CENTER

FILE:



IN RE:

Applicant:



APPLICATION:

Application for Waiver of Grounds of Inadmissibility pursuant to section 212(a)(9)(B)(v) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(a)(9)(B)(v)

ON BEHALF OF APPLICANT:

SELF-REPRESENTED

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,

A handwritten signature in black ink, appearing to read "Kenneth Rosenberg".

Kenneth Rosenberg
Chief, Administrative Appeals Office

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

The applicant is a native and citizen of Honduras who was found to be inadmissible to the United States pursuant to section 212(a)(9)(B)(i)(II) of the Act for having been unlawfully present in the United States for more than one year. The applicant is married to a U.S. citizen and seeks a waiver of inadmissibility pursuant to section 212(a)(9)(B)(v) of the Act in order to reside with her husband and children in the United States.

The director found that the applicant failed to sign her waiver application and concluded that the application could not be processed without the applicant's signature. In addition, the director found that the applicant failed to establish extreme hardship to a qualifying relative. The director denied the application accordingly.

On appeal, the applicant apologizes for not signing her application, stating that it was too late to correct the mistake and that it is hard to send papers back and forth from Honduras. The applicant states her husband is suffering extreme hardship and submits additional evidence with the appeal.

After a careful review of the entire record, we dismiss the appeal. The regulation at 8 C.F.R. § 103.2(a)(2) states:

Signature. An applicant or petitioner must sign his or her benefit request. However, a parent or legal guardian may sign for a person who is less than 14 years old. A legal guardian may sign for a mentally incompetent person. By signing the benefit request, the applicant or petitioner, or parent or guardian certifies under penalty of perjury that the benefit request, and all evidence submitted with it, either at the time of filing or thereafter, is true and correct. Unless otherwise specified in this chapter, an acceptable signature on a benefit request that is being filed with the USCIS is one that is either handwritten or, for benefit requests filed electronically as permitted by the instructions to the form, in electronic format.

Similarly, the Form I-601 Instructions clearly indicate that the applicant's signature is required. Section 4 of the Instructions state:

Applicant's Signature. You must sign this application personally, unless one of the following exceptions apply:

- a. If you are under 14 years of age, your parent or legal guardian may sign the application for you;
- b. If you are not competent to sign the application, but you are over 14 years of age, a duly appointed legal guardian may sign the application for you; or

c. If you are filing this application to waive inadmissibility for a communicable disease of public health significance (under INA section 212(g)), and you are not competent to sign the application, a qualified family member . . . may file and sign the application on your behalf. This qualifying relative may sign the application for you even if that person is not your legal guardian.

As the regulation at 8 C.F.R. § 103.2(a)(1) makes clear, the form instructions have the weight of regulations. *See* 8 C.F.R. § 103.2(a)(1) (“Every benefit request or other document submitted to DHS must be executed and filed in accordance with the form instructions, notwithstanding any provision of 8 CFR chapter 1 to the contrary, and such instructions are incorporated into the regulations requiring its submission.”).

The record contains a copy of a Request for Evidence (RFE), dated May 24, 2013, that was sent to the applicant. The RFE clearly stated, “Your Form I-601, Application for Waiver of Grounds of Inadmissibility, is missing a required signature of the applicant Please sign the enclosed copy and return.” Written in italics and bold typeface, the RFE specifies that signatures of qualifying relatives are not acceptable on Form I-601. Despite making this specific request and enclosing a copy of the applicant’s waiver application for her signature, the applicant has not signed her application as required. The applicant concedes she has not signed her application. Under these circumstances, we dismiss the appeal. The applicant may file a new, signed waiver application.

Even if we were to consider the applicant’s appeal on the merits, there is insufficient evidence in the record to show extreme hardship to the applicant’s husband. Although we are sympathetic to the family’s circumstances and recognize the hardship the applicant’s spouse is experiencing by being separated from his wife and child, and being a single parent to his stepdaughter while running his own business in the United States, the applicant does not discuss the possibility of her husband returning to Honduras, where he was born, to avoid the hardship of separation.

In application proceedings, it is the applicant’s burden to establish eligibility for the immigration benefit sought. Section 291 of the Act, 8 U.S.C. § 1361. Here, that burden has not been met.

ORDER: The appeal is dismissed.