



**U.S. Citizenship
and Immigration
Services**

**Non-Precedent Decision of the
Administrative Appeals Office**

MATTER OF G-M-P-

DATE: DEC. 7, 2015

APPEAL OF NEBRASKA SERVICE CENTER DECISION

APPLICATION: FORM I-601, APPLICATION FOR WAIVER OF GROUNDS OF
INADMISSIBILITY

The Applicant, a native and citizen of the Dominican Republic, seeks a waiver of inadmissibility. *See* Immigration and Nationality Act (the Act) § 212(a)(9)(B)(v), 8 U.S.C. § 1182(a)(9)(B)(v). The Director of the Nebraska Service Center denied the application. The matter is now before us on appeal. As the record establishes that the Applicant is not inadmissible, the Form I-601 is unnecessary. The appeal will be dismissed.

The Applicant was found to be inadmissible to the United States pursuant to section 212(a)(9)(B)(i)(II) of the Act, 8 U.S.C. § 1182(a)(9)(B)(i)(II), for remaining in the United States unlawfully for more than a year, and seeking admission within 10 years of her departure from the country. The Applicant is the beneficiary of an approved Form I-130, Petition for Alien Relative, filed on her behalf by her U.S. lawful permanent resident mother. She filed a Form I-601, Application for Waiver of Grounds of Inadmissibility under section 212(a)(9)(B)(v) of the Act, in order to reside in the United States with her mother.

In a decision dated August 16, 2014, the Director determined that the record contained insufficient evidence to establish that the Applicant's U.S. lawful permanent resident mother would experience extreme hardship if the Applicant were denied admission into the United States. The Form I-601 was denied accordingly.

On appeal, the Applicant indicates that the evidence in the record demonstrates that her mother would experience extreme emotional, physical and financial hardship if she is denied admission into the country. In support of these assertions, the record includes statements from the Applicant, her sisters, and her mother. The record also includes a psychological evaluation, medical information, financial evidence, and documentation establishing relationships and identity. The entire record was reviewed and considered in arriving at a decision on the appeal.

Section 212(a)(9)(B)(i) of the Act provides, in pertinent part, that an individual who:

(II) has been unlawfully present in the United States for one year or more, and who again seeks admission within 10 years of the date of such alien's departure or removal from the United States, is inadmissible.

Section 212(a)(9)(B)(v) of the Act states in pertinent part:

[T]he Attorney General [Secretary of Homeland Security (Secretary)] has sole discretion to waive clause (i) in the case of an immigrant who is the spouse or son or daughter of a United States citizen or of an alien lawfully admitted for permanent residence, if it is established to the satisfaction of the Attorney General [Secretary] that the refusal of admission to such immigrant alien would result in extreme hardship to the citizen or lawfully resident spouse or parent of such alien. . . .

In the present case, the record reflects the Applicant was unlawfully present in the United States for more than a year between August 17, 2000 and June 20, 2005.

Inadmissibility under section 212(a)(9)(B)(i)(II) of the Act is triggered upon departure and remains in force until the individual has been absent from the United States for 10 years. In the present matter, evidence contained in the record reflects that the Applicant traveled to the Dominican Republic on June 20, 2005, and that she has remained outside of the United States since that time. The record reflects further that the Applicant's 10-year period of inadmissibility under section 212(a)(9)(B)(i)(II) ended on June 20, 2015.

Because the Applicant has remained outside of the United States for 10 years, she is no longer inadmissible under section 212(a)(9)(B)(i)(II) of the Act. As the record establishes that the Applicant is not inadmissible, a waiver of inadmissibility is unnecessary, and the Form I-601 is moot. The prior decision of the Director will therefore be withdrawn, and the appeal will be dismissed.

ORDER: The appeal is dismissed.

Cite as *Matter of G-M-P-*, ID# 14070 (AAO Dec. 7, 2015)