



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

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

MATTER OF P-A-

DATE: NOV. 6, 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 Honduras, 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, Nebraska Service Center, denied the application. The matter is now before us on appeal. The appeal will be dismissed.

On August 11, 2014, the Director determined that the Applicant was inadmissible for having been unlawfully present in the United States for more than one year. The Director further found that the Applicant had not established statutory eligibility to apply for a waiver of inadmissibility. The Form I-601 was denied accordingly.

On appeal, the Applicant submits a letter from her U.S. citizen brother which states that he has health problems and needs the Applicant's emotional and financial support. The Applicant's brother also indicates that the Applicant's mother is a lawful permanent resident of the United States currently residing in Honduras and she needs the Applicant to accompany her for medical care in the United States. The entire record was reviewed and considered in rendering a decision on the appeal.

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

**(B) ALIENS UNLAWFULLY PRESENT.-**

(i) In general.- Any alien (other than an alien lawfully admitted for permanent residence) 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.

(ii) Construction of unlawful presence.- For purposes of this paragraph, an alien is deemed to be unlawfully present in the United States if the alien is present in the United States after the expiration of the period of stay authorized by the Attorney

General or is present in the United States without being admitted or paroled.

(v) Waiver.-The Attorney General 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 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. No court shall have jurisdiction to review a decision or action by the Attorney General regarding a waiver under this clause.

In this case, the record reflects that in January 1992, the Applicant entered the United States without being inspected, admitted, or paroled. She was in temporary protected status from 1999 until 2013, when she left the United States. The Applicant accrued more than one year of lawful presence from April 1, 1997, the date when the unlawful presence provisions of the Act went into effect, until she was granted temporary protected status in 1999. The Applicant is therefore inadmissible under section 212(a)(9)(B)(i)(II) of the Act for more than one year of unlawful presence. The Applicant does not contest this finding of inadmissibility on appeal.

The Applicant is seeking a waiver of inadmissibility. She indicated on the Form I-601 that her U.S. citizen brother and her cousin are her qualifying relatives. Section 212(a)(9)(B)(v) of the Act states that a waiver is available to an applicant who is the spouse or son or daughter of a United States citizen or of an alien lawfully admitted for permanent residence. Accordingly, the Applicant's brother's or the Applicant's cousin's hardships do not qualify for consideration under the statute. Although the Applicant's brother indicates on appeal that the Applicant's mother is a lawful permanent resident of the United States, we note that the Applicant did not list her mother as a qualifying relative in her waiver application. Nor did the Applicant submit any supporting documentation on appeal in support of the hardships her mother would experience, if any, were the Applicant unable to reside in the United States as a result of her inadmissibility. 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 a 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.

**ORDER:** The appeal is dismissed.

Cite as *Matter of P-A-*, ID# 14069 (AAO Nov. 6, 2015)