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U.S. Department of Homeland Security
20 Mass. Avenue, N.W., Rm. A3042
Washington, DC 20529



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

H2

[Redacted]

FILE:

[Redacted]

Office: LOS ANGELES DISTRICT OFFICE

Date:

FEB 18 2005

IN RE:

[Redacted]

APPLICATION:

Application for Waiver of Grounds of Inadmissibility under Section 212(i) of the
Immigration and Nationality Act (INA), 8 U.S.C. § 1182(i)

ON BEHALF OF APPLICANT:

[Redacted]

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

A handwritten signature in black ink, appearing to read "Robert P. Wiemann".

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The waiver application was denied by the District Director, Los Angeles. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The record reflects that the applicant is a native and citizen of Mexico who was found inadmissible to the United States pursuant to section 212(a)(6)(C)(ii) of the Immigration and Nationality Act (INA, the Act), 8 U.S.C. § 1182(a)(6)(C)(ii). She seeks a waiver of inadmissibility in order to remain in the United States with her U.S. citizen husband and adjust status to that of a lawful permanent resident under INA § 245, 8 U.S.C. § 1255, as the beneficiary of an approved immediate relative petition filed on her behalf by her U.S. citizen spouse.

The district director found that the applicant was statutorily ineligible to seek a waiver of inadmissibility and denied the application accordingly. On appeal, counsel contends that CIS lacks sufficient evidence to find her inadmissible under INA § 212(a)(6)(C)(ii). The entire record was reviewed and considered in rendering a decision on the appeal.

Section 212(a)(6)(C)(ii) of the Act provides:

(ii) Falsely claiming citizenship.—

(I) In General

Any alien who, falsely represents, or has falsely represented, himself or herself to be a citizen of the United States for any purpose or benefit under this Act (including section 274A) or any other Federal or State law is inadmissible.

8 U.S.C. § 1182(a)(6)(C)(ii). Counsel acknowledges that there is no waiver of inadmissibility under this section.

The district director based the finding of inadmissibility under this section on the applicant's sworn admission of having attempted to procure entry to the United States with another person's U.S. birth certificate in 1998. *Record of Sworn Statement in Administrative Proceedings* (March 6, 2002). Counsel contends that CIS lacks sufficient evidence to make a finding of inadmissibility because CIS has not produced independent legacy INS records of the applicant's fraud.

In these proceedings, "the burden of proof shall be upon [the applicant] to establish that he is not inadmissible under any provision of [the] Act . . ." INA § 291, 8 U.S.C. § 1361. The applicant herself admitted, in a sworn statement in her native language, apparently handwritten by the applicant herself, that she attempted to procure admission to the United States by posing as a U.S. citizen. Counsel states no reason why this evidence should not be relied upon. The BIA has held, where the applicant is "responsible for ambiguities in the record, . . . it is incumbent upon [the applicant] to resolve the inconsistencies by independent objective evidence. Attempts to explain or reconcile the conflicting accounts, absent competent objective evidence pointing to where the truth, in fact, lies, will not suffice." *Matter of Ho*, 19 I&N Dec. 582, 591-592 (BIA 1988). Counsel has submitted no evidence that contradicts the applicant's own admissions. The AAO finds that it was not improper for the Director to rely upon the sworn admission of the applicant, regardless of whether corroborating evidence for the claim could be found in legacy INS records.

As she is inadmissible under INA § 212(a)(6)(C)(ii), the applicant is statutorily ineligible for a waiver of inadmissibility and extreme hardship to her relatives is not relevant to these proceedings. Accordingly, the appeal will be dismissed.

ORDER: The appeal is dismissed.