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**U.S. Citizenship  
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Services**

#2

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[REDACTED]

FILE: [REDACTED] Office: CHICAGO, ILLINOIS

Date: APR 13 2006

IN RE: [REDACTED]

APPLICATION: Application for Waiver of Grounds of Inadmissibility under § 212(i) of the  
Immigration and Nationality Act, 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, Chicago, Illinois, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The applicant is a native and citizen of Nigeria who was found to be inadmissible to the United States under § 212(a)(6)(C)(i) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(a)(6)(C)(i), for having procured entry into the United States by using a passport in another person's name. The applicant is married to a U.S. citizen, and she seeks a waiver of inadmissibility pursuant to § 212(i) of the Act, 8 U.S.C. § 1182(i), in order to remain in the United States with her U.S. citizen spouse.

The district director concluded that the applicant had failed to establish that extreme hardship would be imposed on a qualifying relative and denied the Application for Waiver of Grounds of Excludability (Form I-601) accordingly. On appeal, counsel contends that the applicant never willfully misrepresented any fact in order to gain admittance into the United States. Counsel indicates that the applicant entered the United States without inspection rather than by fraud or misrepresentation. In support of this assertion, counsel submits an affidavit executed by the applicant. The entire record was reviewed and considered in rendering this decision.

Section 212(a)(6)(C) of the Act provides, in pertinent part, that:

- (i) Any alien who, by fraud or willfully misrepresenting a material fact, seeks to procure (or has sought to procure or has procured) a visa, other documentation, or admission into the United States or other benefit provided under this Act is inadmissible.

Section 212(i) of the Act provides that:

- (1) The Attorney General [now the Secretary of Homeland Security (Secretary)] may, in the discretion of the Attorney General [Secretary], waive the application of clause (i) of subsection (a)(6)(C) in the case of an alien who is the spouse, 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 the United States of such immigrant alien would result in extreme hardship to the citizen or lawfully resident spouse or parent of such an alien.

A § 212(i) waiver of the bar to admission resulting from violation of § 212(a)(6)(C) of the Act is dependent first upon a showing that the bar imposes an extreme hardship to the citizen or lawfully resident spouse or parent of the applicant. Hardship the alien herself experiences upon removal is irrelevant to § 212(i) waiver proceedings; the only relevant hardship in the present case is hardship suffered by the applicant's husband. Once extreme hardship is established, it is but one favorable factor to be considered in the determination of whether the Secretary should exercise discretion. *See Matter of Mendez*, 21 I&N Dec. 296 (BIA 1996).

*Matter of Cervantes-Gonzalez*, 22 I&N Dec. 560, 565-566 (BIA 1999) provides a list of factors the Board of Immigration Appeals (BIA) deems relevant in determining whether an alien has established extreme hardship pursuant to § 212(i) of the Act. These factors include the presence of a lawful permanent resident or United States citizen spouse or parent in this country; the qualifying relative's family ties outside the United States; the conditions in the country or countries to which the qualifying relative would relocate and the extent of the

qualifying relative's ties in such countries; the financial impact of departure from this country; and significant conditions of health, particularly when tied to an unavailability of suitable medical care in the country to which the qualifying relative would relocate.

Counsel does not take issue with the district director's determination that the applicant's spouse would not suffer extreme hardship as a result of the applicant's inadmissibility. Counsel's only contention on appeal is that the applicant did not misrepresent any fact in order to procure entry into the United States. Counsel submits a declaration by the applicant dated February 20, 2004 in which the applicant states that she travelled from Nigeria to Amsterdam and then to Mexico City using a passport in another person's name. The applicant states that she crossed the Mexican border and entered the United States on or about February 13, 1996 without passing through any inspection point or coming into contact with any Immigration Inspector at all.

On her Application for Adjustment of Status (Form I-485) in part 3A, the applicant wrote that her status upon entry into the United States was "EWI (another passport)." Based upon the applicant's testimony during her interview, the adjudicator noted in the same block on the Form I-485 at part 3A that the applicant used a Nigerian passport with her own picture, but someone else's name. The notation, made during the interview, relates to the applicant's entry into the United States, not to her entry into the Netherlands or Mexico. Officer notes taken during the interview state "was given a passport in Nigeria showed it to INS but can't remember where." In addition, on her I-130, Petition for Alien Relative, filed on September 24, 1997, the section where it asks for information regarding the alien's arrival in the U.S. it states "Illegal - with someone else's passport."

The applicant's statement on appeal contradicts the testimony she gave during her adjustment of status interview and on her I-130 petition. The record contains no explanation or evidence intended to reconcile the inconsistency between the applicant's statements. This lack of clarification casts doubt on the reliability and sufficiency of the evidence on the record. *Matter of Ho*, 19 I&N Dec. 582, 591 (BIA 1988). Counsel's assertion that the applicant did not misrepresent her identity in order to procure entry into the United States is unpersuasive, and the applicant is found to be inadmissible under §212(a)(6)(C)(i).

As the district director found that the applicant failed to establish the existence of extreme hardship to her husband caused by her inadmissibility, she is statutorily ineligible for relief. Therefore, no purpose would be served in discussing whether she merits a waiver as a matter of discretion.

In proceedings for application for waiver of grounds of inadmissibility under § 212(a)(6)(C) of the Act, the burden of proving eligibility remains entirely with the applicant. *See* § 291 of the Act, 8 U.S.C. § 1361. Here, the applicant has not met that burden. Accordingly, the appeal will be dismissed.

**ORDER:** The appeal is dismissed.