



U.S. Citizenship
and Immigration
Services

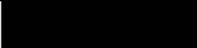
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FILE:



Office: LOS ANGELES, CALIFORNIA

Date: JUL 21 2006

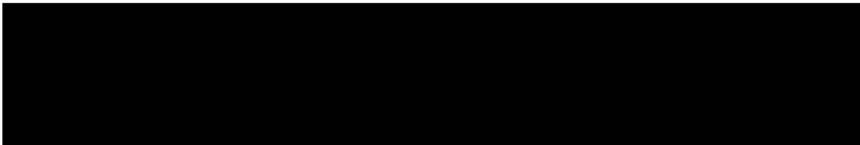
IN RE:

Applicant:



APPLICATION: Application for Waiver of Grounds of Inadmissibility under §§ 212(i) and 212(a)(9)(B) of the Immigration and Nationality Act (INA), 8 U.S.C. §§ 1182(i) and 1182(a)(9)(B)

ON BEHALF OF APPLICANT:



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.

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The waiver application was denied by the District Director, Los Angeles, California. 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. The applicant is the spouse of a U.S. citizen and the beneficiary of an I-13- petition for alien relative. The applicant was found inadmissible to the United States pursuant to §§ 212(a)(6)(C)(ii) and (a)(9)(B)(i)(II) of the Immigration and Nationality Act (INA, the Act), 8 U.S.C. §§ 1182(a)(6)(C)(ii) and (a)(9)(B)(II). The applicant seeks a waiver of inadmissibility in order to remain in the United States with his wife.

The district director denied the application upon finding no provision for a waiver of inadmissibility under § 212(a)(6)(C)(ii), falsely claiming U.S. citizenship. On appeal, counsel asserts that the applicant did not falsely claim U.S. citizenship at the time he entered the United States in 1999. Counsel submits a statement by the applicant, who claims that he signed a sworn statement at his adjustment of status interview without understanding the contents or importance of the document. He explains that during the spring or summer of 1999, he presented himself at a port of entry, and the immigration inspector found a U.S. birth certificate in another person's name in his wallet. The applicant states that he informed the inspector that he merely found the birth certificate on the street. Nevertheless, it appears that the applicant was admitted to the United States at that time. The entire record was reviewed in rendering this decision, and the AAO concurs with the district director's finding.

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

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.

There is no provision under the Act for a waiver of the above ground of inadmissibility. On October 19, 2004, at his adjustment of status interview, the applicant, who was then represented by a different attorney, signed a sworn statement in which he affirmed that he used a U.S. birth certificate which he claimed to have found in order to gain admission into the United States. The applicant also indicated in his sworn statement that he was unaware that it was against immigration law to falsely claim U.S. citizenship. On appeal, counsel asserts that the applicant's prior attorney did not explain to the applicant the importance of the sworn statement, and the applicant signed the statement because the adjudication officer instructed him to do so.

The record contains no information to establish that the applicant is unable to comprehend the type of phrases written in English on his sworn statement. There is also no information on the record establishing that the applicant's former attorney was not competent to represent the applicant. The record does not provide the AAO with any basis on which to conclude that the applicant's sworn statement was incorrect, as the applicant claims on appeal. In fact, as it appears that the applicant was admitted at the time he was encountered with a U.S. birth certificate, the totality of the circumstances indicates that he gained admittance by virtue of the document in question. The evidence indicates that the applicant is inadmissible pursuant to § 212(a)(6)(C)(ii)

of the Act. As no waiver is available under this provision, the AAO finds it unnecessary to discuss eligibility for the waiver of the unlawful presence grounds of inadmissibility set forth under § 212(a)(9)(B) of the Act.

In proceedings for application for waiver of grounds of inadmissibility, the burden of proving eligibility rests with the applicant. INA § 291, 8 U.S.C. § 1361. Here, the applicant has not met that burden. Accordingly, the appeal will be dismissed.

ORDER: The appeal is dismissed.