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U.S. Citizenship  
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[REDACTED]

FILE: [REDACTED] Office: NEW DELHI, INDIA Date: JUL 26 2006

IN RE: [REDACTED]

APPLICATION: Application for Waiver of Grounds of Inadmissibility under Section 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.

Robert P. Wiemann, Chief  
Administrative Appeals Office

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**DISCUSSION:** The waiver application was denied by the Acting Officer in Charge, New Delhi, India and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed, the decision of the Acting Officer in Charge will be withdrawn and the application declared moot.

The applicant is a native and citizen of India who was found to be inadmissible to the United States (U.S.) under section 212(a)(6)(C)(i) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(a)(6)(C)(i), for having attempted to procure admission into the United States by fraud or willful misrepresentation on March 27, 1998. The applicant is married to a U.S. citizen. The applicant seeks a waiver of inadmissibility pursuant to section 212(i) of the Act, 8 U.S.C. § 1182(i).

The acting officer in charge concluded that the applicant had not submitted sufficient evidence of hardship, extreme or otherwise, to her qualifying relative husband. The application was denied accordingly. *Decision of the Acting Officer in Charge*, dated September 30, 2004.

On appeal, counsel states that a waiver application is not necessary because the applicant is not inadmissible and in the event that the applicant is found inadmissible she has established that her U.S. citizen spouse would suffer extreme hardship as a result of her inadmissibility. *Counsel's Appeals Brief*, dated October 28, 2004.

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.

The record indicates that on April 27, 1998 the applicant's spouse filed a Form I-730 on behalf of the applicant. The Service approved the petition on February 3, 1999, but subsequently revoked it after a dispute concerning the date of the applicant's marriage. The applicant stated on her Form I-730 that she was married on December 4, 1992. The Service conducted an investigation in July 1999 and gathered statements from the applicant's spouse's father, sister, uncle and 3 other relatives stating that the applicant was married about a year and a half ago.

On appeal, counsel contends that the applicant did not misrepresent her marriage date because she was in fact married on December 4, 1992 in a Sikh religious ceremony. However, the applicant did not register the marriage with the Indian government until February 24, 1998. *Counsel's Appeal's Brief*, dated October 28,

2004. In support of his assertions counsel submitted an extract from the applicant's Hindu Marriage Registrar, which shows the date of registration as February 24, 1998 and the date of marriage as December 4, 1992. In addition, counsel submitted a copy of the Hindu Marriage Act of 1955.

Section 2(1)(b) states in pertinent part that:

(1) This Act applies-

...  
(b) to any person who is a Buddhist, Jaina or Sikh by religion, .

Section 8(4)-(5) states in pertinent part that:

[while the ] Hindu Marriage Registrar shall, at all reasonable times, be open for inspection, and shall be admissible as evidence of statements therein contained and certified extracts there from...the validity of any Hindu marriage shall, in no way be affected by the omission to make the entry.

Thus, the applicant's delay in registering her marriage does not make her marriage void. Furthermore, on May 17, 2006, counsel submitted a court order dated April 15, 2006, which states on pages 2, 4 and 5 that the applicant was legally married to her U.S. citizen spouse on December 4, 1992. In addition, the court order cites two affidavits from relatives of the applicant's spouse, which state that she was married on December 4, 1992.

The AAO finds the documentation submitted by counsel to be persuasive and finds that the applicant did not commit fraud or misrepresentation in an attempt to procure entry into the United States. Therefore, the applicant is not subject to section 212(a)(6)(C)(i) of the Act. Accordingly, the decision of the acting officer in charge will be withdrawn and the application will be declared moot.

**ORDER:** The appeal is dismissed, the decision of the acting officer in charge is withdrawn and the application is declared moot.