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U.S. Citizenship
and Immigration
Services

PUBLIC COPY

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[REDACTED]

FILE:

[REDACTED]

Office: SEATTLE, WA

Date:

MAY 10 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.

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

Robert P. Wiemann, Chief
Administrative Appeals Office

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

The applicant is a native and citizen of China who was found to be inadmissible to the United States 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 procured entry into the United States by fraud or willful misrepresentation. The record reflects that on June 30, 1993 the applicant attempted to enter the United States using a Chinese photo-substituted passport under the name [REDACTED]. The applicant was then placed in removal proceedings and ordered removed by an Immigration Judge on October 6, 1993. The applicant ignored this order of deportation and continues to reside in the United States. The applicant has a U.S. citizen son and seeks a waiver of inadmissibility pursuant to section 212(i) of the Act, 8 U.S.C. § 1182(i), in order to reside in the United States with her son.

The district director concluded that the applicant had failed to establish that extreme hardship would be imposed on the applicant, the applicant's spouse, children or parents and denied the Application for Waiver of Grounds of Excludability (Form I-601) accordingly. *Decision of the District Director*, dated July 12, 2004.

On appeal, counsel contends that the applicant will in fact suffer extreme hardship if she is removed to China as her U.S. citizen son is her only living family member and provides her with emotional support. *Counsel's Letter*, dated August 11, 2004.

Before the AAO can determine whether extreme hardship would be imposed on a qualifying relative, it must first determine whether a qualifying relationship exists and as a consequence if the applicant is eligible to apply for a section 212(i) waiver of inadmissibility.

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. (*Emphasis Added*).

The applicant is not the spouse or child of a U.S citizen or Lawful Permanent Resident so a qualifying relationship does not exist. Therefore, the applicant is statutorily ineligible to apply for a waiver of

inadmissibility because she lacks a qualifying relationship with a U.S. citizen. To be statutorily eligible to apply for a section 212(i) waiver of the bar to admission resulting from violation of section 212(a)(6)(C) of the Act the applicant must establish that she is the spouse or daughter of a U.S. citizen or lawful resident. Hardship the applicant experiences upon deportation or hardship the applicant's child experiences because of her deportation is irrelevant to section 212(i) waiver proceedings.

A review of the documentation in the record fails to establish the existence of a qualifying relationship with a U.S. citizen or Lawful Permanent Resident. The applicant is therefore statutorily ineligible for a section 212(i) waiver of inadmissibility.

In proceedings for application for waiver of grounds of inadmissibility under section 212(a)(6)(C) of the Act, the burden of proving eligibility remains entirely with the applicant. *See* Section 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.