



U.S. Citizenship
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FILE:

Office: EL PASO DISTRICT OFFICE

Date:

NOV 21 2006

IN RE:

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:

SELF-REPRESENTED

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. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The applicant, [REDACTED], is a native and citizen of Mexico who was found to be inadmissible to the United States pursuant to section 212(a)(C)(6)(i) of the Immigration and Nationality Act (INA, the Act), 8 U.S.C. § 1182(a)(C)(6)(i), for seeking to procure admission to the United States by fraud or willful misrepresentation. She 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, a U.S. citizen.

The District Director concluded that the applicant had failed to establish statutory eligibility for a waiver of inadmissibility and denied the Application for Waiver of Ground of Inadmissibility (Form I-601) accordingly. *District Director's Decision*, May 21, 2004. The decision included the relevant provisions of the INA and noted that the applicant claimed eligibility through her relationship to her U.S. citizen son. *Id.*

On appeal, the applicant asserts that she needs to be in the United States to take care of her son, a 26-year-old citizen of the United States, who suffers from epilepsy. *Notice of Appeal to the Administrative Appeals Office (AAO)*, submitted June 17, 2004. In support of her appeal the applicant submits a letter from Texas Tech Medical Center in El Paso indicating that her son is a patient there, suffers from uncontrolled epileptic seizures, needs to take daily medication and cannot drive, among other limitations. The letter notes that he relies on his mother to supervise his medical care at home and assist him during seizures. The applicant also wrote a letter in support of her appeal explaining that her son was nine years old when he was diagnosed with epilepsy and that she could not afford to buy his medicines with what she could earn in Mexico; she states that if she has to return to Mexico, her son will have no one to care for him and will have to go with her to Mexico, where he will not have proper medication. The record also includes documents submitted with the applicant's Form I-601, submitted September 11, 2003: a prior letter from the Texas Tech Medical Center listing the applicant's son's medications and limitations and diagnosis of "chronic uncontrolled focal epilepsy" complicated by "neural behavioral syndrome"; and a letter from the applicant's son expressing how much he needs his mother to help him because of his epilepsy and how dependent he is on her.

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

- (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:

- (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).

Regarding the finding of inadmissibility, the record reflects that the applicant tried to enter the United States at El Paso in 1993 by claiming to be a U.S. citizen. The applicant therefore sought to procure admission to the United States by fraud or willfully misrepresenting a material fact. As a result of this prior misrepresentation, the applicant was properly found to be inadmissible to the United States under section 212(a)(6)(C) of the Act.

A section 212(i) waiver is dependent first upon a showing that the bar imposes an extreme hardship to a U.S. citizen or lawfully resident *spouse or parent of the applicant*, as noted above. A U.S. citizen or permanent resident child is not considered to be a qualifying relative, and hardship to a child does not qualify the applicant for a waiver. The applicant does not claim to have a U.S. citizen or lawfully resident *spouse or parent*; she therefore does not have a qualifying relative under section 212(i). The AAO recognizes that any hardship the applicant's son might suffer due to the applicant's inadmissibility is unfortunate, but such hardship is not a basis for eligibility for a waiver of inadmissibility under section 212(i) of the Act. Given the lack of a qualifying relative, the applicant is statutorily ineligible for a waiver.

In proceedings for an application for waiver of grounds of inadmissibility under section 212(i) of the Act, the burden of proving eligibility remains entirely with the applicant. Section 291 of the Act, 8 U.S.C. § 1361. In this case, the applicant has not met her burden. Accordingly, the appeal will be dismissed.

ORDER: The appeal is dismissed.