



U.S. Citizenship
and Immigration
Services

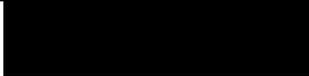
identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy

PUBLIC COPY

H2



FILE:



Office: LONDON, ENGLAND

Date: APR 17 2007

IN RE:



PETITION: 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 PETITIONER:

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.

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 Officer in Charge, London, England, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The applicant is a native and citizen of Great Britain who was found to be inadmissible to the United States pursuant to section 212(a)(6)(C)(ii) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(a)(6)(C)(ii), for having attempted to procure admission to the United States by falsely claiming U.S. citizenship. The applicant is married to a U.S. citizen and has one U.S. citizen child. He 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 his family.

The officer in charge concluded that there is no provision of law that allows for relief from a finding of inadmissibility under section 212(a)(6)(C)(ii) of the Act. The waiver application was denied accordingly. The officer in charge also found the applicant inadmissible under section 212(a)(9)(C)(i)(II) of the Act as an alien who was removed and then re-entered the United States without being admitted. *Decision of the Officer in Charge*, dated August 10, 2005.

The AAO notes that counsel submitted notification that he is withdrawing his representation of the applicant. *Letter from Counsel*, dated May 12, 2006. As of the present date, no additional documentation has been submitted.

On appeal, prior counsel challenges the officer in charge's finding of inadmissibility on grounds that are not "waivable". He states that he will be showing that the applicant meets the extreme hardship standard under section 212(a)(9)(B)(v) of the Act and that the applicant qualifies for the exception at section 212(a)(9)(A)(iii) of the Act. Counsel concludes that the applicant qualifies for a waiver of inadmissibility for both grounds of inadmissibility. He states that the decision does not discuss the "waivability" of these grounds in light of the finding that the other grounds of inadmissibility could not be waived. In addition, counsel requests 200 days to submit a brief. *Form I-290B*, dated August 31, 2005.

The AAO notes that an applicant may not overcome inadmissibility under section 212(a)(9)(C)(i)(II) of the Act by filing Form I-601, Application for Waiver of Ground of Inadmissibility. Inadmissibility under section 212(a)(9)(C)(i)(II) of the Act requires the filing of an Application for Permission to Re-Apply for Admission (Form I-212) and will not be discussed on appeal of the applicant's waiver application.

The record reflects that the applicant entered the United States under the visa waiver program on January 8, 2002. The applicant then overstayed his visa for more than ten months. *Form I-275*, dated May 11, 2004. On June 12, 2003, the applicant was refused admission to the United States at the Atlanta International Airport. He was told that he needed a non-immigrant visa to visit the United States because he had overstayed under the visa waiver program. On June 25, 2003, the applicant again applied for admission to the United States at the Port of Entry at Rainbow Bridge in New York by presenting his Florida Driver's License and stating that he was a U.S. citizen. *Id.* As a result of this attempt at admission, he was placed in expedited removal. On June 29, 2003, the applicant was intercepted by border patrol after entering the United States without inspection. He was then placed in removal proceedings. The immigration judge granted the applicant voluntary departure, requiring that he leave the country on or before November 26, 2003. The applicant did

not depart the United States as required, was placed in Seminole County Corrections Department and was removed on May 13, 2004. *Id.*

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

(ii) 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.

(II) Exception- In the case of an alien making a representation described in subclause (I), if each natural parent of the alien (or, in the case of an adopted alien, each adoptive parent of the alien) is or was a citizen (whether by birth or naturalization), the alien permanently resided in the United States prior to attaining the age of 16, and the alien reasonably believed at the time of making such representation that he or she was a citizen, the alien shall not be considered to be inadmissible under any provision of this subsection based on such representation.

The applicant in the instant case does not qualify for the exception under section 212(a)(6)(C)(ii)(II) of the Act. Therefore, he is ineligible for a waiver under section 212(i) of the Act and is permanently inadmissible to the United States.

Because the applicant is permanently inadmissible under section 212(a)(6)(C)(ii) of the Act no purpose would be served in discussing his eligibility for waivers concerning other grounds of inadmissibility. Therefore, counsel's assertions regarding the waiver under section 212(a)(9)(B)(v) of the Act and the exception under section 212(a)(9)(A)(iii) of the Act will not be addressed.

The applicant is ineligible for a waiver of the grounds of his inadmissibility. 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. *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.