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FILE: [REDACTED] Office: PHOENIX DISTRICT OFFICE Date: FEB 28 2007

IN RE: [REDACTED]

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.

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, Phoenix. 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 Cuba 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. 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 three U.S. citizen children.

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*, June 28, 2005. The decision included the relevant provisions of the INA and noted that the applicant claimed that his three children would suffer extreme hardship if he were removed from the United States. *Id.*

On appeal, the applicant asserts again that his children are U.S. citizens, he cannot return to Cuba because he is a refugee and he cannot take his children with him anywhere because his legal status is pending. *Notice of Appeal to the Administrative Appeals Office (AAO) (Form I-290B)*, filed August 1, 2007.

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 left Cuba in September 1993 for the Dominican Republic, obtained a fraudulent Dominican passport there and attempted to use it to enter the United States through Puerto Rico later that month. 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 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*; he therefore does not have a qualifying relative under section 212(i). The AAO recognizes that any hardship the applicant's children might suffer due to the applicant's inadmissibility is unfortunate, but that 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 his burden. Accordingly, the appeal will be dismissed.

ORDER: The appeal is dismissed.