



U.S. Citizenship
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Services

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HR2

JUL 27 2007

FILE: [REDACTED] Office: DENVER, CO

Date:

IN RE: [REDACTED]

APPLICATION: Application for Waiver of Grounds of Inadmissibility under Section 244(c)(2)(A)(ii)
of the Immigration and Nationality Act (INA), 8 U.S.C. § 1182(c)(2)(A)(ii)

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

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

The applicant is a native and citizen of Liberia, applying for temporary protected status (TPS) under section 244 of the Immigration and Nationality Act (INA, the Act), 8 U.S.C. § 1254. The applicant was found to be inadmissible to the United States pursuant to section 212(a)(6)(C)(i) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(a)(6)(C)(i), for seeking admission and using fraudulent identity documents to enter the United States.

The district director found that the applicant did not qualify for a waiver of his ground of inadmissibility. The district director noted the evidence in the record demonstrated that the applicant had attempted to enter the U.S. with fraudulent documents under a different name in July 1995 and that the applicant had been ordered excluded in absentia in December 1996 under the name [REDACTED]. The district director found that the applicant has continued to commit fraud by denying his past immigration violations. The district director determined that the applicant did not have family in the United States and did not qualify for a waiver on family unification grounds. The district director found further that it was not in the public's interest to grant the applicant's waiver application.

On appeal the applicant asserts, through counsel, that he arrived in the U.S. for the first time on May 16, 2002, using a Guinean passport under the name, [REDACTED]. The applicant denies the district director's assertion that he entered the U.S. on July 29, 1995 under the name [REDACTED], or that he has previously used the [REDACTED]. The applicant additionally denies that he was placed in exclusion proceedings or that he was ordered excluded in absentia in February 1996 under the name [REDACTED]. The applicant asserts, through counsel, that the district director has provided no evidence or information to demonstrate that he is also known as [REDACTED]. The applicant concludes that U.S. Citizenship and Immigration Services (CIS) has approved his previous TPS applications on two occasions and that no reason has been established to deny his application for TPS now.

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

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.

It is noted that regardless of whether the applicant attempted to gain admission into the United States and was ordered excluded under the name [REDACTED] in 1995 and 1996, the applicant is clearly inadmissible under section 212(a)(6)(C)(i). The record reflects that the applicant procured admission into the United States by presenting a fraudulent Guinean passport and visa under the name [REDACTED] on May 16, 2002. Moreover, the applicant does not dispute the finding that he is inadmissible under section 212(a)(2)(C)(i) of the Act based on his May 2002 entry into the U.S. using fraudulent documents.

The record contains the following evidence relating to the past identities used by the applicant:

A September 22, 2004, Sworn Statement signed by the applicant stating that his name is [REDACTED] that he entered the U.S. on May 16, 2002 with a fraudulent, Guinean passport under the name of [REDACTED] that he previously lived in Guinea since 1990, and that he did not enter the United States on July 29, 1995.

A CIS centralized computer database printout reflecting the admission of [REDACTED] of Guinea on May 16, 2002.

Descriptive and fingerprint based, FBI Identification Record information, based on the applicant's fingerprints taken in 2003, reflecting that the applicant [REDACTED] (DOB: 8/8/1965) has also been known under the alias, [REDACTED] and [REDACTED] (DOB: 1/15/1965.) It additionally notes that the individual fingerprinted in 2003 was charged with illegal entry in 1995.

An immigration judge order reflecting that [REDACTED] was ordered excluded from the United States, in absentia, on February 8, 1996.

The AAO notes the applicant's assertions, on appeal, that he did not enter the United States prior to May 16, 2002; that he has not used the name [REDACTED] in the past; and that he was never ordered excluded under the name [REDACTED]. Upon review of the FBI Identification Record information contained in the record, however, the AAO finds that the evidence reasonably establishes that the applicant and [REDACTED] are the same person and that he previously entered the United States in 1995.

Section 244(c)(2)(A) of the Act, 8 U.S.C. § 1182(c)(2)(A) provides, in pertinent part:

Waiver of certain grounds of inadmissibility. - In the determination of an alien's admissibility for purposes of subparagraph (A)(iii) of paragraph (1) . . . (ii) except as provided in clause (iii), the Attorney General may waive any other provision of section 212(a) in the case of individual aliens for humanitarian purposes, to assure family unity, or when it is otherwise in the public interest.

The applicant asserts through counsel that CIS has approved his TPS applications on two previous occasions, and that the district director established no reason to deny the application's request for TPS now. The applicant provides no other reasons why his TPS application should be granted.

The AAO finds that the family unity basis for a waiver of inadmissibility under section 244(c)(2)(A)(ii) of the Act is not applicable to the applicant's case. The information contained in the record reflects that the applicant's wife and four children live in Guinea. The applicant's family thus does not live with him in the United States.

The applicant has also failed to establish that he is eligible for a waiver of inadmissibility based on public interest.

The term 'public interest' has been generally defined to mean 'something in which the public, the community at large, has some pecuniary interest, or some interest by which their legal rights or liabilities are affected.

Matter of P-, 19 I&N Dec. 823, 827 (BIA, Comm. 1988) (Citations omitted.) The present record contains no information or evidence to indicate or establish that it is in the public interest to grant the applicant's waiver of inadmissibility.

The applicant has additionally failed to demonstrate that he should be granted a waiver of inadmissibility for humanitarian purposes. It is noted that:

[T]he Attorney General [to the Secretary of Homeland Security] may provide TPS to aliens in the United States who are temporarily unable to safely return to their home country because of ongoing armed conflict, an environmental disaster, or other extraordinary and temporary conditions.

See <http://www.uscis.gov>. (providing general information on TPS.)

Following a review of country conditions and consultations with the appropriate Government agencies, the Secretary of the Department of Homeland Security (DHS) has determined that the TPS designation of Liberia should be terminated. Although the designation was due to expire on October 1, 2006, this termination will not take effect until 12:01 a.m., October 1, 2007, to provide for an orderly transition.

Id. (providing information on TPS in Liberia.)

The Attorney General has thus found that there are no longer extraordinary and temporary conditions in Liberia which warrant the continued designation of the country for TPS. The present record contains no other evidence to indicate or establish that humanitarian grounds exist for granting the applicant's Form I-601 waiver of inadmissibility application.

In proceedings for application for waiver of grounds of inadmissibility under section 244(c)(2)(A), the burden of establishing that the application merits approval rests with the applicant. See section 291 of the Act, 8 U.S.C. § 1361. The applicant has failed to meet his burden in the present matter. The appeal will therefore be dismissed, and the application will be denied.

ORDER: The appeal is dismissed and the application is denied.