



U.S. Citizenship
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Services

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Date: JUN 21 2007

FILE: [REDACTED] Office: HARLINGEN, TX

IN RE: [REDACTED]

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 District Director, Harlingen, Texas, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The applicant is a native and citizen of Mexico 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 falsely claiming U.S. citizenship. The applicant is the spouse of a U.S. citizen and has two U.S. citizen children. 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 spouse and children.

The district director concluded that no waiver is available for the applicant's ground of inadmissibility under section 212(a)(6)(C)(ii) of the Act. The application was denied accordingly. *Decision of the District Director*, dated September 1, 2005.

On appeal, the applicant submits letters from his spouse and his daughter explaining the hardship they would experience if the applicant is found to be inadmissible.

The record reflects that on June 4, 2000, at the Progreso Port of Entry, the applicant, in an attempt to enter the United States, presented a Texas birth certificate and Texas driver's license for a "Jose Guadalupe Nilo," his deceased brother.

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

(i) In general

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 chapter is inadmissible.

(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 . . . is inadmissible.

....

(iii) Waiver authorized. – For provision authorizing waiver of clause (i), see subsection (i).

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.

The AAO notes that section 212(i) of the Act provides a waiver to aliens found inadmissible under section 212(a)(6)(C)(i) of the Act. The applicant, however, is inadmissible under 212(a)(6)(C)(ii) for making a false claim to citizenship and, as of September 30, 1996, no waiver is available to such an individual. *See* sections 212(a)(6)(C)(ii) and (iii) of the Act. Accordingly, the appeal will be dismissed.

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.

ORDER: The appeal is dismissed.