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U.S. Department of Homeland Security  
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U.S. Citizenship  
and Immigration  
Services

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SEP 17 2007

FILE:

Office: LOS ANGELES (SANTA ANA)

Date:

IN RE:

APPLICATION:

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 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, and the matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed as the application is moot.

The applicant, a citizen of Guatemala, was found inadmissible to the United States under 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 to procure a visa, other documentation, or admission into the United States or other benefit provided under the Act by fraud or willful misrepresentation. The applicant is the spouse of a lawful permanent resident of the United States, and seeks a waiver of inadmissibility pursuant to section 212(i) of the Act, 8 U.S.C. § 1182(i), in order to remain in the United States with her husband and daughter.

The district director concluded that the applicant had failed to establish that extreme hardship would be imposed on her husband, the qualifying relative, and denied the Form I-601, Application for Waiver of Grounds of Inadmissibility.

On appeal, the applicant contends that her husband would suffer extreme hardship if the applicant were required to return to Guatemala. The entire record was reviewed and considered in rendering a decision on the appeal.

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

- (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 that:

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 record reflects that the applicant entered the United States, without authorization, on July 30, 1994. Upon apprehension, she provided the immigration officer with the name of another individual. While this is a form of misrepresentation, it is not the type of misrepresentation covered by section 212(a)(6)(C) of the Act, as the applicant was not applying for a visa, other documentation, admission into the United States, or any other benefit under the Act at the time she made the misrepresentation. Thus, her misrepresentation does not fall under section 212(a)(6)(C) of the Act, and she is not inadmissible to the United States.

As the applicant is not inadmissible, the waiver application is moot.

In proceedings for application for waiver of grounds of inadmissibility under section 212(i), the burden of establishing that the application merits approval remains entirely with the applicant. Section 291 of the Act, 8 U.S.C. § 1361. As the applicant is not inadmissible, the waiver application is moot.

**ORDER:** The appeal is dismissed.