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U.S. Department of Homeland Security  
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Washington, DC 20529



**U.S. Citizenship  
and Immigration  
Services**

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**PUBLIC COPY**

FILE:

Office: BALTIMORE, MD

Date: FEB 04 2008

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:

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, Baltimore, Maryland, and appealed to Administrative Appeals Office (AAO). The AAO rejected the appeal as untimely filed. However, further information has established that the appeal was not late. Therefore, the AAO will withdraw its prior decision and sua sponte reopen the matter. The appeal will be dismissed.

The applicant is a native and citizen of Pakistan who 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 procuring admission into the United States by fraud or willful misrepresentation. The applicant is the spouse of a U.S. Citizen and 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.

The district director concluded that the applicant had failed to establish that extreme hardship would be imposed on a qualifying relative and denied the Application for Waiver of Grounds of Inadmissibility (Form I-601) accordingly. *Decision of the District Director*, dated November 13, 2006.

On appeal, counsel asserts that the denial is against the weight of the evidence and the applicable rules as it is based on an erroneous interpretation of the submitted evidence. *Form I-290B*, received December 14, 2006. The Form I-290B indicates that a brief and/or evidence will be sent within 30 days. However, as of this date, the AAO has not received this material. The record indicates that counsel was notified by the AAO on January 25, 2008 to submit the material within five business days.

The record includes, but is not limited to, counsel's letter and the applicant's statement. The entire record was reviewed and considered in arriving at a decision on the appeal.

The record reflects that the applicant used a fraudulent passport and other documents to obtain admission into the United States on or about May 2, 2000.<sup>1</sup> As a result of this prior misrepresentation, the applicant is inadmissible to the United States under section 212(a)(6)(C) of the Act .

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

- (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:

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<sup>1</sup> The applicant asserts that he relied in good faith on the veracity of the documents provided to him by his visa agent in Pakistan, he did not intend to enter the United State by fraud or misrepresentation, he was confused by the questions asked of him when he signed his sworn statement and he withdraws his statement. *Applicant's Statement*, dated September 29, 2006. The AAO does not find the applicant's claims to be credible as his sworn statement was detailed, lengthy and signed by both the applicant and his prior counsel. *See Sworn Statement*, dated August 22, 2006.

- (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.

Therefore, the applicant requires a waiver under section 212(i) of the Act. The record reflects that the applicant entered into a sham marriage in order to circumvent immigration laws. *Applicant's Form I-130 Denial*, at 2, dated March 19, 2007. Therefore, the applicant cannot use his marriage to obtain an immigration benefit. *Matter of Laureano*, 19 I & N Dec. 1 (BIA 1983). As such, the record does not reflect that the applicant has a qualifying relative on which to base a Form I-601 application and he is statutorily ineligible for relief.

Having found the applicant statutorily ineligible for relief, no purpose would be served in discussing whether he merits a waiver as a matter of discretion.

In proceedings for 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.