



U.S. Citizenship
and Immigration
Services

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FILE:

Office: MIAMI, FL

Date: JUL 15 2008

IN RE: Applicant:

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, Miami, Florida, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The applicant is a native and citizen of Haiti. The record indicates that in March 1994, the applicant attempted entry to the United States by presenting a photo-substituted passport. The applicant was thus found to be 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 having attempted to procure entry into the United States by fraud or willful misrepresentation.

In December 1999, the applicant filed Form I-601, Application for Waiver of Grounds of Excludability (Form I-601). The applicant asserted that his brother, a lawful permanent resident, would suffer extreme hardship were the applicant removed from the United States and as such, a waiver under section 212(i) should be granted.

The district director concluded that the applicant was not eligible for a Form I-601 approval as siblings are not qualifying relatives for purposes of section 212(i) of the Act. Based on this conclusion, the district director denied the Form I-601 and the Form I-485, Application for Permanent Residency (Form I-485). *Decision of the District Director*, dated January 16, 2001.

On February 11, 2001, the applicant submitted Form I-290B, Notice of Appeal. In said form, the applicant stated as follows:

I have my brother and my sister citizen. I don't have father no [sic] mother...

See Form I-290B, dated February 11, 2001.

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.

Based on the evidence in the record, the applicant is inadmissible pursuant to section 212(a)(6)(C)(i) of the Act.

Section 212(i) of the Act provides that:

- (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 immigrant 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...

Due to the fact that the applicant did not have a qualifying relative, namely, a U.S. citizen or lawful permanent resident spouse and/or parent, as required under section 212(i) of the Act, the district director properly denied the Form I-601 and the underlying permanent residency application (Form I-485).

The AAO notes that the applicant, in June 2005, submitted a second Form I-601, claiming his mother, a lawful permanent resident, as a qualifying relative for purposes of section 212(i) of the Act. However, as the applicant's Form I-485 was denied in January 2001, as referenced above, the Form I-601 submitted by the applicant in June 2005 can not be reviewed and adjudicated by the AAO, as there is no underlying application for permanent residency relating to the applicant pending at this time.

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. 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. The waiver application is denied.