



U.S. Citizenship  
and Immigration  
Services

identifying data deleted to  
prevent clearly unwarranted  
invasion of personal privacy

**PUBLIC COPY**

H/2



FILE:

OFFICE: ACCRA, GHANA

DATE: **JUL 16 2008**

IN RE:

APPLICANT:



APPLICATION:

Application for Waiver of Grounds of Inadmissibility.

ON BEHALF OF APPLICANT:

SELF-REPRESENTED<sup>1</sup>

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

<sup>1</sup> It is noted that D [redacted] claimed to be the applicants' attorney or representative on the Form I-290B, Notice of Appeal to the AAO. However, no Form G-28, Notice of Entry of Appearance as Attorney or Representative was filed.

**DISCUSSION:** The Form I-601, Application for Waiver of Grounds of Inadmissibility (Form I-601) was denied by the Acting Officer in Charge, Accra, Ghana. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed and the Form I-601 will be denied.

The record reflects that the applicant was admitted into the United States as a non-immigrant visitor for pleasure in June 1997. The applicant was authorized to remain in the United States until December 24, 1997. He did not depart the United States, and the record reflects that the applicant was subsequently placed into removal proceedings. On March 13, 2003, the applicant was found to be removable. He departed the United States on February 20, 2003. The applicant is married to a U.S. citizen, and he presently seeks a waiver of his grounds of inadmissibility.

The acting officer in charge determined that the applicant was inadmissible under section 212(a)(9)(B)(i)(II) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(a)(9)(B)(i)(II), for having been unlawfully present in the United States for one year or more and seeking admission within ten years of departure or removal from the United States. The applicant was additionally found to be inadmissible under sections 212(a)(6)(C)(ii) and 212(a)(10)(D)(i) of the Act, 8 U.S.C. §§ 1182(a)(6)(C)(ii) and 1182(a)(10)(D)(i), for falsely representing himself as a U.S. citizen for any purpose or benefit under the Act or Federal or State law, and for voting in violation of any federal, state or local statute. The acting officer in charge found that the applicant was statutorily barred from waiver of inadmissibility relief. Alternatively, the acting officer in charge found that the applicant had failed to establish that his U.S. citizen wife would suffer extreme hardship if his Form I-601 were denied. In addition, the acting officer in charge determined that no purpose would be served in adjudicating the applicant's Form I-212, Request for Permission to Reapply for Admission into the United States (Form I-212). The Form I-601 and Form I-212 were denied accordingly.

On appeal, the applicant asserts that he erroneously believed his marriage to a U.S. citizen entitled him to register to vote, and to vote in the United States. He states that he had no intent to claim false U.S. citizenship status for any type of benefit, and he asserts that he did not willfully or intentionally claim U.S. citizenship status.

Section 212(a)(9)(B)(i) of the Act provides, in pertinent part, that:

[A]ny alien (other than an alien lawfully admitted for permanent residence) who –

....

- (II) has been unlawfully present in the United States for one year or more, and who again seeks admission within 10 years of the date of such alien's departure or removal from the United States, is inadmissible.

Under section 212(a)(9)(B)(v) of the Act, 8 U.S.C. § 1182(a)(9)(B)(v):

[T]he Attorney General [now Secretary, Department of Homeland Security, "Secretary"] has sole discretion to waive clause [212(a)(9)(B)](i) in the case of an immigrant who is the spouse or 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 such immigrant alien would result in extreme hardship to the citizen or lawfully resident spouse or parent of such alien.

Section 212(a)(6)(C)(ii) of the Act states in pertinent part that:

(I) [A]ny 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 . . . or any other Federal or State law is inadmissible.

(II) Exception- In the case of an alien making a representation described in subclause (I), if each natural parent of the alien (or, in the case of an adopted alien, each adoptive parent of the alien) is or was a citizen (whether by birth or naturalization), the alien permanently resided in the United States prior to attaining the age of 16, and the alien reasonably believed at the time of making such representation that he or she was a citizen, the alien shall not be considered to be inadmissible under any provision of this subsection based on such representation.

Section 212(a)(10)(D) of the Act states, in pertinent part that:

(i) [A]ny alien who has voted in violation of any Federal, State, or local constitutional provision, statute, ordinance, or regulation is inadmissible.

(ii) Exception- In the case of an alien who voted in a Federal, State, or local election (including an initiative, recall, or referendum) in violation of a lawful restriction of voting to citizens, if each natural parent of the alien (or, in the case of an adopted alien, each adoptive parent of the alien) is or was a citizen (whether by birth or naturalization), the alien permanently resided in the United States prior to attaining the age of 16, and the alien reasonably believed at the time of such violation that he or she was a citizen, the alien shall not be considered to be inadmissible under any provision of this subsection based on such violation.

No waivers of inadmissibility are available for section 212(a)(6)(C)(ii) and 212(a)(10)(D)(i) of the Act violations.

In order to qualify for the exceptions contained in sections 212(a)(6)(C)(ii)(II) and 212(a)(10)(D)(ii) of the Act, the applicant must establish that his parents were U.S. citizens, and that he resided in the U.S. permanently prior to his sixteenth birthday, and reasonably believed that he was a U.S. citizen. The record contains no evidence to establish any of the above requirements. The birth certificate contained in the record reflects that the applicant was born in Ghana, to Ghanaian citizen parents, on October 21, 1959, and the applicant's first admission into the United States occurred in 1997, well after his sixteenth birthday. The applicant additionally failed to establish that he reasonably believed he was a U.S. citizen (see discussion below.) Accordingly, the exceptions contained in sections 212(a)(6)(C)(ii)(II) and 212(a)(10)(D)(ii) of the Act are inapplicable to the applicant's case.

Evidence in the record reflects that the applicant represented himself as a U.S. citizen, and registered to vote in California, on July 4, 2000. The record contains a State of California, County of Contra Costa, Voter Registration card completed and signed by the applicant on July 4, 2000. The applicant lists his place of birth as U.S. Virgin Islands, and his signature appears below a declaration stating, under penalty of perjury, that he is a U.S. citizen. The record additionally contains a State of California, Elections Fraud Investigation Unit Report, dated November 1, 2002. The investigation report reflects that an investigation was conducted by the State of California regarding the applicant's U.S. citizenship claim, and regarding his registration to vote, and his actual voting in the November 7, 2000, Presidential election. The investigation report discusses the existence of voter registration and election polling roster evidence, as well as the applicant's verbal confirmation that he registered to vote, and did vote in the November 2000 Presidential election. The investigation report concludes that the applicant falsely claimed U.S. citizenship and that he was not entitled to register to vote in July 2000, and was not entitled to vote in the November 2000 election. The applicant's claim that he thought he was eligible to register to vote and to vote because he was married to a U.S. citizen is undermined by the fact that he stated that he was born in the U.S. Virgin Islands on the voter registration card, a claim he continued during the investigation.

The record reflects that the applicant knowingly misrepresented himself as a native of the U.S. Virgin Islands, and a U.S. citizen when he registered to vote in July 2000, and when he voted in the November 2000 U.S. Presidential election. Accordingly, the applicant is inadmissible under section 212(a)(6)(C)(ii) and section 212(a)(10)(D)(i) of the Act. No waiver of inadmissibility is available under either of the above sections. The applicant's appeal must therefore be dismissed and his Form I-601 must be denied.<sup>2</sup>

Because he is mandatorily inadmissible to the United States and no waiver is available, no purpose would be served in analyzing his eligibility for a waiver under section 212(a)(9)(B)(v) or in a favorable exercise of discretion in adjudicating his Form I-212.

**ORDER:** The appeal is dismissed. The application is denied.

---

<sup>2</sup> The AAO also notes that on December 18, 2002 the applicant's Form I-485 was denied by the Acting District Director, USCIS San Francisco. The reason for the denial was the withdrawal of the I-130 petition filed by his wife. In a sworn statement the applicant's wife stated that she was paid to marry the applicant so that he could remain in the United States. There is no indication that the I-130 petition or the Form I-485 have been reopened so the waiver must be denied for that reason as well as there is no underlying petition to support the waiver application.