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

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[redacted]

FILE: [redacted] Office: CALIFORNIA SERVICE CENTER Date: JUN 0 2 2008

IN RE: [redacted]

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:

[redacted]

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 Application for a Waiver of Inadmissibility was denied by the Director, California Service Center, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The applicant is a native and citizen of Cuba who last entered the United States on April 30, 2002 with a fraudulent public interest parole document. She was 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 sought to procure an immigration benefit by fraud or willful misrepresentation of a material fact. The applicant was served with a Notice to Appear and paroled pending removal proceedings, but the Notice to Appear was not filed with the Executive Office for Immigration review (EOIR). On April 29, 2003, the applicant filed an Application to Register Permanent Residence or Adjust Status (Form I-485) pursuant to Section 1 of the Cuban Adjustment Act.

The District Director, Miami, Florida, found that the applicant was inadmissible to the United States under section 212(a)(6)(C)(i) of the Act and requested that the applicant file an application for waiver of inadmissibility (Form I-601) pursuant to section 212(i) of the Act by November 24, 2004. *See letter from District Director* dated November 11, 2004. The applicant did not file the I-601 application and the record indicates that the applicant does not have a qualifying relative to seek a waiver pursuant to section 212(i) of the Act. **The case was later forwarded to the California Service Center for adjudication.** The service center director concluded that the applicant did not have a qualifying relative in support of an I-601 application and issued separate decisions denying Form I-601 and Form I-485, the application for adjustment of status. *See Decisions of the Service Center Director* dated March 10, 2006.

On appeal, counsel requests that the applicant's qualification for a waiver pursuant to section 212(i) of the Act be reconsidered by U.S. Citizenship and Immigration Services ("CIS"). Counsel stated in the Notice of Appeal that a brief or additional evidence would be submitted within 30 days. No further documentation was submitted by counsel.

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

> (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:

> **(1)** The [Secretary] may, in the discretion of the [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 [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 did not submit an application for waiver of grounds of inadmissibility (Form I-601) and stated at her interview for adjustment of status that she did not have a qualifying relative to be eligible for the waiver. Counsel for the applicant submitted a Form I-601 for the applicant's son, and a copy of this application is part of the record in the applicant's case. This exact copy of her son's Form I-601 has hand written corrections to the name, A number and other identifying information, but it is clearly just a photocopy of the applicant's son's Form I-601. There is no indication in the record that the applicant filed a separate Form I-601. *See I-601 Application filed by* [redacted] *on July 20, 2004.* Despite the fact that the applicant did not file an I-601 application, the Service Center Director issued a decision to the applicant denying an I-601 application as well as a decision denying the applicant's application for adjustment of status. *See Decisions of the Service Center Director* dated March 10, 2006.

Counsel for the applicant submitted an appeal of the denial of the I-601 application and stated in the Notice of Appeal, "The applicant request (sic) that the Service reconsider her qualification for an I-601 Waiver." *See Notice of Appeal* dated April 7, 2006. As the applicant did not submit an application for a waiver pursuant to section 212(i) of the Act, the applicant's notice of appeal will be dismissed.

ORDER: The appeal is dismissed.