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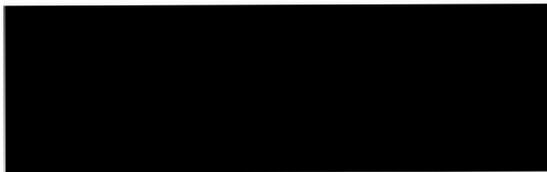
FILE: [REDACTED] Office: CALIFORNIA SERVICE CENTER Date:

JUN 16 2008

IN RE: Applicant: [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:



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 Form I-601, Application for Waiver of Grounds of Inadmissibility (Form I-601) was denied by the Director, California Service Center. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed and the Form I-601 application will be denied.

The record reflects that the applicant is a native and citizen of Nigeria who was admitted into the United States as a temporary visitor on October 20, 1989 using a fraudulent passport under the name [REDACTED]. The applicant 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), as an alien who gained admission into the U.S. through fraud or willful misrepresentation of a material fact. The applicant wishes to adjust her status to that of a lawful permanent resident. She presently seeks a waiver of her ground of inadmissibility under section 212(i) of the Act, 8 U.S.C. § 1182(i), based on the claim that her removal from the United States would cause extreme hardship to her four U.S. citizen children.

The director concluded that the applicant's children were not qualifying family members for section 212(i) waiver of inadmissibility purposes, and that the applicant was ineligible for relief under section 212(i) of the Act. The Form I-601 was denied accordingly.

On appeal the applicant indicates, through counsel, that the director failed to properly weigh the hardship factors in her case, and that the evidence submitted establishes that she merits a favorable exercise of discretion. It is noted that counsel indicated on the Form I-290B, Notice of Appeal to the Administrative Appeals Office, that he would send a brief and or evidence to the AAO within 30 days of filing the appeal. No brief or evidence was received by the AAO within the requested time period. On April 10, 2008, the AAO faxed a request for copies of any documents that may have been submitted by counsel in the applicant's case. Counsel was advised to respond to the faxed AAO request within five business days. The AAO received no response from counsel.

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

[A]ny 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.

In the present matter, the applicant gained admission into the United States using a fraudulent passport under the name, [REDACTED]. The applicant is therefore inadmissible under section 212(a)(6)(C)(i) of the Act.

Section 212(i) of the Act provides in pertinent part that:

(1) The Attorney General [now Secretary, Department of Homeland Security, "Secretary"] May . . . 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 . . .* (Emphasis added.)

The record reflects that the applicant obtained a divorce from her husband on April 11, 2001, and the record contains no indication or evidence establishing that the applicant has remarried. Accordingly, the applicant has failed to establish that she has a U.S. citizen or lawful permanent resident spouse. The record also lacks any evidence to indicate or establish that the applicant has a U.S. citizen or lawful permanent resident parent. The AAO notes that the record contains birth certificates reflecting that the applicant has U.S. citizen children. Children are not qualifying family members under the terms of section 212(i) of the Act. Hardship to the applicant's children may thus not be considered. Because the applicant has failed to establish that she has a qualifying relative for section 212(i) of the Act purposes, she is statutorily ineligible for relief under section 212(i) of the Act.

The burden of proof in these proceedings rests solely with the applicant. *See* Section 291 of the Act, 8 U.S.C. § 1361. The applicant has failed to meet that burden. The appeal will therefore be dismissed and the application will be denied.

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