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U.S. Department of Homeland Security
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Washington, DC 20536



U.S. Citizenship
and Immigration
Services



MAR 01 2004

FILE: [Redacted] Office: NEW DELHI, INDIA Date:

IN RE: Applicant: [Redacted]

APPLICATION: Application for Waiver of Grounds of Inadmissibility under section 212(a)(6)(E) of the Immigration and Nationality Act, 8 U.S.C. § 1182(a)(6)(E).

ON BEHALF OF APPLICANT: SELF-REPRESENTED

Identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy
PUBLIC COPY

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, Director
Administrative Appeals Office

DISCUSSION: The waiver application was denied by the Officer in Charge, New Delhi, India. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The record reflects that the applicant is a native and citizen of India. The applicant was found to be inadmissible to the United States pursuant to section 212(a)(6)(E)(i) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(a)(6)(E)(i), for knowingly encouraging, assisting, abetting, aiding any other alien to enter or to try to enter the United States in violation of law.

The Officer in Charge concluded that there is no waiver available for an applicant who has been found inadmissible under section 212(a)(6)(E)(i) of the Act and denied the application accordingly. *See Officer in Charge's Decision* dated June 26, 2002.

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

(i) In general.-Any alien who at any time knowingly has encouraged, induced, assisted, abetted, or aided any other alien to enter or to try to enter the United States in violation of law is inadmissible.

. . . .

(iii) Waiver authorized.- For provision authorizing waiver of clause (i), see subsection (d)(11).

Section 212(d)(11) of the Act provides that:

The Attorney General (now the Secretary of Homeland Security, [Secretary]) may, in his discretion for humanitarian purposes, to assure family unity, or when it is otherwise in the public interest, waive application of clause (i) of subsection (a)(6)(E) in the case of any alien lawfully admitted for permanent residence who temporarily proceeded abroad voluntarily and not under an order of removal, and who is otherwise admissible to the United States as a returning resident under section 211(b) and in the case of an alien seeking admission or adjustment of status as an immediate relative or immigrant under section 203(a) (other than paragraph (4) thereof), if the alien has encouraged, induced, assisted, abetted, or aided only an individual who at the time of the offense was the alien's spouse, parent, son, or daughter (and no other individual) to enter the United States in violation of law.

The record reflects that a Consular Officer in New Delhi, India found the applicant inadmissible for attempting to assist her niece in obtaining immigration benefits in violation of the law. Specifically the applicant submitted Form OF-230 to a Consular Officer in New Delhi in which she stated that she has three children. An investigation was conducted and it was concluded that one of the children the applicant listed as her own was actually her husband's niece.

By knowingly assisting an individual to enter or to try to enter the United States in violation of law the applicant is inadmissible under section 212(a)(6)(E)(i) of the Act.

As stated above, section 212(d)(11) of the Act provides that a waiver of the bar to admission resulting from section 212(a)(6)(E)(i) of the Act is available to an applicant if the alien has encouraged, induced, assisted, abetted, or aided only an individual who at the time of the offense was the alien's spouse, parent, son, or daughter (and no other individual) to enter the United States in violation of law. In the instant case the applicant was not found assisting a qualifying family member and therefore no waiver is available to her.

On appeal, the applicant's husband stated that the applicant's mistake was due to her illiteracy and that the individual the applicant listed as her own daughter is actually his brother's daughter whom they had adopted under the customs of India. However, he provided no documentary evidence to support this assertion. Nor did he provide any information on whether this method of adoption was recognized under Indian law.

A review of the documentation in the record, when considered in its totality reflects that the applicant has failed to show that she is not inadmissible under section 212(a)(6)(E)(i) of the Act. Notwithstanding the arguments on appeal, § 212(d)(11) of the Act is very specific and applicable. The applicant is subject to the provision of § 212(d)(11) of the Act. She is not eligible for any relief under this Act and the appeal will be dismissed.

ORDER: The appeal is dismissed.