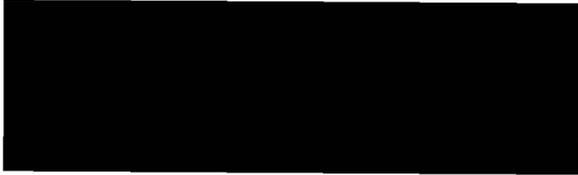


identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy



U.S. Citizenship
and Immigration
Services

PUBLIC COPY



L7

FILE: [REDACTED] Office: NEWARK, NEW JERSEY Date: OCT 23 2008

IN RE: [REDACTED]

APPLICATION: Application for Adjustment of Status under section 902 of the Haitian Refugee
Immigration Fairness Act of 1998, Public Law 105-277

ON BEHALF OF PETITIONER:

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 application was denied by the District Director, Newark, New Jersey. The matter has now been certified for review to the Administrative Appeals Office (AAO). The decision of the District Director will be affirmed.

The applicant is a native and citizen of Haiti who 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 admission to the United States through fraud or misrepresentation. The applicant applied for adjustment of status under Section 902 of the Haitian Refugee Immigration Fairness Act of 1998 (HRIFA) and seeks a waiver of inadmissibility pursuant to section 212(i) of the Act, 8 U.S.C. § 1182(i), in order to remain in the United States.

The district director concluded that the applicant was inadmissible under section 212(a)(6)(C)(i) of the Act and was statutorily ineligible for a waiver of inadmissibility because she did not have a U.S. Citizen or Lawful Permanent Resident spouse or parent. The waiver application was denied accordingly. *See Decision of the District Director* dated July 25, 2008. The District Director further concluded that the applicant was ineligible for adjustment of status due to the denial of the waiver application and certified a decision denying the Application to Register Permanent Resident or Adjust Status (Form I-485) to the AAO for review. *See Notice of Certification* dated September 15, 2008.

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:

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.

Section 212(i) of the Act provides that a waiver of the bar to admission resulting from section 212(a)(6)(C)(i) of the Act is dependent first upon a showing that the bar imposes an extreme hardship on a qualifying family member. Once extreme hardship is established, it is but one favorable factor to be considered in the determination of whether the Secretary should exercise discretion. *See Matter of Mendez*, 21 I&N Dec. 296 (BIA 1996).

The record reflects that the applicant is a thirty-nine year-old native and citizen of Haiti who attempted to enter the United States with a fraudulent Haitian passport and ADIT stamp under the name [REDACTED] on August 16, 1994. *See Record of Sworn Statement* dated August 16, 1994. On her application for a waiver of

inadmissibility (Form I-601), the applicant indicated that she does not have a qualifying relative. Section 212(i) of the Act provides that a waiver of section 212(a)(6)(C)(i) of the Act is available solely where the applicant establishes extreme hardship to his or her citizen or lawfully resident spouse or parent. Since the applicant did not have a qualifying relative, the waiver application was denied and an appeal of this decision to the AAO was rejected as untimely.

Because the applicant has been found to be inadmissible under section 212(a)(6)(C)(i) of the Act and her application for a waiver of inadmissibility had been denied and an appeal of the denial rejected, she is ineligible for adjustment of status under HRIFA. Accordingly, the decision of the district director will be affirmed.

ORDER: The decision is affirmed.