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

U.S. Citizenship and Immigration Services

PUBLIC COPY

[redacted]

FEB 11 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

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. He 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 28, 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 several individuals in obtaining immigration benefits in violation of the law. Specifically the applicant provided fraudulent letters for individuals in order to obtain non-immigrant visas to the United States.

By providing fraudulent letters to any alien in order to obtain an immigration benefit 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 him.

On appeal, the applicant provided an affidavit stating that he did not knowingly provide any letter of recommendation to any individuals but admitted that he may have signed some letters of recommendation prepared by the secretarial staff within his company. This statement is not sufficient to overcome the findings of the consular officer

A review of the documentation in the record, when considered in its totality reflects that the applicant has failed to show that he is not inadmissible under section 212(a)(6)(E)(i) of the Act. In addition, the applicant has failed to show that he is eligible to file for a waiver under section 212(d)(11) of the Act and therefore he is statutorily ineligible for relief.

In proceedings for application for waiver of grounds of inadmissibility of the Act, the burden of proving eligibility remains entirely with the applicant. Section 291 of the Act, 8 U.S.C. § 1361. Here, the applicant has not met that burden. Accordingly, the appeal will be dismissed.

ORDER: The appeal is dismissed.