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U.S. Citizenship
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FILE:

Office: EL PASO, TEXAS

Date **DEC 05 2007**

IN RE:

PETITION: 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 PETITIONER:

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 waiver application was denied by the District Director, El Paso, Texas, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The applicant is a native and citizen of Mexico who was found to be inadmissible to the United States pursuant to section 212(a)(6)(C)(ii) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(a)(6)(C)(ii), for falsely claiming United States citizenship so as to procure admission to the United States. The applicant sought a waiver of inadmissibility pursuant to section 212(i) of the Act, 8 U.S.C. § 1182(i), which the district director denied, finding that a waiver was not available for the applicant's false claim to U.S. citizenship, which was made on October 6, 2000. *Decision of the District Director, dated September 27, 2002.* The applicant submitted a timely appeal.

In the Form I-290B, Notice of Appeal to the Administrative Appeals Unit (AAU), counsel for the applicant indicated that the applicant may supplement the brief with additional arguments upon receipt of the entire file. As a supplemental brief is not contained in the file, the AAO regards the file, as constituted, as complete.

The district director stated that the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 does not allow for a waiver of inadmissibility under section 212(a)(6)(C)(ii) for aliens who attempt entry into the United States by falsely claiming to be a U.S. citizen on or after September 30, 1996. The director found that the applicant made such a claim before an immigration inspector in October 1997 in order to gain admission into the United States. Thus, he denied the application to adjust status. *Decision of the District Director, dated May 5, 2005.*

On appeal, counsel states that the applicant did not falsely claim to be a U.S. citizen on October 6, 2000. He states that the applicant asserts that during the question and answer section with the immigration officer she made reference to a false claim to U.S. citizenship allegedly made in 1992. *Notice of Appeal to the Administrative Appeals Unit (AAU), Form I-290B.*

The record contains the Record of Sworn Statement in Affidavit Form, signed by the applicant and dated October 8, 2000; it reflects that the applicant entered the United States on October 6, 2000 by walking across the Santa Fe bridge and "by claiming to be a U.S. citizen."

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 chapter is inadmissible.

- (ii) Falsely claiming citizenship

- (I) In general

Any alien who falsely represents, or has falsely represented, himself or herself to be a citizen of the United States for any purpose or benefit under this chapter . . . is inadmissible.

....

(iii) Waiver authorized

For provision authorizing waiver of clause (i), see subsection (i) of this section.

Section 212(i) of the Act provides:

- (1) The Attorney General may, in the discretion of the Attorney General, waive the application of clause (i) of subsection (a)(6)(C) of this section in the case of an immigrant 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 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 AAO notes that aliens making false claims to U.S. citizenship on or after September 30, 1996 are ineligible to apply for a Form I-601 waiver. *See* Sections 212(a)(6)(C)(ii) and (iii) of the Act. The signed statement by the applicant indicates that the false claim to U.S. citizenship was made to an immigration inspector after September 30, 1996. The applicant is therefore inadmissible under section 212(a)(6)(C)(ii) of the Act and statutorily ineligible for waiver of the grounds of inadmissibility.

In proceedings for application for waiver of grounds of inadmissibility under section 212(i) of the Act, the burden of proving eligibility remains entirely with the applicant. *See* Section 291 of the Act, 8 U.S.C. § 1361. The applicant has not met that burden. Accordingly, the appeal will be dismissed.

ORDER: The appeal is dismissed.