U.S. Department of Homeland Security
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U.S. Citizenship and Immigration Services

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PUBLIC COPY

[redacted]

FILE: [redacted] Office: NEWARK, NEW JERSEY Date: MAY 22 2007

IN RE: [redacted]

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:

[redacted]

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, San Francisco, California, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The applicant, [redacted], is a native and citizen of Haiti who 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), for willfully misrepresenting a material fact in order to gain entry into the United States. The applicant states that she is the daughter of a lawful permanent resident mother. She seeks a waiver of inadmissibility pursuant to section 212(i) of the Act, 8 U.S.C. § 1182(i). The District Director denied the waiver of inadmissibility, and the applicant appeals the director's decision.

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.
>
> . . . .
>
> (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 record reflects, and the applicant testified under oath, that she presented to immigration officials a passport that did not belong to her in order to gain admission into the United States. *Record of Sworn Statement.* She is therefore inadmissible under section 212(a)(6)(C) of the Act.

The applicant seeks a waiver of inadmissibility. A section 212(i) waiver of the bar to admission resulting from violation of section 212(a)(6)(C) of the Act is dependent first upon a showing that the bar imposes an extreme hardship to the citizen or lawfully resident spouse or parent of the applicant. Hardship to the applicant is not a permissible consideration under the statute and will be considered only to the extent that it results in hardship to a qualifying relative. The applicant states that the qualifying relative is her mother. 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 director was correct in finding inconsistencies in the name of the applicant's mother. In the Form 601, signed by the applicant on November 15, 2004, her mother's name is shown as "[redacted]"; the Form G-325, signed by the applicant on July 15, 1999, lists her mother as "[redacted]"; and the Form G-325, signed by the applicant on August 5, 1991 (for the political asylum application), shows her mother as "[redacted]" The AAO notes that in the Form G-325 the applicant's mother is shown as residing in Haiti.

The information shown in the applicant's birth certificates is also inconsistent. The birth certificate sworn and transcribed on September 15, 1990 indicates that the applicant's mother is "[redacted] and the birth certificate sworn and transcribed on October 5, 2005 shows her mother as "[redacted]." The two birth certificates are inconsistent as to the occupation of the applicant's mother: in one birth certificate she is shown as a "cultivatrice"; in the other birth certificate she is a "commercante." Doubt cast on any aspect of the petitioner's proof may, of course, lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the visa petition. It is incumbent upon the petitioner to resolve any inconsistencies in the record by independent objective evidence, and attempts to explain or reconcile such inconsistencies, absent competent objective evidence pointing to where the truth, in fact, lies, will not suffice. *Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988). The AAO finds that no objective evidence in the record explains or reconciles the material inconsistencies in the birth certificates and the Form G-325 documents.

The director found that no evidence indicated that the applicant's mother is a lawful permanent resident or U.S. citizen. On appeal, the applicant submits a copy of the Form I-797 issued to "[redacted] and a copy of the passport of "[redacted]." The AAO finds that there is no evidence in the record establishing that [redacted] or [redacted] is the mother of the applicant. Going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. *Matter of Soffici*, 22 I&N Dec. 158, 165 (Comm. 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm. 1972)).

Based on the evidence in the record, the AAO finds that the applicant failed to establish that she is an immigrant who is the spouse, son, or daughter of a United States citizen or of an alien lawfully admitted for permanent residence and that the refusal of her admission to the United States would result in extreme hardship to her citizen or lawfully resident spouse or parent.

Having found the applicant statutorily ineligible for relief, no purpose would be served in discussing whether she merits a waiver as a matter of discretion.

In proceedings for application for waiver of grounds of inadmissibility under section 212(a)(6)(C) 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.