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U.S. Citizenship
and Immigration
Services

H2

FILE:

Office: BALTIMORE, MD

Date:

FEB 09 2000

[REDACTED] (RELATES)

IN RE:

APPLICATION:

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 APPLICANT:

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.

A handwritten signature in black ink, appearing to read "John F. Grissom".

John F. Grissom, Acting Chief
Administrative Appeals Office

DISCUSSION: The waiver application was denied by the District Director, Baltimore, Maryland, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed as the applicant is not inadmissible under section 212(a)(6)(C)(i) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(a)(6)(C)(i), and the relevant waiver application is, therefore, moot.

The applicant is a native and citizen of China who was found to be inadmissible to the United States pursuant to section 212(a)(6)(C)(i) of the Act, 8 U.S.C. § 1182(a)(6)(C)(i), for seeking to procure admission to the United States by fraud or willful misrepresentation. The applicant has a U.S. citizen spouse and father, three U.S. citizen children and a lawful permanent resident mother. He seeks a waiver of inadmissibility pursuant to section 212(i) of the Act, 8 U.S.C. § 1182(i) in order to reside in the United States with his family.

The district director concluded that the applicant had failed to establish that extreme hardship would be imposed on a qualifying relative and denied the Application for Waiver of Grounds of Excludability (Form I-601) accordingly. *Decision of the District Director*, at 5, dated June 9, 2008.

On appeal, counsel asserts that the supporting evidence was sufficient to prove extreme hardship to the applicant's family. *Brief in Support of Appeal*, at 4, June 24, 2008.

The record includes, but is not limited to, counsel's brief and documentation establishing the applicant's restaurant business. The entire record was reviewed and considered in arriving at a decision on the appeal.

The district director found the applicant inadmissible under section 212(a)(6)(C)(i) of the Act for misusing a passport to enter the United States. The record reflects that the applicant arrived in the United States on May 22, 1993.

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

- (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.

However, the record does not reflect that the applicant sought to procure or that he procured admission to the United States by presenting a fraudulent passport. The record reflects that the applicant disposed of his travel document while en route to the United States. *Applicant's Record of Sworn Statement*, at 5, dated May 22, 1993. There is no evidence that he presented a fraudulent passport to an immigration officer upon arriving in the United States.

Based on the record, the AAO finds that the applicant did not misrepresent a material fact and is not inadmissible under section 212(a)(6)(C)(i) of the Act. *Matter of Y-G-*, 20 I&N Dec. 794 (BIA 1994)

and *Matter of D-L- & A-M-*, 20 I&N Dec. 409 (BIA 1991) support this finding. As such, the waiver application filed pursuant to section 212(i) of the Act is therefore moot.

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. Here, the applicant is not required to file for a waiver of inadmissibility. Accordingly, the appeal will be dismissed as the waiver application is moot.

ORDER: The appeal is dismissed as the waiver application is moot.