

U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Administrative Appeals Office (AAO)
20 Massachusetts Ave., N.W., MS 2090
Washington, DC 20529-2090
**U.S. Citizenship
and Immigration
Services**



PUBLIC COPY

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Date: **JUN 08 2012** Office: **SAN FRANCISCO, CALIFORNIA**

IN RE: [REDACTED]

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:

[REDACTED]

INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office in your case. All of the documents related to this matter have been returned to the office that originally decided your case. Please be advised that any further inquiry that you might have concerning your case must be made to that office.

Thank you,

Perry Rhew
Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The waiver application was denied by the Field Office Director, San Francisco, California, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed, the Field Office Director's decision withdrawn, and the waiver application declared moot.

The record reflects that the applicant is a native and citizen of the Philippines 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 procure an immigration benefit. The record indicates that the applicant is the daughter of lawful permanent residents of the United States and she is the beneficiary of an approved Petition for Alien Relative (Form I-130). The applicant 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 her parents.

The Field Office Director found that the applicant had failed to establish that extreme hardship would be imposed on the applicant's qualifying relatives and denied the Application for Waiver of Grounds of Inadmissibility (Form I-601) accordingly. *Decision of the Field Office Director*, dated August 3, 2009.¹

In the present case, the record indicates that on August 14, 1990, the applicant filed an Application for Status as a Temporary Resident (Form I-687). On January 16, 2002, the applicant filed an Application to Register Permanent Resident or Adjust Status (Form I-485) based on the LIFE Act. On September 15, 2003, the Interim District Director, Sacramento, California, denied the applicant's Form I-485 finding the applicant failed to meet her burden of proof in establishing the requirements of 8 C.F.R. 245a.11(b). On January 11, 2009, the applicant filed another Form I-485. On May 21, 2009, during an interview with an immigration officer, the applicant admitted to applying for adjustment of status under the LIFE legalization program by misrepresenting her identity and date of entry into the United States. On August 3, 2009, the Field Office Director denied the applicant's Form I-485, finding the applicant made false statements and submitted false documents in order to acquire LULAC class status.

The record reflects that the applicant was found to be inadmissible under section 212(a)(6)(C)(i) of the Act for giving false information on her legalization application under section 245a of the Act. Section 210(b)(6) of the Act, 8 U.S.C. § 1160(b)(6), covers the confidentiality provisions for special agricultural workers.

Section 210 of the Act provides, in pertinent part, that:

(b)(6) Confidentiality of information

¹ The AAO notes that on August 31, 2009, the applicant, through counsel, filed a motion to reopen the Field Office Director's decision. On September 24, 2009, the Field Office Director denied the motion to reopen and reaffirmed her previous decision of August 3, 2009.

(A) In general

Except as provided in this paragraph, neither the Attorney General [now Secretary of Homeland Security, "Secretary"], nor any other official or employee of the Department of Justice, or bureau or agency thereof, may-

- (i) use the information furnished by the applicant pursuant to an application filed under this section for any purpose other than to make a determination on the application, including a determination under subsection (a)(3)(B), or for the enforcement of paragraph (7);
- (ii) make any publication whereby the information furnished by any particular applicant can be identified; or
- (iii) permit anyone other than the sworn officers and employees of the Department or bureau or agency or, with respect to applications filed with a designated entity, that designated entity, to examine individual applications.

Section 210(b)(7) of the Act provides, in pertinent part, that:

(A) Criminal Penalty

Whoever-

- (i) files an application for adjustment of status under this section and knowingly and willfully falsifies, conceals, or covers up a material fact or makes any false, fictitious, or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious, or fraudulent statement or entry, or
- (ii) creates or supplies a false writing or document for use in making such an application,

shall be fined in accordance with title 18, United States Code, or imprisoned not more than five years, or both.

In the present case, a review of the record does not demonstrate that the applicant defrauded or made a willful misrepresentation on any other application except on her legalization application. In addition, the record does not establish that the applicant has been convicted for false statements in that or any other application. The AAO thus finds that the Field Office Director erred in concluding that the

applicant was inadmissible pursuant to section 212(a)(6)(C)(i) of the Act. As such, the waiver application is unnecessary, and the issue of whether the applicant established extreme hardship to a qualifying relative pursuant to section 212(i) of the Act is moot and need not be addressed.

ORDER: The appeal is dismissed, the Field Office Director's decision withdrawn, and the waiver application declared unnecessary.