U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Office of Administrative Appeals
20 Massachusetts Ave. NW MS 2090
Washington, DC 20529-2090

U.S. Citizenship and Immigration Services

(b)(6)

DATE: JAN 2 2 2013 OFFICE: RALEIGH-DURHAM FILE:

IN RE:

APPLICATION: Application for Waiver of Grounds of Inadmissibility

ON BEHALF OF APPLICANT:

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.

If you believe the AAO inappropriately applied the law in reaching its decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen in accordance with the instructions on Form I-290B, Notice of Appeal or Motion, with a fee of $630. The specific requirements for filing such a motion can be found at 8 C.F.R. § 103.5. **Do not file any motion directly with the AAO.** Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires any motion to be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you,

Ron Rosenberg
Acting Chief, Administrative Appeals Office

DISCUSSION: The waiver application was denied by the Field Office Director, Raleigh-Durham, North Carolina, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The applicant is a native and citizen of Kenya 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 U.S. citizenship. The applicant is the spouse of a U.S. citizen and is the beneficiary of an approved Petition for Alien Relative. He seeks a waiver of inadmissibility in order to remain in the United States to live with his U.S. citizen spouse, the qualifying relative.

In a decision dated November 23, 2011 denying the Application for Waiver of Grounds of Inadmissibility, the Field Office Director concluded that the applicant is inadmissible under section 212(a)(6)(C)(ii) of the Act for falsely claiming U.S. citizenship, that there is no waiver of this ground of inadmissibility and denied the application for a waiver accordingly. *See Field Office Director's Decision*, dated November 23, 2011.

On the Form I-290B, Notice of Appeal, counsel indicated that a brief or additional evidence would be submitted within 30 days. To date, over a year after the Form I-290B was filed, the AAO has received no brief or additional evidence from counsel or the applicant. The record includes, but is not limited to a signed declaration from the applicant dated October 13, 2011, the U.S. Department of State Travel Warning for Kenya dated December 28, 2010, academic, financial and tax records for the applicant's qualifying relative, photographs and support letters from friends and colleagues. The AAO conducts appellate review on a *de novo* basis. *See Soltane v. DOJ*, 381 F.3d 143, 145 (3d Cir. 2004). The entire record was reviewed and considered in rendering a decision on the appeal.

The Field Office Director determined that the applicant was inadmissible under section 212(a)(6)(C)(ii)(I) of the Act, which provides, in pertinent part that:

> 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 Act (including section 274A) or any other Federal or State law is inadmissible.

U.S. Citizenship and Immigration Services (USCIS) records indicate that on May 15, 2007, the applicant attested that he was a U.S. citizen on a Form I-9, Employment Eligibility Verification when starting a position with his U.S. employer. The applicant submitted a declaration in which he denies intentionally or voluntarily claiming U.S. citizenship because his father had told him he was a U.S. citizen and at the time he was only 19 years old with limited English language abilities. Nonetheless, the record shows that the applicant falsely claimed U.S. citizenship in order to begin employment in the United States. The applicant is consequently inadmissible under section 212(a)(6)(C)(ii) of the Act. There is no waiver available for this ground of inadmissibility rendering the applicant's explanations for his conduct irrelevant.

Because the applicant is inadmissible under a ground for which no waiver is available, no purpose would be served in discussing whether the applicant has established eligibility for a waiver under another section of the Act or whether he would merit the waiver as a matter of discretion.

In proceedings for a waiver of grounds of inadmissibility under 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.