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U.S. Citizenship
and Immigration
Services

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NOV 29 2005

FILE:



Office: LOS ANGELES (SANTA ANA), CA Date:

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:

SELF-REPRESENTED

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, Director
Administrative Appeals Office

DISCUSSION: The District Director, Los Angeles (Santa Ana), CA denied the Form I-601, Application for Waiver of Grounds of Inadmissibility. The matter 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 on two separate occasions 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 to be a U.S. Citizen. The record indicates that the applicant was expeditiously removed on two separate occasions for falsely claiming to be a U.S. Citizen.

The district director concluded that there is no waiver of inadmissibility for section 212(a)(6)(C)(ii) violations and denied the Application for Waiver of Grounds of Excludability (Form I-601) accordingly. *Decision of the District Director*, dated May 11, 2004.

On appeal, the applicant's spouse states that prior to being expeditiously removed, the applicant's rights were never explained to her, she was not provided a translator and she unknowingly signed the relevant removal documents. *Form I-290B*, dated June 14, 2004.

The applicant's spouse does not submit any evidence in support of his assertions. The entire record was reviewed and considered in arriving at a decision on the appeal.

The record reflects that on June 9, 1998 and September 4, 2000, the applicant attempted to enter the United States by falsely claiming to be a U.S. Citizen and was expeditiously removed on both occasions. As a result of these prior misrepresentations, the applicant is inadmissible under section 212(a)(6)(C)(ii) of the Act.

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

- (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 Act (including section 274A) or any other Federal or State law is inadmissible.
- (II) EXCEPTION- In the case of an alien making a representation described in subclause (I), if each natural parent of the alien (or, in the case of an adopted alien, each adoptive parent of the alien) is or was a citizen (whether by birth or naturalization), the alien permanently resided in the United States prior to attaining the age of 16, and the alien reasonably believed at the time of making such representation that he or she was a citizen, the alien shall not be considered to be inadmissible under any provision of this subsection based on such representation.

There is no waiver for this ground of inadmissibility and the exception in section 212(a)(6)(C)(ii)(II) of the Act does not apply to the applicant. Furthermore, the record does not support the assertions of the applicant's spouse. On June 9, 1998, the applicant was read her rights and a sworn statement was taken with a Spanish interpreter. *Record of Sworn Statement in Proceedings under Section 235(b)(1) of the Act*, dated June 9, 1998. The record does not include a sworn statement for the September 4, 2000 attempted entry, but there is no indication that the normal procedures were not followed.

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 has not met that burden. Accordingly, the appeal will be dismissed.

ORDER: The appeal is dismissed.