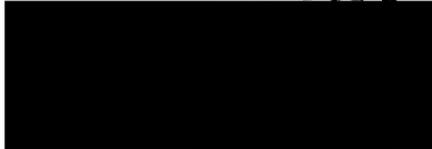


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prevent clearly unwarranted  
invasion of personal privacy**



**U.S. Citizenship  
and Immigration  
Services**

**PUBLIC COPY**



FILE: [Redacted] Office: CHICAGO, IL

Date: **H12**  
**DEC 12 2006**

IN RE: [Redacted]

APPLICATION: Application for Waiver of Grounds of Inadmissibility under Section 212(i) of the Immigration and Nationality Act (the 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.

Robert P. Wiemann, Chief  
Administrative Appeals Office

**DISCUSSION:** The District Director, Chicago, Illinois denied the waiver application. The appeal will be dismissed, the district director's decision will be withdrawn, and the waiver application declared moot.

seeks a waiver of inadmissibility pursuant to section 212(i) of the Act, 8 U.S.C. § 1182(i) in order to join his lawful permanent resident (LPR) wife, [REDACTED] and their two LPR children in the United States.

The applicant, [REDACTED] is a native and citizen of Mexico who was found to be inadmissible to the United States pursuant to section 212(a)(C)(6)(i) of the Immigration and Nationality Act (INA, the Act), 8 U.S.C. § 1182(a)(C)(6)(i), for having procured immigration benefits by fraud and willful misrepresentation of a material fact. [REDACTED] is the beneficiary of an approved Petition for Alien Relative (Form I-130) filed by his U.S. citizen (USC) wife, [REDACTED]. He seeks a waiver of inadmissibility pursuant to section 212(i) of the Act, 8 U.S.C. § 1182(i) in order to remain in the United States with his U.S. citizen wife and their two children.

The record reflects that the applicant entered the United States without inspection in about 1982. The applicant misrepresented himself when he became a temporary resident under the Special Agricultural Worker (SAW) program. His residency under the SAW program has been rescinded. As a result of this misrepresentation the district director found the applicant to be inadmissible to the United States. *District Director's decision*, dated, July 26, 2004. The district director also found that the applicant failed to establish that extreme hardship would be imposed on a qualifying relative and denied the Application for Waiver of Grounds of Inadmissibility (Form I-601). *Id.*

The AAO finds that the district director erred in concluding that the applicant was inadmissible pursuant to section 212(a)(6)(C)(i) of the Act based on information provided from the applicant's SAW application.

Section 210(b)(6) of the Act, 8 U.S.C. § 1160(b)(6) – Special agricultural workers, provides in pertinent part, that:

6) Confidentiality of information

(A) In general

Except as provided in this paragraph, neither the Attorney General, 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) of this section, or for enforcement of paragraph (7);

(ii) make any publication whereby the information furnished by any particular individual 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.

(B) Required disclosures.-The Attorney General shall provide information furnished under this section, and any other information derived from such furnished information, to a duly recognized law enforcement entity in connection with a criminal investigation or prosecution, when such information is requested in writing by such entity, or to an official coroner for purposes of affirmatively identifying a deceased individual (whether or not such individual is deceased as a result of a crime).

(C) Construction.-

(i) In general.-Nothing in this paragraph shall be construed to limit the use, or release, for immigration enforcement purposes or law enforcement purposes of information contained in files or records of the Service pertaining to an application filed under this section, other than information furnished by an applicant pursuant to the application, or any other information derived from the application, that is not available from any other source.

(ii) Criminal convictions.-Information concerning whether the applicant has at any time been convicted of a crime may be used or released for immigration enforcement or law enforcement purposes.

(D) Crime.-Whoever knowingly uses, publishes, or permits information to be examined in violation of this paragraph shall be fined not more than \$10,000.

(7) Penalties for false statements in applications.-

(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.

(B) Exclusion.-An alien who is convicted of a crime under subparagraph (A) shall be considered to be inadmissible to the United States on the ground described in section 212(a)(6)(C)(i).

In the present case, a review of the record reflects no indication that the applicant made a willful misrepresentation on any other application except on his application for SAW status. In addition, the applicant has not been convicted for false statements in that or any other application. The AAO thus finds that the district 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 will not be addressed.

**ORDER:** The appeal is dismissed, the acting district director's decision is withdrawn and the waiver application declared moot.