

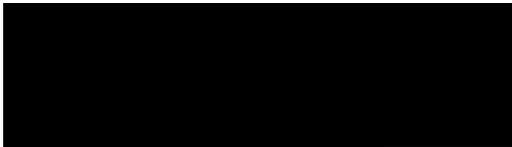


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FILE: [REDACTED] Office: LOS ANGELES

Date: MAY 10 2006

IN RE: [REDACTED]

PETITION: 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 PETITIONER: 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.

A handwritten signature in black ink, appearing to read "Robert P. Wiemann".

Robert P. Wiemann, Chief  
Administrative Appeals Office

**DISCUSSION:** The District Director, Los Angeles, California denied the waiver application, and it 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 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 representing himself to be a citizen of the United States. The applicant is the spouse of a U.S. citizen. 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 spouse.

The district director concluded that there is no waiver available under section 212(i) or any other section of the Act for those who have, any time after September 30, 1996, falsely represented themselves to be citizens of the United States and denied the Application for Waiver of Grounds of Excludability (Form I-601) accordingly. *Decision on Application for Waiver of Grounds of Inadmissibility*, dated November 17, 2004.

The record shows that, on January 12, 1997, the applicant attempted to enter the United States by presenting a U.S. birth certificate under the name [REDACTED]. On January 14, 1997, an immigration judge ordered the applicant expeditiously removed from the United States pursuant to section 235(b)(1) of the Act, 8 U.S.C. § 1225(b)(1) for not having a valid or unexpired immigrant visa and falsely claiming to be a citizen of the United States. The applicant shortly thereafter entered the United States without inspection. On January 12, 1998, the applicant married his spouse, who was a lawful permanent resident at the time of the marriage. On February 2, 1998, the applicant filed an Application to Register Permanent Residence or Adjust Status (Form I-485), based on an I-130 Petition for Alien Relative (Form I-130) filed by the applicant's lawful permanent resident spouse. On October 29, 1999, the applicant's spouse became a naturalized U.S. citizen. On November 20, 2002, the applicant appeared at Citizenship and Immigration Services' (CIS) Los Angeles District Office.

On November 20, 2002, the district director issued a notice informing the applicant that he needed to file the Form I-601. On February 26, 2003, the applicant filed the Form I-601 with documentation supporting his claim that extreme hardship would be imposed on his family members.

On November 17, 2004, the district director issued a notice of denial of the Form I-601, informing the applicant that he was inadmissible to the United States because he had falsely represented himself as a citizen of the United States and there is no waiver available to the applicant.

On appeal, the applicant's spouse contends that the district director erred in finding that the applicant is inadmissible to the United States pursuant to section 212(a)(6)(C)(ii) of the Act because his actions occurred prior to the enactment of the Illegal Immigration Reform and Immigrant Responsibility Act ("IIRIRA"), Pub. L. 104-208, 110 Stat. 3009 (1996). See *Applicant's Brief*, dated December 6, 2004. The entire record was reviewed and considered in rendering a decision on the appeal.

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

- (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.

(ii) Falsely claiming citizenship. –

(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 . . . is inadmissible.

(II) Exception-

In the case of an alien making a representation described in subclause (I), if each natural parents 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.

(iii) Waiver authorized. – For provision authorizing waiver of clause (i), see subsection (i).

The applicant's spouse argues that the applicant is not inadmissible pursuant to section 212(a)(6)(C)(ii) of the Act because his actions occurred prior to the enactment of IIRIRA. The applicant is correct in that he cannot be found inadmissible pursuant to section 212(a)(6)(C)(ii) of the Act unless his actions occurred after the enactment of IIRIRA. The applicant argues that his actions did not occur after April 1, 1997, the date on which he believes IIRIRA was enacted. However, IIRIRA was enacted on September 30, 1996. While some provisions went into effect on later dates, this particular provision had no specific date and therefore went into effect at the time of the initial enactment. *IIRIRA*, <http://uscis.gov>. Aliens making false claims to U.S. citizenship on or after September 30, 1996 are ineligible to apply for a Form I-601 waiver. *See* Sections 212(a)(6)(C)(ii) and (iii) of the Act. Therefore, if an alien makes a false claim to U.S. citizenship on or after September 30, 1996, the alien is subject to a permanent ground of inadmissibility.

The record in the instant case reflects that, on January 12, 1997, the applicant attempted to enter the United States by presenting a U.S. birth certificate that belonged to another. After being placed in secondary inspection, the applicant admitted that he was not a U.S. citizen and was expeditiously removed from the United States and returned to Mexico. The record reflects that the applicant was not under the misconception that he was a U.S. citizen at the time he presented the U.S. birth certificate. The AAO finds that the applicant is ineligible for the exception to the inadmissibility grounds for falsely representing that he was a U.S. citizen.

The AAO therefore finds that the applicant is inadmissible to the United States pursuant to section 212(a)(6)(C)(ii) of the Act and that there is no waiver available to the applicant under this ground of inadmissibility. Accordingly, the appeal will be dismissed.

**ORDER:** The appeal is dismissed.