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20 Massachusetts Ave. N.W., Rm. A3000  
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U.S. Citizenship  
and Immigration  
Services

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FILE:

Office: BOSTON (HARTFORD, CT) Date: JUL 30 2008

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 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.

Robert P. Wiemann, Chief  
Administrative Appeals Office

**DISCUSSION:** The application was denied by the District Director, Boston, Massachusetts. 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 Poland who was found to be inadmissible to the United States under section 212(a)(6)(C)(i) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(a)(6)(C)(i), for having sought admission to the United States through fraud or misrepresentation. The applicant is the beneficiary of an approved Immigrant Petition for Alien Worker and 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.

The district director concluded that the applicant was statutorily ineligible for a waiver because he did not have a U.S. Citizen or Lawful Permanent Resident spouse or parent. The application was denied accordingly. See *Decision of the District Director* dated September 20, 2006.

On appeal, the applicant asserts that he should be granted a waiver because he made the decision to enter the United States under an assumed name more than 11 years ago under "extreme circumstances," because his mother was severely ill and alone in the United States. See *Form I-290B*. The applicant further states that he did not intentionally misrepresent a material fact when he stated he had never been arrested on his Application to Register Permanent Resident or Adjust Status (Form I-485), because he did not believe he had been arrested when he was refused admission and returned to Poland in 1996. *Id.* The applicant further asserts that since this incident occurred more than ten years before the denial of his waiver application, and given the underlying circumstances, it "should be erased." *Id.* He states that due to his "impeccable" work record and absence of a criminal record, the denial of his waiver application would be unjust and cause him hardship. *Id.*

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.

Section 212(i) of the Act provides:

The [Secretary] may, in the discretion of the [Secretary], waive the application of clause (i) of subsection (a)(6)(C) in the case of an alien who is the spouse, son or daughter of a United States citizen or of an alien lawfully admitted for permanent residence, if it is established to the satisfaction of the [Secretary] that the refusal of admission to the United States of such immigrant alien would result in extreme hardship to the citizen or lawfully resident spouse or parent of such an alien.

Section 212(i) of the Act provides that a waiver of the bar to admission resulting from section 212(a)(6)(C)(i) of the Act is dependent first upon a showing that the bar imposes an extreme hardship on a qualifying family member. Once extreme hardship is established, it is but one favorable factor to be considered in the

determination of whether the Secretary should exercise discretion. *See Matter of Mendez*, 21 I&N Dec. 296 (BIA 1996).

The record reflects that the applicant is a thirty-three year-old native and citizen of Poland who attempted to enter the United States with a fraudulent Polish passport and U.S. visa under the name [REDACTED] on June 4, 1996. *See Record of Sworn Statement* dated June 4, 2006. On his application for a waiver of inadmissibility (Form I-601), the applicant indicated that he does not have a qualifying relative. Section 212(i) of the Act provides that a waiver of section 212(a)(6)(C)(i) of the Act is applicable solely where the applicant establishes extreme hardship to his or her citizen or lawfully resident spouse or parent. Since the applicant does not have a qualifying relative, he is ineligible for a waiver of inadmissibility.

Because the applicant is statutorily ineligible for relief, no purpose would be served in discussing whether the applicant has established he would merit the waiver as a matter of discretion.

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. 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.