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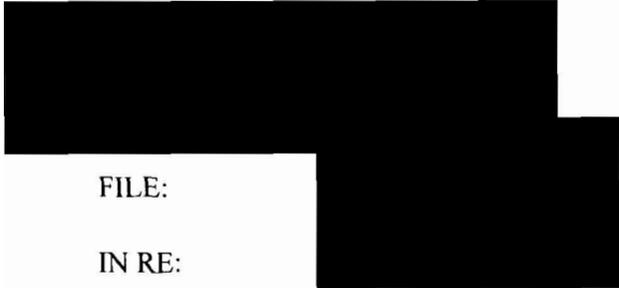
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U.S. Citizenship
and Immigration
Services

H2



FILE:

Office: CALIFORNIA SERVICE CENTER

Date: NOV 03 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 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, Chief
Administrative Appeals Office

DISCUSSION: The waiver application was denied by the Director, California Service Center, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed as the underlying application is moot. The matter will be returned to the director for continued processing.

The applicant is a native and citizen of Panama who was found to be inadmissible to the United States pursuant to section 212(a)(6)(C)(i) of the Act, 8 U.S.C. § 1182(a)(6)(C)(i), for using a fraudulent social security card to obtain employment in the United States. The applicant is the spouse of a U.S. citizen. The applicant 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 her family.

The director concluded that the applicant had failed to establish that extreme hardship would be imposed on a qualifying relative and denied the Application for Waiver of Ground of Excludability. *Director's Decision*, at 3, dated August 4, 2006.

On appeal, the applicant's spouse states that he and his children would experience extreme hardship if the applicant's waiver were denied. *Form I-290B*, received September 5, 2006.

The record reflects that the applicant used a fraudulent social security card to obtain employment in the United States. As a result of this misrepresentation, the applicant was found to be inadmissible by the director.

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

- (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.

A clear reading of section 212(a)(6)(C)(i) of the Act, in conjunction with the applicant's aforementioned fact pattern, indicates that she is not inadmissible under this section of the Act. Section 212(a)(6)(C)(i) of the Act does not apply to the use of a fraudulent social security card to obtain employment. Employment is not considered a benefit under the Act.

Based on the record, the AAO finds that there is no evidence that the applicant committed the requisite fraud or misrepresentation of a material fact and that she is not inadmissible under section 212(a)(6)(C)(i) of the Act. The waiver filed pursuant to section 212(i) of the Act is therefore moot.

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 is not required to file the waiver. Accordingly, the appeal will be dismissed as the underlying application is moot.

ORDER: The appeal is dismissed as the underlying waiver application is moot. The director shall reopen the denial of the Form I-485 application on motion and continue to process the adjustment application.