



U.S. Citizenship
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Services

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[REDACTED]

FILE:

[REDACTED]

Office: LOS ANGELES (SANTA ANA) Date: SEP 10 2008

[consolidated therein]

IN RE:

Applicant:

[REDACTED]

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.

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

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The waiver application was denied by the District Director, Los Angeles, California, and the matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The record reflects that 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)(i) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(a)(6)(C)(i), for attempting to enter the United States by falsely claiming United States citizenship. The record indicates that the applicant is the wife of a lawful permanent resident of the United States. 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 spouse and children.

The District Director determined that the applicant is inadmissible pursuant to section 212(a)(6)(C)(ii) of the Act, 8 U.S.C. § 1182(a)(6)(C)(ii), for making a false claim to United States citizenship, and that “[t]here is no waiver available under section 212(i) of [the Act]...for making a false claim to be a citizen of the United States anytime after September 30, 1996.” The District Director denied the Application for Waiver of Grounds of Excludability (Form I-601) accordingly. *District Director’s Decision*, dated April 20, 2006.

The pertinent statutes state in part:

Section 212(a)(6). Illegal entrants and immigration violators.-

(C) Misrepresentation.-

(i) In general.-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 (including section 274A) or any other Federal or State law is inadmissible.

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

Section 212(i):

(i) (1) The Attorney General [now the Secretary of Homeland Security, “Secretary”] may, in the discretion of the Attorney General [Secretary], waive the application of clause (i) of subsection (a)(6)(C) in the case of an immigrant 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 Attorney General [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...

Aliens making false claims to United States 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. As the applicant's false claim to United States citizenship occurred after September 30, 1996, the applicant is clearly inadmissible to the United States and not eligible for a waiver under section 212(a)(6)(C)(iii) of the Act.

On appeal, the applicant states that she "never claimed to be a U.S. Citizen." *Letter attached to Form I-290B*, filed May 22, 2006. The record reflects that on September 22, 1997, the applicant presented a United States passport in someone else's name in order to gain entry into the United States, and a copy of this document is contained in the record. During secondary inspection, the applicant admitted to her Mexican nationality.¹ *Record of Sworn Statement in Proceedings under Section 235(b)(1) of the Act*, dated September 23, 1997. The applicant claims that she "sought the services of a 'coyote' to bring [her] into the United States...When [she] was in the border line, the 'coyote' handed [her] a small card and told [her] to show it to the immigration officer. [She] never presented a U.S. passport...or admitted to be [a United States citizen]." *Letter attached to Form I-290B, supra*. The AAO notes that during secondary inspection, the applicant stated that she purchased the United States passport from a woman in the streets in Tijuana. *See Record of Sworn Statement in Proceedings under Section 235(b)(1) of the Act, supra*.

The AAO finds that because the applicant is statutorily ineligible for relief, no purpose would be served in discussing whether the applicant has established extreme hardship to her lawful permanent resident spouse and United States citizen children or whether she merits the waiver as a matter of discretion.

In proceedings for an 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.

¹ The AAO notes that during secondary inspection, the applicant stated her true name was