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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Office of Administrative Appeals MS 2090
Washington, DC 20529-2090

U.S. Citizenship
and Immigration
Services

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FILE:



Office: CHICAGO, IL

Date:

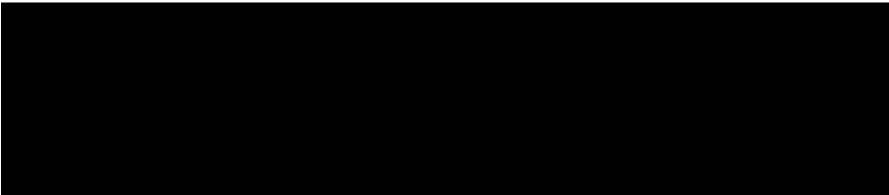
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IN RE:



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:



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.

If you believe the law was inappropriately applied or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. Please refer to 8 C.F.R. § 103.5 for the specific requirements. All motions must be submitted to the office that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion, with a fee of \$585. Any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen, as required by 8 C.F.R. § 103.5(a)(1)(i).

John F. Grissom
Acting Chief, Administrative Appeals Office

DISCUSSION: The waiver application was denied by the District Director, Chicago, Illinois, and 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)(i) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(a)(6)(C)(i), for attempting to procure admission to the United States by fraud or willful misrepresentation. The applicant's spouse is a lawful permanent resident and his father is 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).

The district 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 Grounds of Inadmissibility (Form I-601) accordingly. *Decision of the District Director*, at 5, dated December 19, 2006.

On appeal, counsel states that the district director failed to consider hardship to the applicant's lawful permanent resident spouse. *Form I-290B*, received January 18, 2007.

The entire record was reviewed and considered in arriving at a decision on the appeal.

The record reflects that on January 4, 2000, the applicant presented a Form I-94 with a counterfeit temporary I-551 stamp with another person's name and date of birth. As a result of this misrepresentation, the applicant is inadmissible to the United States under section 212(a)(6)(C)(i) of the Act.

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.

The record reflects that the applicant was expeditiously removed from the United States on January 4, 2000. The record also reflects that he subsequently reentered the United States without being admitted on or about January 11, 2000.

Therefore, the AAO also finds that the applicant is inadmissible to the United States pursuant to section 212(a)(9)(C)(i)(II) of the Act for having been ordered removed and reentering the United States without being admitted.

Section 212(a)(9)(C)(i) of the Act states, in pertinent part:

- (C) Aliens unlawfully present after previous immigration violations.-
 - (i) In general.-Any alien who-

(I) has been unlawfully present in the United States for an aggregate period of more than 1 year, or

(II) has been ordered removed under section 235(b)(1), section 240, or any other provision of law, and who enters or attempts to reenter the United States without being admitted is inadmissible.

(ii) Exception.—Clause (i) shall not apply to an alien seeking admission more than 10 years after the date of the alien's last departure from the United States if . . . the Attorney General [now the Secretary of Homeland Security] has consented to the alien's reapplying for admission....

To seek an exception from a finding of inadmissibility under section 212(a)(9)(C)(i)(II) of the Act, an applicant must file for permission to reapply for admission (Form I-212). However, consent to reapply under section 212(a)(9)(C)(ii) of the Act can only be granted to one who has left the United States, is currently abroad and is seeking admission to the United States at least ten years after the date of his or her last departure. *See Matter of Torres-Garcia*, 23 I&N Dec. 866 (BIA 2006). The record does not reflect that the applicant in the present matter has met these requirements. Accordingly, the applicant is statutorily ineligible to seek an exception from his inadmissibility under section 212(a)(9)(C)(i)(II) of the Act and the AAO finds no purpose would be served in considering the merits of his Form I-601 waiver application under section 212(i) of the Act. The appeal will be dismissed.

ORDER: The appeal is dismissed.