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

PUBLIC COPY



**U.S. Citizenship
and Immigration
Services**

H2

FILE:

Office: SAN ANTONIO

Date: **MAR 19 2009**

IN RE:

APPLICATION:

Application for Waiver of Grounds of Inadmissibility under Section 212(i) of the
Immigration and Nationality Act (INA), 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.

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).

A handwritten signature in black ink, appearing to read "John F. Grissom".

John F. Grissom

Acting Chief, Administrative Appeals Office

DISCUSSION: The waiver application was denied by the Acting District Director, San Antonio, Texas. 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. The acting district director found the applicant 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 having attempted to enter the United States by fraud or willful misrepresentation. Based on the applicant's Application for Permission to Reapply for Admission into the United States (Form I-212), the acting district director found that the applicant wanted to enter the United States as a visitor only and that she was, therefore, not an immigrant eligible for a waiver of inadmissibility. The acting district director denied the application accordingly. *Decision of the Acting District Director*, dated November 28, 2006.

Section 212(a)(6)(C)(i) of the Act provides:

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.

Section 212(i) provides:

(1) The Attorney General [now Secretary of Homeland Security] may, in the discretion of the Attorney General [now Secretary of Homeland Security], 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 [Secretary] that the refusal of admission to the United States of such immigrant alien would result in extreme hardship to the citizen or lawfully permanent resident **spouse or parent** of such an alien. . . .

(Emphasis added.) The acting district director found, and the applicant does not contest, that on or about July 10, 1998, the applicant attempted to obtain a nonimmigrant visa in Mexico by presenting false documents. Therefore, the applicant is inadmissible under section 212(a)(6)(C)(i) of the Act for willfully misrepresenting a material fact in order to procure admission into the United States.

A section 212(i) waiver of the bar to admission resulting from a violation of section 212(a)(6)(C)(i) of the Act is available for immigrants who are the spouse, son, or daughter of a U.S. citizen or lawful permanent resident. *See* Section 212(i)(1) of the Act, 8 U.S.C. § 1182(i)(1). A waiver is dependent first upon a showing that the bar imposes an extreme hardship to the citizen or lawfully resident spouse or parent of the applicant. *Id.* 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).

In this case, although the acting district director was correct in finding that the applicant stated on question number 15 on her Form I-212 that she desired to re-enter the United States as a visitor only, the applicant stated on question number 16 that the reason she desired to re-enter the United States was “to live with [her] son and work.” Therefore, it is unclear whether or not the applicant is an “immigrant.” Nonetheless, even assuming the applicant is an immigrant, it is uncontested that the applicant does not have a U.S. citizen or lawful permanent resident spouse or parent. As such, she does not have a qualifying relative under the statute and, thus, is ineligible for a waiver. *See* Section 212(i)(1) of the Act, 8 U.S.C. § 1182(i)(1). Accordingly, the appeal will be dismissed.

ORDER: The appeal is dismissed.