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



U.S. Citizenship  
and Immigration  
Services

H2

FILE: [REDACTED] Office: CALIFORNIA SERVICE CENTER Date: **MAR 19 2009**

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 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.

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 Director, California Service Center, and the matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The record indicates that the applicant, a native and citizen of Mexico, attempted entry to the United States in November 1989 using a document, namely, a Form I-151, Alien Registration Receipt Card, that was not validly issued to her. She was thus found 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 attempting to procure entry to the United States by fraud or willful misrepresentation. The applicant 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 with her U.S. citizen sister and children, born in 1984 and 1992.

The director concluded that the applicant was statutorily ineligible for a waiver and consequently denied the Application for Waiver of Grounds of Excludability (Form I-601) accordingly. *Decision of the Director*, dated January 18, 2007.

In support of the appeal, the applicant submits the Form I-290B, Notice of Appeal (Form I-290B). The entire record was reviewed and considered in rendering this decision.

Section 212(a)(6)(C) of the Act states, in pertinent part, the following:

- (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 states, in pertinent part, the following:

- (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 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 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.

On the Form I-290B, the applicant asserts that she thought the Form I-151 she presented in November 1989 was valid as "it was given to me at the federal building...." *See Form I-290B*. In visa petition proceedings, the burden is on the petitioner to establish eligibility for the benefit sought. *See Matter of Brantigan*, 11 I&N Dec. 493 (BIA 1966). The petitioner must prove by a preponderance of evidence that the beneficiary is fully qualified for the benefit sought. *Matter of Martinez*, 21 I&N Dec. 1035, 1036 (BIA 1997); *Matter of Patel*, 19 I&N Dec. 774 (BIA 1988); *Matter of Soo Hoo*, 11 I&N Dec. 151 (BIA 1965).

It is clear to the AAO that the applicant willfully misrepresented herself, as documented by the applicant's own admission to an immigration inspector on November 7, 1989. As she stated, in pertinent part:

Q: When and how did you obtain this document [Form I-151]?

A: August 1989, I bought it from a person.

Q: Did you buy this document? If so, how much did you pay?

A: Si. I paid USD \$850.00.

Q: Do you know that valid entry documents are obtained from the American Consulate or from the Immigration Service?

A: Yes.

Q: At the time you presented this document (subject shown document), were you aware that it was not a valid document?

A: Yes.

Q: Do you know that it is against the laws of the U.S. to present altered or counterfeit documents in order to enter the U.S.

A: Yes.

*Record of Sworn Statement*, dated November 7, 1989.

As such, despite the applicant's assertions to the contrary, the AAO concurs with the director's finding that the applicant is inadmissible under section 212(a)(6)(C)(i) of the Act. Section 212(a)(6)(C)(i) of the Act provides that a waiver under section 212(i) of the Act is applicable solely where the applicant establishes extreme hardship to his or her citizen or lawfully resident spouse or parent. Unlike waivers under section 212(h) of the Act, section 212(i) does not mention extreme hardship to a United States citizen or lawful permanent resident child. Nor is extreme hardship to the applicant herself a permissible consideration under the statute. In the instant appeal, the applicant has not established that a qualifying relative for purposes of a Form I-601 waiver under section 212(i) of the Act exists, namely, a U.S. citizen or lawful permanent resident spouse and/or parent. As such, the instant appeal is dismissed.

Having found the applicant statutorily ineligible for relief, no purpose would be served in discussing whether the applicant merits a 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. The waiver application is denied.