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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**

identifying data deleted to  
prevent clearly unwarranted  
invasion of personal privacy

[REDACTED]

H<sub>2</sub>

FILE:

[REDACTED]

Office: COLUMBUS, OHIO

Date: SEP 02 2009

[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:

[REDACTED]

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.

John F. Grissom  
Acting Chief, Administrative Appeals Office

**DISCUSSION:** The waiver application was denied by the Field Office Director, Columbus, Ohio, and the matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed, the field office director's decision withdrawn, and the waiver application declared moot.

The record reflects that the applicant is a native and citizen of India who was found to be inadmissible to the United States pursuant to section 212(a)(6)(C)(i) of Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(a)(6)(C)(i), for misrepresenting a material fact in an attempt to obtain an immigration benefit. The record indicates that the applicant is the son of a naturalized United States citizen and is the beneficiary of an approved Petition for Alien Relative (Form I-130) and Immigrant Petition for Alien Worker (Form I-140). 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 his United States citizen mother.

The Field Office Director found that the applicant failed to establish that extreme hardship would be imposed on his qualifying relative and denied the Application for Waiver of Grounds of Inadmissibility (Form I-601) accordingly. *Field Office Director's Decision*, dated May 2, 2007.

In the present application, the record indicates that the applicant filed a Form I-140 on November 25, 1974. On July 23, 1989, the applicant entered the United States on a B-2 nonimmigrant visa with authorization to remain in the United States until January 22, 1990. *See I-94 Departure Record*, dated July 23, 1989. On January 3, 1990, the applicant filed an Application for Status as a Temporary Resident (Form I-687). On May 27, 2002, the applicant filed an Application to Register Permanent Resident or Adjust Status (Form I-485) based on the LIFE Act. On June 9, 2003, the District Director, Cleveland, Ohio, denied the applicant's Form I-485 finding the applicant willfully misrepresented material facts on his Form I-687. On the same day, the applicant withdrew his Form I-485. On July 21, 2003, the applicant's employer, Q3 Industries, Inc., filed a Form I-140 on behalf of the applicant. On January 29, 2004, the applicant's Form I-140 was approved. On September 6, 2005, the applicant's naturalized United States citizen daughter filed a Form I-130 on behalf of the applicant. On February 10, 2006, the applicant's Form I-130 was approved. On July 3, 2006, the applicant filed another Form I-485 based on his approved immigrant petition. On April 26, 2007, the applicant filed a Form I-601. On May 2, 2007, the Field Office Director, Columbus, Ohio, denied the applicant's Form I-485 and Form I-601, finding that the applicant failed to demonstrate extreme hardship to his qualifying relative.

The record reflects that the applicant was found to be inadmissible under section 212(a)(6)(C) of the Act for giving false information on his legalization application under section 245a of the Act.

Section 245a of the Act, 8 U.S.C. § 1255a, which pertains to the adjustment of status of certain entrants before January 1, 1982, to that of a person admitted for lawful residence, states in pertinent part:

(c)(5) Confidentiality of information.-

(A) In general.-Except as provided in this paragraph, neither the Attorney General [now Secretary of Homeland Security, "Secretary"], nor any other official or employee of the Department of Justice, or bureau or agency thereof, may-

(i) use the information furnished by the applicant pursuant to an application filed under this section for any purpose other than to make a determination on the application, for enforcement of paragraph (6), or for the preparation of reports to Congress under section 404 of the Immigration Reform and Control Act of 1986;

(ii) make any publication whereby the information furnished by any particular applicant can be identified; or

(iii) permit anyone other than the sworn officers and employees of the Department or bureau or agency or, with respect to applications filed with a designated entity, that designated entity, to examine individual applications.

(B) Required disclosures.-The [Secretary] shall provide the information furnished under this section, and any other information derived from such furnished information, to a duly recognized law enforcement entity in connection with a criminal investigation or prosecution, when such information is requested in writing by such entity, or to an official coroner for purposes of affirmatively identifying a deceased individual (whether or not such individual is deceased as a result of a crime).

(C) Authorized disclosures.-The [Secretary] may provide, in the [Secretary's] discretion, for the furnishing of information furnished under this section in the same manner and circumstances as census information may be disclosed by the Secretary of Commerce under section 8 of title 13, United States Code.

(D) Construction.-

(i) In general.-Nothing in this paragraph shall be construed to limit the use, or release, for immigration enforcement purposes or law enforcement purposes of information contained in files or records of the Service pertaining to an application filed under this section, other than information furnished by an applicant pursuant to the application, or any other information derived from the application, that is not available from any other source.

(ii) Criminal convictions.-Information concerning whether the applicant has at any time been convicted of a crime may be used or released for immigration enforcement or law enforcement purposes.

(E) Crime.-Whoever knowingly uses, publishes, or permits information to be examined in violation of this paragraph shall be fined not more than \$10,000.

(6) Penalties for false statements in applications.-Whoever files an application for adjustment of status under this section and knowingly and willfully falsifies, misrepresents, conceals, or covers up a material fact or makes any false, fictitious, or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious, or fraudulent statement or entry, shall be fined in accordance with title 18, United States Code, or imprisoned not more than five years, or both.

In the present case, a review of the record does not demonstrate that the applicant defrauded or made a willful misrepresentation on any other application except on his legalization application.<sup>1</sup> In addition, the applicant has not been convicted for false statements in that or any other application. The AAO thus finds that the Field Office Director erred in concluding that the applicant was inadmissible pursuant to section 212(a)(6)(C)(i) of the Act. As such, the waiver application is unnecessary and the issue of whether the applicant established extreme hardship to a qualifying relative pursuant to section 212(i) of the Act is moot and need not be addressed.

**ORDER:** The appeal is dismissed, the Field Office Director's decision withdrawn and the waiver application declared moot. The matter is returned to the Field Office Director for continued processing of the applicant's Form I-485 application.

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<sup>1</sup> The AAO notes that the applicant misrepresented his date of last arrival on his Application to Register Permanent Resident or Adjust Status (Form I-485) filed on May 27, 2002; however, the applicant withdrew this application on June 9, 2003.