

**identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy**

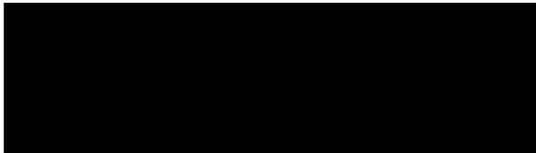
U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Office of Administrative Appeals MS-2090
Washington, DC 20529-2090



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

PUBLIC COPY

H2



FILE:



Office: LOS ANGELES, CA
(SANTA ANA)

Date:

SEP 15 2009

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, as required by 8 C.F.R. 103.5(a)(1)(i).

John F. Crissom
Acting Chief, Administrative Appeals Office

DISCUSSION: The waiver application was denied by the District Director, Los Angeles, California, 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)(ii) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(a)(6)(C)(ii), for falsely claiming U.S. citizenship to gain admission into the United States. The applicant is the spouse of a naturalized U.S citizen and has four U.S. citizen children. He 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 spouse and children.

The District Director concluded that the applicant was not eligible for a waiver and denied the Application for Waiver of Grounds of Excludability (Form I-601) on March 23, 2007.

On appeal, counsel for the applicant asserts that the applicant is eligible for relief and that the applicant's family will suffer extreme and unusual hardship if he is excluded from the United States.

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

(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.

(II) Exception- In the case of an alien making a representation described in subclause (I), if each natural parent of the alien (or, in the case of an adopted alien, each adoptive parent of the alien) is or was a citizen (whether by birth or naturalization), the alien permanently resided in the United States prior to attaining the age of 16, and the alien reasonably believed at the time of making such representation that he or she was a citizen, the alien shall not be considered to be inadmissible under any provision of this subsection based on such representation.

Based on the evidence of record, the applicant in the instant case does not qualify for the exception under section 212(a)(6)(C)(ii) of the Act.

The record reflects that on March 22, 1997, the applicant made an application for entry at San Ysidro, California. At the time of his inspection, the applicant declared himself to be a U.S. citizen by birth. Upon a secondary inspection, the applicant admitted that he was a citizen of Mexico and had entered the United States without inspection in 1989. The District Director concluded that the applicant was inadmissible to the United States pursuant to section 212(a)(6)(C)(ii)(II) of the Act.

The AAO notes that aliens making false claims to U.S. citizenship on or after September 30, 1996, the date the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) was enacted, are ineligible to apply for a Form I-601 waiver. *See* sections 212(a)(6)(C)(ii) and (iii) of the Act.

In considering a case where a false claim to U.S. citizenship has been made, Service [United States Citizenship and Immigration (USCIS)] officers should review the information on the alien to determine whether the false claim to U.S. citizenship was made before, on, or after September 30, 1996. If the false claim was made before the enactment of IIRIRA, Service [USCIS] officers should then determine whether (1) the false claim was made to procure an immigration benefit under the Act; and (2) whether **such claim was made before a U.S. Government official**. If these two additional requirements are met, the alien should be inadmissible under section 212(a)(6)(C)(i) of the Act and advised of the waiver requirements under section 212(i) of the Act.

Memorandum by Joseph R. Greene, Acting Associate Commissioner, Office of Programs, Immigration and Naturalization Service, dated April 8, 1998 at 3. Accordingly the District Director found the applicant to be ineligible for a waiver pursuant to section 212(i) of the Act since he had falsely claimed to be a U.S. citizen after September 30, 1996 in seeking admission to the United States.

The applicant is subject to the provisions of section 212(a)(6)(C)(ii) of the Act, which are very specific and applicable. No waiver is available to an alien who has made a false claim to U.S. citizenship on or after September 30, 1996. Therefore, the applicant is ineligible for a waiver under section 212(i) of the Act. As the applicant is statutorily inadmissible to the United States, the appeal will be dismissed.

ORDER: The appeal is dismissed.