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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**

PUBLIC COPY

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FILE:

[REDACTED]
BAL 06 022 50007

Office: BALTIMORE

Date:

SEP 24 2009

IN RE:

Applicant: [REDACTED]

APPLICATION:

Application for Waiver of Inadmissibility pursuant to Section 212(a)(6)(C)(i) of the Immigration and Nationality Act, as amended, 8 U.S.C. § 1182.

ON BEHALF OF APPLICANT:

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. If your appeal was dismissed or rejected, all documents have been returned to the National Benefits Center. You no longer have a case pending before this office, and you are not entitled to file a motion to reopen or reconsider your case. If your appeal was sustained or remanded for further action, you will be contacted.


John F. Grissom
Acting Chief, Administrative Appeals Office

DISCUSSION: The application for waiver of inadmissibility was denied by the Director, Baltimore, Maryland, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The director determined that the applicant was inadmissible under section 212(a)(6)(C)(i) of the Immigration and Nationality Act (Act) because he attempted to enter the United States on March 11, 1993 with a fraudulent Form I-512, Authorization for Parole of an Alien into the United States. The director concluded that the applicant's pattern of behavior showed a disregard for the laws of the United States and that it was not in the public interest to admit the applicant to this country. Therefore, the director denied the Form I-690, Application for Waiver of Grounds of Excludability (now referred to as Inadmissibility).

On appeal, counsel asserted that the director failed to consider either the applicant's presence in the United States for over twenty years or the severe hardship he would be forced to endure if he returned to his home country.

An applicant for permanent resident status under section 1104 of the Legal Immigration Family Equity (LIFE) Act has the burden to establish by a preponderance of the evidence that he or she has resided in the United States for the requisite periods [from before January 1, 1982 to May 4, 1988], is admissible to the United States under the provisions of section 212(a) of the Act, and is otherwise eligible for adjustment of status under this section. The inference to be drawn from the documentation provided shall depend on the extent of the documentation, its credibility and amenability to verification. 8 C.F.R. § 245a.12(e).

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

Misrepresentation. – (i) 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 1104(c)(2)(D) of the LIFE Act specifically references section 245A(d)(2) of the Act as that section of law to be utilized to determine applicable grounds of inadmissibility and whether a waiver is available to overcome such a finding. Section 245A(d)(2)(B)(i) of the Act permits the Secretary of Homeland Security to waive certain grounds of inadmissibility, including inadmissibility under section 212(a)(6)(C)(i) of the Act, "in the case of individual aliens for humanitarian purposes, to assure family unity, or when it is otherwise in the public interest." 8 C.F.R. § 245a.2(k)(2).

A review of the record reveals that the applicant filed a Form I-485 LIFE Act application on October 5, 2001. On November 2, 2005, the applicant submitted a Form I-690 waiver application

in an attempt to overcome the ground of inadmissibility arising under section 212(a)(6)(C)(i) of the Act resulting from his actions and circumstances surrounding his attempted entry into the United States with a fraudulent Form I-512, Authorization for Parole of an Alien into the United States on March 11, 1993.

With the Form I-690 waiver application, the applicant included a separate statement in which he claimed that he had been steadily employed, paid taxes, and was not either a criminal or terrorist. The applicant asserted that he had only left the country in 1993 because he was desperate to see his sick mother.

The director determined that the applicant's attempted entry into this country with a fraudulent Form I-512 parole authorization constituted an act of willful misrepresentation. The district director concluded that the applicant's actions demonstrated a disregard for the laws of the United States. Consequently, the director found that the applicant's admission was not in the public interest and denied the Form I-690 waiver application on December 12, 2005.

On appeal, counsel asserted that the director failed to consider either the applicant's presence in the United States for over twenty years or the severe hardship he would be forced to endure if he returned to his home country.

The term "in the public interest" is not defined in the Act or the regulations. In the precedent decision *Matter of P-*, the court adopted the definition at page 1106 of the fifth edition of Black's Law Dictionary to determine that "public interest" was "something in which the public, the community at large, has some pecuniary interest, or some interest by which their legal rights or liabilities are affected." *Matter of P-*, 19 I&N Dec. 823, at 828 (Comm. 1988)

During the adjudication of the appeal, information came to light that seriously impaired the character and credibility of the applicant. Specifically, the applicant documentation that included original envelopes postmarked June 8, 1981, October 17, 1981, and February 2, 1985 in support of his claim of continuous residence in the United States since prior to January 1, 1982. The envelopes bear Pakistani postage stamps and were represented as having been mailed from Pakistan to the applicant at the address he claimed as his residence as of the date of these respective postmarks. A review of the *2009 Scott Standard Postage Stamp Catalogue Volume 5* (Scott Publishing Company 2008), reveals the following regarding the Pakistani postage stamp affixed to the envelope:

- The envelopes postmarked June 8, 1981 and October 17, 1981 both bear two of the same postage stamp each with a value of two rupees that contains a portrait of Mohammad Ali Jinnah. This stamp is listed at page 25 of Volume 5 of the *2009 Scott Standard Postage Stamp Catalogue* as catalogue number 894 A482. The catalogue lists this stamp's date of issue as August 14, 1998.

- The envelope postmarked February 2, 1985 bears six of the same postage stamp each with a value of eighty paisas that contains a stylized illustration of the Ranikot Fort in Pakistan. This stamp is listed at page 15 of Volume 5 of the 2009 *Scott Standard Postage Stamp Catalogue* with catalogue number 620 A289. The catalogue lists this stamp's date of issue as 1986.

The fact that envelopes postmarked June 8, 1981, October 17, 1981, and February 2, 1985 all bear stamps that were not issued until well after the date of these respective postmarks establishes that he utilized these documents in a fraudulent manner and made material misrepresentations in an attempt to obtain permanent resident status under the provisions of the LIFE Act.

Doubt cast on any aspect of the applicant's proof may lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the application. It is incumbent upon the applicant to resolve any inconsistencies in the record by independent objective evidence, and attempts to explain or reconcile such inconsistencies, absent competent objective evidence pointing to where the truth, in fact, lies, will not suffice. *Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988).

The AAO issued a notice to the applicant and counsel at their respective addresses of record on June 24, 2009 informing the parties that it was the AAO's intent to dismiss the applicant's appeal based upon the fact that the applicant utilized the postmarked envelopes cited above in a fraudulent manner and made material misrepresentations in an attempt to establish his residence within the United States for the requisite period. The parties were granted fifteen days to provide evidence to overcome, fully and persuasively, these findings.

The record shows that as of the date of this decision, counsel has failed to submit a response to the notice. The record further shows that the notice mailed to the applicant at his most current address of record was returned by the United States Postal Service as undeliverable. Therefore, the record must be considered complete.

The fact that the applicant utilized the postmarked envelopes cited above in a fraudulent manner and made material misrepresentations in an attempt to establish his residence within the United States for the requisite period rendered him inadmissible to this country pursuant to section 212(a)(6)(C) of the Act. Because the applicant has failed to provide independent and objective evidence to overcome, fully and persuasively, our finding that he submitted a falsified document, we affirm our finding of fraud.

The applicant has sought to procure a benefit provided under the Act through fraud and willful misrepresentation of a material fact on four separate occasions. The applicant has consistently engaged in a pattern of behavior demonstrating a blatant disregard for and intent to subvert the immigration laws and regulations of the United States. Consequently, it cannot be considered to be in the public interest to waive the applicant's inadmissibility as allowed under section

245A(d)(2)(B)(i) of the Act. Accordingly, the AAO will not disturb the director's denial of the waiver application.

ORDER: The appeal is dismissed. This decision constitutes a final notice of ineligibility.