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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

Hq

FILE:

Office: WEST PALM BEACH, FL Date:

FEB 18 2010

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)

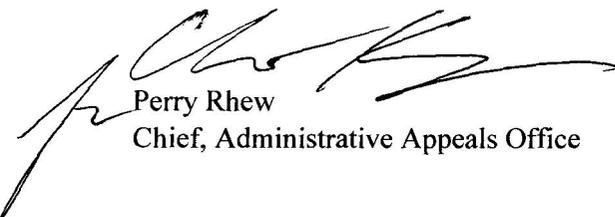
ON BEHALF OF APPLICANT:

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).


Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The waiver application was denied by the District Director, West Palm Beach, Florida. 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 Haiti. The 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 entered the United States by using a photo-substituted passport under the name “ [REDACTED] ” The district director found that the applicant did not have a qualifying relative and denied the waiver application accordingly. *Decision of the District Director*, dated January 11, 2001.

On appeal, the applicant contends that although he did not previously have a qualifying relative, “[n]ow [he is] married to an American citizen.” *Notice of Appeal to the Administrative Appeals Unit (AAU) (Form I-290B)*, dated April 5, 2005; *see also Form I-290B*, dated January 22, 2001.

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. . . .

In this case, the district director found, and the applicant does not contest, that the applicant entered the United States in 1993 using an altered passport containing a fraudulent visa. Therefore, the record shows that the applicant is inadmissible under section 212(a)(6)(C)(i) of the Act, 8 U.S.C. § 1182(a)(6)(C)(i), for fraud or willful misrepresentation of a material fact in order to procure an immigration benefit.

A section 212(i) waiver of the bar to admission resulting from violation of section 212(a)(6)(C)(i) of the Act 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. *See* Section 212(i)(1) of the Act, 8 U.S.C.

§ 1182(i)(1). Here, it is uncontested that at the time of his waiver application, the applicant did not have a qualifying relative. *See Application to Register Permanent Residence or Adjust Status (Form I-485), Supplement #1*, dated September 7, 2000 (“my wife and my parents are not U.S. citizens of the U.S. or permanent Residen[ts] of the U.S.”). Therefore, the district director was correct in finding that the applicant is ineligible for a section 212(i) waiver.

To the extent the applicant now contends that he is married to a U.S. citizen, he has not submitted any evidence to substantiate his claim, such as a marriage certificate and a copy of a naturalization certificate, passport, or birth certificate. In proceedings for an application for a waiver of grounds of inadmissibility under section 212(a)(6)(C) of the Act, the burden of proving eligibility remains entirely with the applicant. *See* Section 291 of the Act, 8 U.S.C. § 1361. Here, the applicant has not met that burden.

ORDER: The appeal is dismissed.