



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

**Non-Precedent Decision of the  
Administrative Appeals Office**

MATTER OF H-A-A-

DATE: SEPT. 17, 2015

APPEAL OF NEBRASKA SERVICE CENTER DECISION

APPLICATION: FORM I-601, APPLICATION FOR WAIVER OF GROUNDS OF  
INADMISSIBILITY

The Applicant, a native and citizen of Lebanon, seeks a waiver of inadmissibility. *See* Immigration and Nationality Act (the Act) § 212(h), 8 U.S.C. § 1182(h). The Director, Nebraska Service Center, denied the application. The matter is now before us on appeal. The appeal will be dismissed.

In a decision, dated October 28, 2014, the Director found the Applicant inadmissible under section 212(a)(2)(A)(i)(I) of the Act, 8 U.S.C. § 1182(a)(2)(A)(i)(I), for having been convicted of a crime involving moral turpitude. In addition, the Director also found the applicant inadmissible under section 212(a)(6)(C)(ii)(I) of the Act, 8 U.S.C. § 1182(a)(6)(C)(ii)(I) for having falsely claimed to be a U.S. citizen. The Director then denied the Applicant's waiver application because no waiver is available for Applicant's inadmissible under section 212(a)(6)(C)(ii)(I) of the Act.

On appeal, the Applicant states that he was not provided proper notice of or an opportunity to respond to the allegation against him concerning a false claim to U.S. citizenship. In addition, the Applicant states that the Director did not establish why showing a U.S. birth certificate would equate to making a claim to U.S. citizenship when not all persons born in the United States are U.S. citizens. The Applicant cites to 8 C.F.R. §101.3(a), (c)-(d) and *Matter of Chu*, 14 I&N Dec. 241 (R.C. 1972). The Applicant requests that he have the right to file an additional brief after he receives the response from his Freedom of Information Act (FOIA) request and that this matter be remanded to the Service Center for consideration on the merits of his Form I-601 under section 212(h) of the Act.

It has now been over eight months since the Applicant's appeal was filed, he has not submitted any additional information, and he has not included documentation to show that he filed a FOIA request. Thus, we will review the record, which is considered complete as of this date, and make a decision on the appeal.

The record includes, but is not limited to, correspondence from the Applicant's attorneys; statements by the Applicant's spouse, son, and in-laws; financial documentation; medical documentation; country-conditions reports about Lebanon; and documentation relating to the Applicant's criminal proceedings. The entire record was reviewed and considered in rendering this decision.

(b)(6)

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

- (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.
- (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.

The record establishes, through a Form I-213, Record of Deportable Alien, dated [REDACTED] 1998, that on [REDACTED] 1998, at the [REDACTED] International Airport, a U.S. immigration officer questioned the Applicant about his citizenship. In response to this question the Applicant presented a birth certificate from [REDACTED] Texas, in the name of [REDACTED]. The Applicant was questioned further due to irregularities in his answers pertaining to the birth certificate and admitted to being a citizen of Lebanon by birth. The Applicant stated that he entered the United States two days earlier by wading across the [REDACTED] and that he had purchased the birth certificate and a United Farm Workers identification card for \$200 in Mexico.

Applicants making false claims to U.S. citizenship on or after September 30, 1996, the date of enactment of the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) of 1996, are inadmissible under section 212(a)(6)(C)(ii)(I) of the Act and are ineligible for waiver consideration. The Applicant's assertions regarding his presenting the U.S. birth certificate for a reason other than in an attempt to establish U.S. citizenship are unfounded given the circumstances attested to in the Form I-213. The Applicant, having entered the United States without inspection two days prior, presented the fraudulent U.S. birth certificate in response to a question from an Immigration Officer regarding his country of citizenship.

The Applicant has made a false claim to U.S. citizenship and is inadmissible under section 212(a)(6)(C)(ii)(I) of the Act. No waiver is available for a violation of section 212(a)(6)(C)(ii)(I),

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and the record fails to demonstrate that the Applicant qualifies for the exception described in section 212(a)(6)(C)(ii)(II). As the Applicant's inadmissibility under section 212(a)(6)(C)(ii)(I) of the Act statutorily bars his admission to the United States, we find no purpose would be served in considering whether he is able to establish eligibility for a waiver of his inadmissibility under section 212(a)(2)(A)(i)(I) of the Act, for having been convicted of criminal sexual assault, a crime commonly held to be a crime involving moral turpitude. See *Matter of Mendez-Morales*, 21 I&N Dec. 296 (BIA 1996) and *Matter of Z*, 7 I&N Dec. 253 (BIA 1956).

The Act makes clear that a foreign national must establish admissibility "clearly and beyond doubt." See section 235(b)(2)(A) of the Act. See also 240(c)(2)(A) of the Act.

In application proceedings, it is the Applicant's burden to establish eligibility for the immigration benefit sought. Section 291 of the Act, 8 U.S.C. § 1361. Here, that burden has not been met.

**ORDER:** The appeal is dismissed.

Cite as *Matter of H-A-A-*, ID#, 12793 (AAO Sept. 17, 2015)