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

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

H3

FILE:

Office: SAN FRANCISCO, CA

Date:

MAR 17 2009  
MAR 17 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 or reopen, as required by 8 C.F.R. § 103.5(a)(1)(i).

John F. Glissom, Acting Chief  
Administrative Appeals Office

**DISCUSSION:** The waiver application was denied by the District Director, San Francisco, 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 the Philippines who was found to be inadmissible to the United States under section 212(a)(6)(C) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(a)(6)(C), for having procured entry into the United States by fraud or willful misrepresentation. 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 her children.

The District Director concluded that the applicant had failed to establish that she had a qualifying relative and was eligible for the waiver sought. He denied the Application for Waiver of Grounds of Inadmissibility (Form I-601) accordingly. *Decision of the District Director*, dated September 21, 2006.

On appeal, counsel contends that the applicant has a U.S. citizen child and two lawful permanent resident children who will suffer extreme hardship if she is removed from the United States. *Form I-290B*.

In support of these assertions the record includes, but is not limited to, a statement from the applicant; an employment letter for the applicant's U.S. citizen child; and tax statements and W-2 Forms for the applicant's U.S. citizen child. The entire record was reviewed and considered in rendering this decision.

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.

Section 212(i) of the Act provides that:

- (1) The Attorney General [now the Secretary of Homeland Security (Secretary)] may, in the discretion of the Attorney General [Secretary], waive the application of clause (i) of subsection (a)(6)(C) in the case of an alien 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 Attorney General [Secretary] that the refusal of admission to the United States of such immigrant alien would result in extreme hardship to the citizen or lawfully resident spouse or parent of such an alien.

The record reflects that the applicant was admitted to the United States using a passport with a false name. *Form I-485, Application to Register Permanent Residence or Adjust Status*. Based on the

record, the AAO finds that the applicant willfully misrepresented a material fact to enter the United States and is therefore inadmissible under section 212(a)(6)(C) of the Act.

A section 212(i) waiver of inadmissibility resulting from a violation of section 212(a)(6)(C) of the Act is dependent first upon a showing that inadmissibility imposes extreme hardship to the citizen or lawfully resident spouse or parent of the applicant. On June 14, 2006, the applicant filed the Form I-601, Application for Waiver of Grounds of Inadmissibility, listing her U.S. citizen child and two lawful permanent relative children as her qualifying relatives. *Form I-601*. However, as just noted, the applicant's U.S. citizen and lawful permanent resident children are not qualifying relatives under section 212(i) of the Act. The applicant's spouse, a naturalized citizen, died on September 2, 1995. *Death Certificate for the Applicant's Spouse*. The applicant's father is also deceased and the applicant's mother is not established by the record as a U.S. citizen or a lawful permanent resident. *See Form G-325A for the Applicant*. As the record fails to indicate that the applicant has a U.S. citizen or lawfully permanent resident spouse or parent, the applicant has not demonstrated that she is eligible for a waiver under section 212(i) of the Act.

Having found the applicant statutorily ineligible for relief, no purpose would be served in discussing whether she merits a waiver as a matter of discretion.

In proceedings for application for 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. Accordingly, the appeal will be dismissed.

**ORDER:** The appeal is dismissed.