

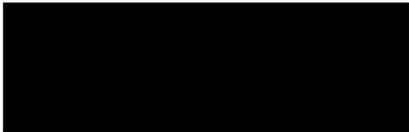
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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Office of Administrative Appeals MS 2090
Washington, DC 20529-2090



U.S. Citizenship
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Services

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#5

FILE: [REDACTED] Office: MANILA, PHILIPPINES

Date: **NOV 24 2010**

IN RE: [REDACTED]

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:

Enclosed please find the decision of the Administrative Appeals Office in your case. All of the documents related to this matter have been returned to the office that originally decided your case. Please be advised that any further inquiry that you might have concerning your case must be made to that office.

Thank you,

Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The waiver application was denied by the Officer-in-Charge, Manila, Philippines. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed as the underlying application is moot.

The applicant is a native and citizen of the Philippines who, on March 9, 2003, attempted to board a flight bound for the United States with a fraudulent U.S. visa. She was found to be inadmissible to the United States under section 212(a)(6)(C)(i) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(a)(6)(C)(i), for seeking to procure admission to the United States through fraud or misrepresentation. The applicant is the beneficiary of an approved Petition for Alien Relative (Form I-130), and her husband, a United States citizen, is her petitioner. The applicant seeks a waiver of inadmissibility pursuant to section 212(i) of the Act, 8 U.S.C. § 1182(i), in order to remain in the United States.

The Officer-in-Charge concluded that the applicant failed to establish that a bar to her admission to the United States would result in extreme hardship to the qualifying relative and denied the application accordingly. See *Decision of the Officer-in-Charge* dated July 26, 2007.

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.

The AAO has determined that a finding of extreme hardship is not required in this case because the applicant is not inadmissible under section 212(a)(6)(C)(i) of the Act. It is well established that fraud or willful misrepresentation of a material fact in the procurement or attempted procurement of a visa, or other documentation or benefit under the Act, must be made to an authorized official of the United States Government in order for inadmissibility under section 212(a)(6)(C)(i) of the Act to be found. See *Matter of Y-G-*, 20 I&N Dec. 794 (BIA 1994); *Matter of D-L- & A-M-*, 20 I&N Dec. 409 (BIA 1991); *Matter of Shirdel*, 19 I & N Dec. 33 (BIA 1984); *Matter of L-L-*, 9 I & N Dec. 324 (BIA 1961).

While the applicant attempted to board a flight to the United States with a fraudulent visa, she never provided that document to an authorized official of the United States Government. Prior to boarding, the applicant was stopped by Philippine Immigration Officials who suspected that her visa was fraudulent. After confirmation of the fraudulent visa by the U.S. Department of State, the applicant was not allowed to board the flight. At no time was the visa presented to any U.S. Government official.

In the present case, a review of the record reflects that the applicant did not defraud or make a willful misrepresentation to an authorized United States official. The AAO finds that the Officer-in-Charge erred in concluding that the applicant was inadmissible pursuant to section 212(a)(6)(C)(i) of the Act. As such, the waiver application is unnecessary and the issue of

whether the applicant established extreme hardship to a qualifying relative pursuant to section 212(i) of the Act is moot and will not be addressed.

ORDER: The appeal is dismissed, the Officer-in-Charge's decision is withdrawn and the waiver application declared moot.