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



U.S. Citizenship
and Immigration
Services

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FILE: [REDACTED] Office: DETROIT Date: JUL 27 2010

IN RE: Applicant: [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.

If you believe the law was inappropriately applied by us in reaching our decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. The specific requirements for filing such a request can be found at 8 C.F.R. § 103.5. 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. Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires that any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you,

Perry Rhew
for

Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The waiver application was denied by the Field Office Director, Detroit, Michigan, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The applicant is a native and citizen of China who was found to be inadmissible to the United States pursuant to section 212(a)(6)(C)(ii)(I) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(a)(6)(C)(ii)(I), for falsely representing herself to be a U.S. citizen in attempt to procure admission to the United States. She 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 U.S. citizen husband.

The field office director concluded that the applicant is not eligible for a waiver as a matter of law, as there is no provision under the Act that provides for a waiver of section 212(a)(6)(C)(ii)(I) where an applicant made a false claim to U.S. citizenship on or after September 30, 1996. *Decision of the Field Office Director*, dated November 12, 2008.

On appeal, counsel for the applicant asserts that the applicant committed misrepresentation upon her attempted entry to the United States, yet she did not make a false claim to U.S. citizenship. *Statement from Counsel on Form I-290B*, dated December 9, 2008. Accordingly, counsel asserts that the applicant is eligible for consideration for a waiver under section 212(i) of the Act. *Id.* at 2.

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

- (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 . . . is inadmissible.

The record reflects that on January 19, 2000, the applicant attempted to enter the United States at the Los Angeles International Airport port of entry. She presented a U.S. passport to inspectors that belonged to another individual. The record contains a sworn statement that was taken at the time of the applicant's attempted entry. She stated under oath that she presented U.S. passport number [REDACTED] under the name [REDACTED] and that it was not her passport. *Record of Sworn Statement*, at 3, dated January 19, 2000. She stated that she was aware that it was a violation of U.S. immigration law to attempt entry using another person's passport and by representing herself to be a U.S. citizen. *Id.* at 4.

On May 6, 2008, the applicant was interviewed in connection with her Form I-485 application to adjust her status to lawful permanent resident. She stated under oath that she attempted to enter the United States using an "American passport" and that it was "somebody else's passport." *Sworn Statement from Form I-485 Interview*, at 1, dated May 6, 2008.

Based on the foregoing, the record clearly shows that the applicant falsely represented that she was a citizen of the United States to gain admission. Counsel's assertion that the applicant did not claim to be a U.S. citizen is not supported by the record.

Applicants making false claims to U.S. citizenship on or after September 30, 1996 are ineligible for a waiver of inadmissibility pursuant to a Form I-601 application. *See* Sections 212(a)(6)(C)(ii) and (iii) of the Act.

In considering a case where a false claim to U.S. citizenship has been made, Service [United States Citizenship and Immigration Services (USCIS)] officers should review the information on the alien to determine whether the false claim to U.S. citizenship was made before, on, or after September 30, 1996. . . . If the false claim to U.S. citizenship was made on or after September 30, 1996, Service officers should then determine whether it was made to procure any immigration benefit under the Act or other type of benefit under Federal or State law. If so, the alien should be found inadmissible under section 212(a)(6)(C)(ii) of the Act. . . . If the alien is an immigrant, the alien should be advised that no waiver is available.

Memorandum by [REDACTED]
Immigration and Naturalization Service, dated April 6, 1998 at 2-3.

As the applicant made a false claim to U.S. citizenship after September 30, 1996, she is not eligible for waiver of her inadmissibility pursuant to section 212(i) of the Act. Therefore, the appeal will be dismissed.

ORDER: The appeal is dismissed.