

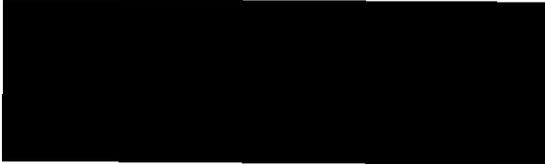
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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Office of Administrative Appeals MS 2090
Washington, DC 20529-2090



U.S. Citizenship
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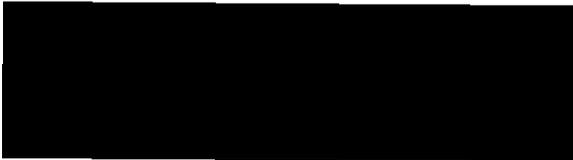


FILE: [REDACTED] Office: ACCRA, GHANA Date: SEP 09 2010

IN RE: [REDACTED]

APPLICATION: Immigrant Application for Waiver of Grounds of Inadmissibility pursuant to 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
Chief, Administrative Appeals Office

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

The applicant is a native and citizen of Ghana who 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 having attempted to enter the United States by fraud or willful misrepresentation. The applicant claims he is the son of a lawful permanent resident. He 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.

The Field Office Director found that the applicant had failed to establish that the bar to his admission would result in extreme hardship to a qualifying relative. He denied the Application for Waiver of Grounds of Inadmissibility (Form I-601) accordingly. *Decision of the Field Office Director*, dated February 19, 2010.

On appeal, counsel for the applicant contends that the Field Office Director misstated the record, failed to give proper weight and consideration to the disability status and financial hardship of the applicant's mother and erroneously dismissed all the hardship grounds raised by the applicant's mother. Counsel also states that the Field Office Director's decision is inconsistent with the record and the congressional intent of uniting families. Counsel asserts that the Field Office Director abused his discretion. *Form I-290B, Notice of Appeal or Motion*, dated March 15, 2010.

In support of the waiver, the record includes, but is not limited to, counsel's briefs, statements from the applicant, his mother and brother; medical documentation relating to the applicant's mother; evidence of the applicant's enrollment in the University of Abuja; online articles on conditions in Ghana; a copy of Country Specific Information – Ghana, issued by the U.S. Department of State on September 23, 2008; and a court record relating to the applicant's conviction for an unspecified crime.

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, in 2004, the applicant submitted a fraudulent Western Africa Education Certificate (WAEC) in support of his Diversity Visa application. As the applicant submitted a fraudulent document in order to qualify for a Diversity Visa, he is inadmissible to the United States under section 212(a)(6)(C)(i) of the Act for having sought to enter the United States through fraud or the willful misrepresentation of a material fact.¹

A section 212(i) waiver of the bar to admission resulting from a violation of section 212(a)(6)(C)(i) of the Act is dependent first upon a showing that the bar would result in extreme hardship for the U.S. citizen or lawfully resident spouse or parent of the applicant. Although the Field Office Director found the applicant to have established his mother as his qualifying relative, the record does not support this conclusion. The record documents only that the individual claimed by the applicant as his mother, [REDACTED] is a lawful permanent resident. It does not include any proof that establishes her as his mother. Going on record without supporting documentation is not sufficient to meet the applicant's burden of proof in this proceeding. *See Matter of Soffici*, 22 I&N Dec. 158, 165 (Comm. 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm. 1972)).

The AAO notes that the record contains the results of genetic testing performed by BRT Laboratories, Inc., which finds the applicant and his brother, Foster, who petitioned for the applicant, to be half siblings. This blood relationship, however, does not establish the applicant as the son of [REDACTED] as no evidence in the record demonstrates that she is the parent shared by the applicant and his brother. As the record contains no birth certificate or other documentation, including DNA test results, that demonstrates a parent-child relationship between [REDACTED] and the applicant, the applicant has not established that he has a lawful permanent resident parent. Accordingly, he is not eligible for a section 212(i) waiver.

In proceedings for application for waiver of grounds of inadmissibility under section 212(i) 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.

¹ The AAO notes that the applicant was prosecuted by Ghanaian authorities in connection with the fraudulent WAEC, pled guilty and was fined. In that his crime involved fraud, he may also be inadmissible to the United States under section 212(a)(2)(A)(i)(I) of the Act for having been convicted of a crime involving moral turpitude. The record, however, offers insufficient evidence to determine whether the applicant's crime would also bar his admission to the United States or is subject to the petty offense exception found in section 212(a)(2)(A)(ii)(II) of the Act.