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



U.S. Citizenship  
and Immigration  
Services

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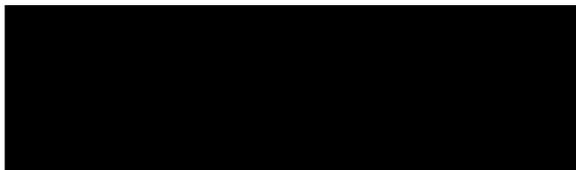
DATE: **MAY 31 2011** Office: CALIFORNIA SERVICE CENTER

FILE: 

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:

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 \$630. 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 Director, California Service Center, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The applicant is a native and citizen of Cuba who was found to be inadmissible 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 sought to procure an immigration benefit through fraud or misrepresentation of a material fact. The applicant has applied for adjustment of status pursuant to section 1 of the Cuban Adjustment Act. He is the spouse of a Lawful Permanent Resident and the son of a U.S. Citizen mother and seeks a waiver under section 212(i) of the Act, 8 U.S.C. § 1182(i), in order to remain in the United States with his spouse and mother.

The service center director concluded that the applicant had failed to establish that extreme hardship would be imposed on a qualifying relative and the waiver application was denied accordingly. *See Decision of the Service Center Director* dated July 22, 2008.

On appeal counsel for the applicant asserts that his mother and wife would suffer extreme hardship if he is denied admission to the United States. Specifically, counsel states that the applicant's wife suffers from a major depressive disorder and relies on the applicant for support and assistance in managing her condition as well as financial support. *Brief in Support of Appeal* at 1-2. Counsel further maintains that the applicant's mother suffers from serious medical and psychological conditions and relies on the applicant for assistance and financial support. *Brief* at 2-3. Counsel additionally asserts that both the applicant's wife and mother would suffer extreme hardship if they relocated to Cuba with the applicant due to conditions there, including serious human rights abuses committed by the government. *Brief* at 2-3. In support of the appeal counsel submitted letters from doctors concerning the applicant's wife and mother and information on conditions in Cuba. The entire record was reviewed and considered in arriving at a decision on the appeal.

Section 208(d)(6) of the Act provides in pertinent part:

(d) Asylum Procedure. –

....

(6) Frivolous applications. - If the Attorney General determines that an alien has knowingly made a frivolous application for asylum and the alien has received the notice under paragraph (4)(A), the alien shall be permanently ineligible for any benefits under this Act, effective as of the date of a final determination on such application.

The record reflects that on February 25, 1999, an immigration judge denied the applicant's request for asylum and withholding of removal and determined that he had knowingly made a frivolous application for asylum. An appeal of the immigration judge's decision was dismissed by the Board of Immigration Appeals (BIA) and the decision of the BIA was affirmed by the U.S. Court of Appeal for the 11<sup>th</sup> Circuit. *See Barreto-Claro v. U.S. Att. Gen.*, 275 F.3d 1334, 1339 (11th Cir.2001).

The applicant seeks a waiver of inadmissibility for having sought to procure the benefit of asylum through fraud or willful misrepresentation of a material fact. The applicant is permanently ineligible for any benefit under the Act because he was determined by an immigration judge to have knowingly made a frivolous application for asylum. The applicant is therefore statutorily ineligible for a waiver of inadmissibility under section 212(i) of the Act.

Because the applicant is statutorily ineligible for relief, no purpose would be served in discussing whether the applicant has established that denial of the waiver would result in extreme hardship to a qualifying relative or whether the applicant merits the waiver as a matter of discretion.

In proceedings for an application for waiver of grounds of inadmissibility under section 212(i) of the Act, the burden of establishing that the application merits approval rests with the applicant. *See* section 291 of the Act, 8 U.S.C. § 1361. In this case, the applicant has not met his burden.

**ORDER:** The appeal is dismissed.