

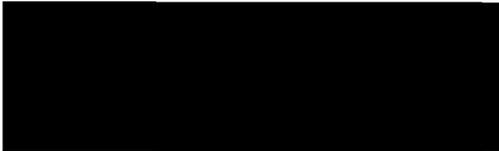
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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Office of Administrative Appeals
20 Massachusetts Ave. NW MS 2090
Washington, DC 20529-2090



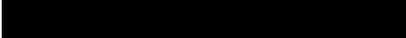
**U.S. Citizenship
and Immigration
Services**



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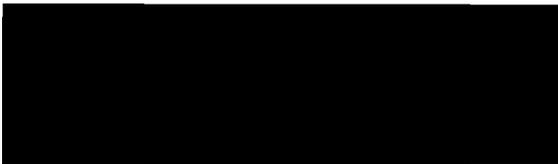
DATE: **APR 19 2012** OFFICE: LIMA, PERU

FILE: 

IN RE: APPLICANT: 

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,

A handwritten signature in black ink, appearing to read "Perry Rhew".

Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The waiver application was denied by the Field Office Director, Lima, Peru, and 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 Bolivia who presented an identification document which did not belong to him to immigration officials after entering the United States without inspection. He 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 procure entry to the United States through fraud or misrepresentation. The applicant is son of a U.S. Citizen and is the beneficiary of an approved Petition for Alien Relative. The applicant seeks a waiver of inadmissibility pursuant to section 212(i) of the Act, 8 U.S.C. § 1182(i), in order to join his U.S. Citizen father in the United States.

The Field Office Director concluded that the applicant failed to establish extreme hardship to his U.S. Citizen father given his inadmissibility and denied the application accordingly. *See Decision of Field Office Director* dated January 21, 2010.

On appeal, counsel for the applicant asserts that providing a false identity and claiming Mexican citizenship to the immigration official did not constitute misrepresentation of a material fact. Counsel adds that the applicant did not seek to procure a visa, other documentation, admission, or another benefit provided under the Act, as he had already entered the United States without inspection and was acting out of fear.

The record includes, but is not limited to, letters from the applicant and his father, evidence of birth, marriage, residence, and citizenship, and other applications and petitions filed on behalf of the applicant. The entire record was reviewed and considered in rendering a decision on the appeal.

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.

Section 212(i) of the Act provides:

- (1) The [Secretary] may, in the discretion of the [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 [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.

In the present case, the record reflects that the applicant entered the United States without inspection in 2003 or 2004 with the assistance of a smuggler. Thereafter the applicant was apprehended by immigration officials. The applicant presented an identification document in the name of [REDACTED] and claimed he was a citizen of Mexico. He then departed the United States. There is no indication in the record that the applicant was ordered removed.

Counsel correctly contends that the applicant is not inadmissible under section 212(a)(6)(C)(i) of the Act. The record reflects that when he presented the identification document, he had already entered the United States without inspection and after he was apprehended by immigration officials. He was not presenting himself for admission. Moreover, there is no indication that the applicant presented documents which would have facilitated admission, such as a nonimmigrant visa. By presenting the false identification after he had entered without inspection he was not attempting to procure a visa, other documentation, admission into the United States, or another benefit under the Act.

Based on the record, the AAO finds that the applicant, in presenting himself as a Mexican citizen named [REDACTED] did not seek to procure a visa, other documentation, admission into the United States, or other benefit provided under the Act, and is not inadmissible under section 212(a)(6)(C) of the Act. The waiver application filed pursuant to section 212(i) of the Act is therefore moot.

In proceedings for a 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 is not required to file the waiver. Accordingly, the appeal will be dismissed.

ORDER: The appeal is dismissed as the underlying application is moot.