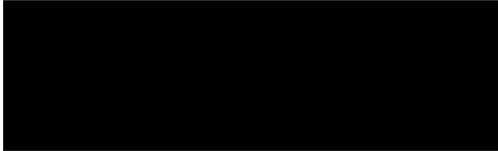


U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Office of Administrative Appeals MS 2090
20 Massachusetts Avenue NW
Washington, DC 20529-2090



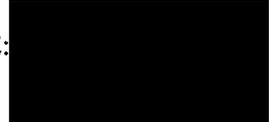
U.S. Citizenship
and Immigration
Services



#15

DATE: DEC 17 2012 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:

SELF-REPRESENTED

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 AAO inappropriately applied the law in reaching its decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen in accordance with the instructions on Form I-290B, Notice of Appeal or Motion, with a fee of \$630. The specific requirements for filing such a motion can be found at 8 C.F.R. § 103.5. **Do not file any motion directly with the AAO.** Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires any motion to be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you,

Ron Rosenberg
Acting Chief, Administrative Appeals Office

DISCUSSION: The waiver application was denied by the Director of the 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 Mexico who claims 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 attempting to procure admission into the United States through fraud or misrepresentation. The applicant is the spouse 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 remain in the United States with her U.S. citizen spouse.

The director concluded that the applicant had failed to establish her eligibility to file Form I-601 in accordance with the form instructions and denied the application accordingly. *See Decision of the Service Center Director*, dated April 6, 2011.

On appeal, the applicant's spouse states that evidence submitted demonstrates extreme hardship to a qualifying relative. He also requests review and approval of the waiver application and submits a copy of Form I-797C, Notice of Action, for the applicant's waiver application; and a copy of Form I-797, Notice of Action, for the petition that he filed on the applicant's behalf. *See Form I-290B, Notice of Appeal or Motion*, dated April 11, 2011.

8 C.F.R. § 212.7 states in pertinent part:

(a) Filing and adjudication of waivers under sections 212(g), (h), or (i) of the Act.

- (1) Application procedures. Any alien who is ... eligible for a waiver of such inadmissibility may file on the form designated by USCIS, with the fee prescribed in 8 CFR 103.7(b)(1) and in accordance with the form instructions.

Instructions for Form I-601, Application for Waiver of Grounds of Inadmissibility (rev. November 23, 2010) (Form I-601), list the following categories of applicants who are eligible to file the application:

1. An immigrant visa applicant;
2. Any applicant for adjustment of status;
3. K-1 or K-2 nonimmigrant visa applicant;
4. K-3, K-4 or V nonimmigrant visa applicant;

5. Temporary Protected Status (TPS) applicant;
6. Nicaraguan Adjustment and Central American Relief Act (NACARA) applicant;
7. Haitian Refugee Immigrant Fairness Act (HRIFA) applicant;
8. Violence against Women Act (VAWA) self-petitioner; or
9. T nonimmigrant visa status holder filing for adjustment of status who is inadmissible by reason of a ground that has not already been waived in connection with the T nonimmigrant status.

The applicant filed Form I-601 on January 18, 2011, in which she indicated that she “tried to enter the United States using another person’s birth certificate and was returned to Mexico.” She also states that following this incident, she entered the United States without inspection. The record contains no evidence demonstrating that the applicant falls within any of the categories listed on the Form I-601 instructions. The record does not indicate that she is seeking to adjust her status in the United States or that she is an immigrant visa applicant who was interviewed by a consular officer and found inadmissible. Therefore, the applicant has not established eligibility to file a waiver of her inadmissibility under section 212(i) of the Act. Accordingly, the appeal will be dismissed.

ORDER: The appeal is dismissed.