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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Administrative Appeals Office (AAO)
20 Massachusetts Ave., N.W., MS 2090
Washington, DC 20529-2090
**U.S. Citizenship
and Immigration
Services**

[REDACTED]

115

Date: **FEB 21 2012** Office: LOS ANGELES, CA FILE: [REDACTED]

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:

[REDACTED]

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry 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 Field Office Director, Los Angeles, California, 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 was found to be inadmissible to the United States pursuant to 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 to the United States by fraud or willful misrepresentation. The applicant's spouse and two of her children are U.S. citizens and her other two children are lawful permanent residents. The applicant seeks a waiver of inadmissibility in order to reside in the United States.

The field office director found that the applicant had failed to establish extreme hardship to a qualifying relative and the application was denied accordingly. *Decision of the Field Office Director*, dated July 13, 2009.

On appeal, counsel asserts that the applicant's children would experience extreme hardship if the applicant is not allowed to adjust her status. *Brief in Support of Appeal*, dated September 17, 2009.

The record includes, but is not limited to, counsel's brief, medical records, school records and financial records. The entire record was reviewed and considered in arriving at a decision on the appeal.

The record reflects that on April 15, 1998, the applicant declared herself to be a U.S. citizen upon applying for admission to the United States. The applicant received an expedited removal order and was removed on April 16, 1998. On April 22, 1998, the applicant presented a fraudulent visa and passport while applying for admission to the United States, she received an expedited order of removal and she was removed on the same date. She subsequently entered the United States without inspection in April 1998.

The AAO finds that the applicant is inadmissible to the United States under section 212(a)(6)(C)(i) of the Act for her misrepresentations. 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.

In addition, the AAO finds that the applicant is inadmissible to the United States under section 212(a)(6)(C)(ii) of the Act for making a false claim to U.S. citizenship.¹ An application or petition

¹ The AAO also finds that the applicant is inadmissible to the United States pursuant to section 212(a)(9)(C)(i)(II) of the Act for having been ordered removed from the United States and reentering the United States without being admitted. Section 212(a)(9)(C)(i) of the Act states, in pertinent part:

that fails to comply with the technical requirements of the law may be denied by the AAO even if the Field Office does not identify all of the grounds for denial in the initial decision. *See Spencer Enterprises, Inc. v. United States*, 229 F. Supp. 2d 1025, 1043 (E.D. Cal. 2001), *aff'd*, 345 F.3d 683 (9th Cir. 2003); *see also Soltane v. DOJ*, 381 F.3d 143, 145 (3d Cir. 2004) (noting that the AAO conducts appellate review on a *de novo* basis).

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

- (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 (including section 274A) or any other Federal or State law is inadmissible.
- (II) EXCEPTION- In the case of an alien making a representation described in subclause (I), if each natural parent of the alien (or, in the case of an adopted alien, each adoptive parent of the alien) is or was a citizen (whether by birth or naturalization), the alien permanently resided in the United States prior to attaining the age of 16, and the alien reasonably believed at the time of making such representation that he or she was a citizen, the alien shall not be considered to be inadmissible under any provision of this subsection based on such representation.

There is no waiver for this ground of inadmissibility and the exception in section 212(a)(6)(C)(ii)(II) of the Act does not apply to the applicant. As the applicant is statutorily inadmissible to the United States, no purpose would be served in adjudicating a waiver under section 212(i) of the Act for a section 212(a)(6)(C)(i) finding of inadmissibility.

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,

(C) Aliens unlawfully present after previous immigration violations.-

(i) In general.-Any alien who-

(I) has been unlawfully present in the United States for an aggregate period of more than 1 year, or

(II) has been ordered removed under section 235(b)(1), section 240, or any other provision of law,

and who enters or attempts to reenter the United States without being admitted is inadmissible.

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8 U.S.C. § 1361. Here, the applicant has not met that burden. Accordingly, the appeal will be dismissed.

ORDER: The appeal is dismissed.