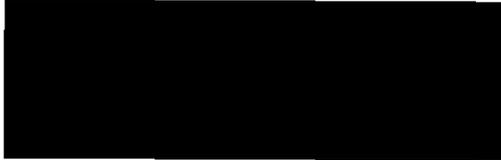


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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Administrative Appeals Office (AAO)
20 Massachusetts Ave., N.W., MS 2090
Washington, DC 20529-2090
U.S. Citizenship
and Immigration
Services



H5

Date: JUN 21 2012

Office: GUANGZHOU, CHINA

FILE: 

IN RE: Applicant: 

APPLICATION: Application for Waiver of Grounds of Inadmissibility under Section 212(i) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(i)

ON BEHALF OF APPLICANT:

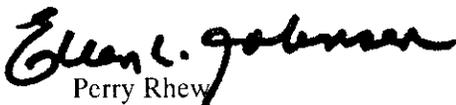
SELF-REPRESENTED

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 with the field office or service center that originally decided your case by filing a 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,



Perry Rhew
Chief, Administrative Appeals Office

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

The record reflects that the applicant is a native and citizen of China who was found to be inadmissible to the United States pursuant to section 212(a)(6)(C)(i) of the Act for willful misrepresentation of a material fact in order to procure an immigration benefit. The applicant has a U.S. citizen daughter and seeks a waiver of inadmissibility pursuant to section 212(i) of the Act in order to visit her daughter in the United States.

The field office director found that the applicant does not have a qualifying relative and denied the application accordingly. *Decision of the Field Office Director*, dated November 4, 2010.

On appeal, the applicant contends she did not commit fraud or willful misrepresentation. Specifically, the applicant contends she did not know that the invitation letter she received from the City of Oakland, California, was a fake letter.

The record contains, *inter alia*: a letter from the applicant; letters from the applicant's daughter; numerous letters of support; a letter from the applicant's daughter's employer; copies of the applicant's daughter's tax returns and other financial documents; and an approved Petition for Alien Relative (Form I-130). The entire record was reviewed and considered in rendering this decision on the appeal.

Section 212(a)(6)(C)(i) of the Act provides:

In general.—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) provides, in pertinent part:

(1) The Attorney General [now Secretary of Homeland Security] may, in the discretion of the Attorney General [now Secretary of Homeland Security], waive the application of clause (i) of subsection (a)(6)(C) in the case of an immigrant 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 permanent resident spouse or parent of such an alien

In this case, the record shows that in April 2000, the applicant attempted to enter the United States with a visa she obtained by using a letter from the City of Oakland, California. The letter invited the

applicant to the United States to organize a concert for a famous Chinese singer and is signed by [REDACTED] a Councilmember for the City of Oakland. The applicant was referred to secondary inspection and phone calls to Councilmember Reid's office confirmed that he did not write the invitation letter nor did he know anything about the applicant or her visit. The record contains a letter from Councilmember [REDACTED] as well as a letter from [REDACTED] the [REDACTED], confirming that the City of Oakland has no knowledge of any invitation to the applicant or the company she represents. The record also contains a sworn statement from the applicant which states that the applicant was given the invitation letter by a man named [REDACTED] who works for the City of Oakland, for a processing fee of 4,000 Renminbi (approximately \$600).

The applicant's appeal contends that she did not know the letter was fake, and asserts that she was deceived and is a victim. The applicant states that she received the invitation letter in January 2000 from [REDACTED] and that because of the invitation, she hosted a government delegation from the City of Oakland, headed by [REDACTED], in China in April 2000. According to the applicant, she had no idea [REDACTED] another member of the delegation, did not know about the invitation letter. The applicant contends she had no reason to doubt [REDACTED] character because she knows his wife and father-in-law well. She contends the 4,000 Renminbi she gave to [REDACTED] father-in-law was not a transaction, but rather, a Chinese habit between friends to show gratitude. According to the applicant, she was shocked to learn the letter was fake and [REDACTED] was in Sichuan province at the time and could not be reached. She states that she confronted [REDACTED] after being sent back to China, but he insisted the Oakland government sent her the invitation. She states she does not know why [REDACTED] set [her] up." The applicant submits numerous letters of support attesting to her character.

The Act clearly places the burden of proving eligibility for entry or admission to the United States on the applicant. See Section 291 of the Act, 8 U.S.C. § 1361 ("Whenever any person makes application for a visa or any other document required for entry, or makes application for admission, or otherwise attempts to enter the United States, the burden of proof shall be upon such person to establish that he is eligible to receive such visa or such document . . ."). Furthermore, it is incumbent upon the applicant to resolve any inconsistencies in the record by independent objective evidence. Any attempt to explain or reconcile such inconsistencies will not suffice unless the applicant submits competent objective evidence pointing to where the truth lies. *Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988).

After a careful review of the record, the AAO finds the applicant has not met her burden of proving she is admissible to the United States. Although the applicant has submitted numerous letters attesting to her character, including from [REDACTED] none of these letters directly address the circumstances of the applicant's April 2000 attempt to enter the United States. For instance, the applicant contends that in 2000, when she met representatives from the City of Oakland, her friend, [REDACTED] acted as her translator. According to the applicant, [REDACTED] "is a witness of [the applicant's] words." However, the letter from [REDACTED] states only that she was the applicant's interpreter "during a major event to greet Oakland California dignitaries to [REDACTED] in March,

2000. [The applicant] was a major influence in the event. [She] is an honest, highly respected person with strong principles.” Similarly, the letters from [REDACTED] describe how they met the applicant in China in 2000, but they do not address the applicant’s attempt to visit the United States in April 2000 using an invitation letter from the City of Oakland. In fact, the more recent letter from [REDACTED] dated August 4, 2008, which recommends the applicant’s visa be approved, makes no mention of the earlier letter from his office, dated April 5, 2000, which “confirm[s] that they have no knowledge of any invitation to this person or the company she represents.” Therefore, the letters in the record attesting to the applicant’s character do not provide competent, objective evidence addressing her inadmissibility. In addition, the applicant has not submitted any evidence from [REDACTED], or from his wife or father-in-law, with whom the applicant contends she has close ties. As such, the applicant has not provided any competent, independent, objective evidence supporting her claim that she is admissible to the United States. Therefore, the record shows that he is inadmissible under section 212(a)(6)(C)(i) of the Act for willful misrepresentation of a material fact in order to procure an immigration benefit.

A waiver of inadmissibility under section 212(i) of the Act is dependent on a showing that the bar to admission imposes extreme hardship on a qualifying relative, which includes the U.S. citizen or lawfully resident spouse or parent of the applicant. Hardship to the applicant or her children can be considered only insofar as it results in hardship to a qualifying relative. If extreme hardship to a qualifying relative is established, the applicant is statutorily eligible for a waiver, and USCIS then assesses whether a favorable exercise of discretion is warranted. *See Matter of Mendez-Morales*, 21 I&N Dec. 296, 301 (BIA 1996).

In this case, there is no evidence the applicant has a U.S. citizen or lawful permanent resident spouse or parent. Therefore, she does not have a qualifying relative under the statute and, thus, is ineligible for a waiver. Accordingly, the appeal will be dismissed.

ORDER: The appeal is dismissed.