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



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Date: **MAR 12 2012**

Office: KENDALL, FL

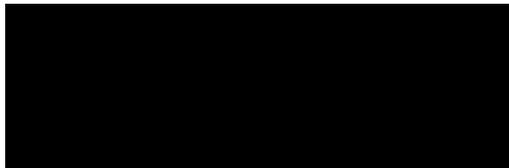
FILE: 

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.

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,

for Perry Rhew  
Chief, Administrative Appeals Office

**DISCUSSION:** The waiver application was denied by the Field Office Director, Kendall, Florida, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The applicant is a native of Argentina and citizen of Argentina and Italy 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 seeking admission into the United States by fraud or willful misrepresentation. The applicant sought a waiver of inadmissibility pursuant to section 212(i) of the Act, 8 U.S.C. § 1182(i), so as to immigrate to the United States. The director concluded that the applicant had failed to establish that her bar to admission would impose extreme hardship on a qualifying relative, and denied the Application for Waiver of Grounds of Inadmissibility (Form I-601) accordingly.

On appeal, counsel declares that after being denied admission to the United States on July 8, 1999, the applicant re-entered the United States without knowing of the previous denial of admission. Counsel states that on July 30, 1999 and November 16, 1999 the applicant signed the Form I-94 in good faith and without the intention to commit fraud upon the United States government. Counsel maintains that the applicant made a sworn statement on the day of her adjustment of status interview.

The applicant was found to be inadmissible under section 212(a)(6)(C) of the Act. That section 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.

An applicant who applies for admission pursuant to the visa waiver program must complete Form I-94W, Arrival Record. The reverse side of Form I-94W, at Part F, asks an applicant the following: "Have you ever been denied a U.S. visa or entry into the U.S. . . . ?" The record reflects that the applicant, claiming Italian citizenship, was denied a visa waiver and refused admission into the United States on July 28, 1996 at Niagara Falls, Ontario, Canada. On July 30, 1996 and November 16, 1999, the applicant, claiming Argentine citizenship, procured admission into the United States through the Visa Waiver Program. Counsel states that when the applicant re-entered the United States on these dates the applicant was not aware of having been denied admission on July 28, 1996, and did not intentionally commit a material misrepresentation in marking "No" at the box at Part F in the Form I-94W. We find counsel's statement unconvincing. The record is clear in that the applicant was denied a visa waiver and entry into the United States on July 28, 1996 and willfully failed to disclose this material fact in the Form I-94W so as to procure admission into the United States on July 30, 1999 and November 16, 1999. Based on the record, we find the applicant inadmissible under section 212(a)(6)(C) of the Act for procuring admission into the United States by fraud or willful misrepresentation of a material fact.

Section 212(i) of the Act provides a waiver for fraud and material misrepresentation. That section states that:

- (1) The Attorney General [now the Secretary of Homeland Security (Secretary)] may, in the discretion of the Attorney General [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 Attorney General [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.

The waiver under section 212(i) of the Act requires the applicant show that the bar to admission imposes an extreme hardship to the citizen or lawfully resident spouse or parent of the applicant. Hardship to an applicant is not a consideration under the statute, and will be considered only to the extent that it results in hardship to a qualifying relative. In the waiver application the applicant lists her U.S. citizen child as her only qualifying relative. Accordingly, the applicant is not eligible for the section 212(i) waiver as she does not qualify relative.

In proceedings for application for waiver of grounds of inadmissibility under sections 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. The applicant has not met that burden. Accordingly, the appeal will be dismissed.

**ORDER:** The appeal is dismissed.