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



U.S. Citizenship  
and Immigration  
Services

**PUBLIC COPY**



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DATE: MAR 14 2012

OFFICE: LOS ANGELES

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:



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,

  
Perry Rhew

Chief, Administrative Appeals Office

**DISCUSSION:** The waiver application was denied by the Field Office Director, Los Angeles, 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 attempted to enter the United States from Mexico on March 26, 1999 by claiming citizenship in the United States. The applicant was removed from the United States pursuant to expedited removal based upon her false claim to United States citizenship. The Field Office Director found the applicant 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 by fraud or willful misrepresentation. The applicant is a beneficiary of an approved Petition for Alien Relative and seeks a waiver of inadmissibility in order to reside in the United States with her lawful permanent resident spouse.

The Field Office Director concluded that the record failed to establish the existence of extreme hardship for the applicant's spouse and denied the application accordingly. *See Decision of the Field Office Director*, dated May 14, 2009.

On appeal, counsel for the applicant asserts that the evidence demonstrates that the applicant's spouse will suffer extreme hardship upon relocation or separation from the applicant.

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.

(ii) Falsely claiming citizenship. –

(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.

....

(iii) Waiver authorized. – For provision authorizing waiver of clause (i), see subsection (i).

Section 212(i) of the Act provides:

- (ii) 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.

The record reflects that on March 26, 1999, the applicant presented herself at a port of entry and stated that she was a citizen of the United States. *See Form I-213*, dated March 26, 1999. The applicant was subsequently referred to secondary inspection after she was unable to submit proof of her citizenship. *Id.* After further questioning, the applicant admitted Mexican citizenship. *Id.* The applicant was removed pursuant to expedited removal proceedings on the same date and then entered the United States without parole or admission in April 1999.

The applicant seeks a waiver of inadmissibility based upon her attempt to procure entry to the United States through misrepresentation, 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). However, the applicant is also admissible to the United States pursuant to section 212(a)(6)(C)(ii)(I) of the Act, 8 U.S.C. § 1182(a)(6)(C)(ii)(I), for making a false claim to United States citizenship on March 26, 1999.

The applicant states that she made a false claim to United States citizenship, but that she timely retracted her statement and did not have false documents on her person. *See Declaration of Maria Torres*, dated May 12, 2008. She further claims that she did not know the meaning of stating that she was a citizen of the United States. *Id.* The burden of proving admissibility rests with the applicant. INA § 291, 8 U.S.C. § 1361. A false claim to United States citizenship includes oral claims, whether or not it is supported by false documentation. In addition, this applicant only admitted Mexican citizenship after she was unsuccessful in entering to United States based upon her false claim and questioned in secondary inspection. *See Form I-213*, dated March 26, 1999. The record does not support the applicant's claim that she timely retracted her claim to United States citizenship. Further, it is evident that the applicant made her false claim to United States citizenship in an attempt to procure entry to the United States. Her assertion that she did not know the meaning of her false statement is untenable and does not satisfy her burden of demonstrating admissibility.

There is no waiver available for making a false claim to United States citizenship. Accordingly, no purpose would be served in discussing whether the applicant has established that denial of the waiver would result in extreme hardship to a qualifying relative or whether the applicant merits the waiver as a matter of discretion.



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In proceedings for an application for waiver of grounds of inadmissibility under section 212(i) of the Act, the burden of establishing that the application merits approval rests with the applicant. *See* section 291 of the Act, 8 U.S.C. § 1361. In this case, the applicant has not met his burden.

**ORDER:** The appeal is dismissed.