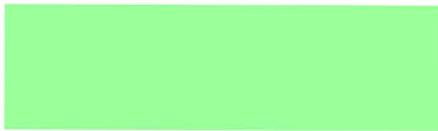


(b)(6)

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

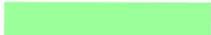


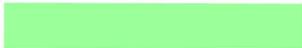
**U.S. Citizenship
and Immigration
Services**



Date: **AUG 09 2013**

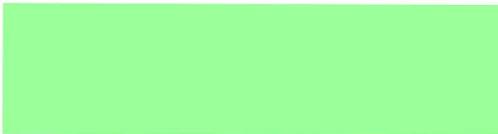
Office: LOS ANGELES, CA

FILE: 

IN RE: Applicant: 

PETITION: Application for Waiver of Grounds of Inadmissibility pursuant to section 212(i) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(i)

ON BEHALF OF PETITIONER:



INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office (AAO) in your case.

This is a non-precedent decision. The AAO does not announce new constructions of law nor establish agency policy through non-precedent decisions. If you believe the AAO incorrectly applied current law or policy to your case or if you seek to present new facts for consideration, you may file a motion to reconsider or a motion to reopen, respectively. Any motion must be filed on a Notice of Appeal or Motion (Form I-290B) within 33 days of the date of this decision. **Please review the Form I-290B instructions at <http://www.uscis.gov/forms> for the latest information on fee, filing location, and other requirements.** See also 8 C.F.R. § 103.5. **Do not file a motion directly with the AAO.**

Thank you,

A handwritten signature in black ink that reads "Ron Rosenberg".

Ron Rosenberg
Chief, Administrative Appeals Office

DISCUSSION: The Acting Field Office Director, Los Angeles, California, denied the waiver application and the matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The applicant is a native and citizen of Armenia who was found to be inadmissible to the United States pursuant to section 212(a)(6)(C)(ii) of the Act for making a false claim to U.S. citizenship. The applicant is married to a U.S. citizen and seeks a waiver of inadmissibility pursuant to section 212(i) of the Act in order to reside with her husband and child in the United States.

The acting field office director found that there is no waiver available for a false claim to U.S. citizenship and denied the application accordingly.

On appeal, counsel contends the applicant never claimed U.S. citizenship. According to counsel, the issue has been litigated before an immigration judge and the government failed to prove that the applicant presented a naturalization certificate.

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).

In this case, the record shows that on April 8, 2007, the applicant was a passenger in a vehicle that arrived at the San Ysidro Port of Entry. The record contains a copy of [REDACTED] in the name of [REDACTED]. According to the *Record of Deportable/Inadmissible Alien (Form I-231)*, dated April 8, 2007, contained in the record, the applicant presented this naturalization certificate to immigration officials in an attempt to enter the

United States. The record also contains a sworn statement, signed by the applicant, in which the applicant states she presented “[a] naturalization certificate” in response to the question, “What document did you present when entering the United States?” *Record of Sworn Statement in Proceedings under Section 235(b)(1) of the Act (Form I-867A)*, dated April 8, 2007. Counsel contends on appeal, and contended before an immigration judge, that the applicant did not present a naturalization certificate to immigration officials. The record shows that counsel conceded to the applicant’s inadmissibility under section 212(a)(7)(A)(i)(I) for not being in possession of a valid entry document, but contested the applicant’s inadmissibility under section 212(a)(6)(C)(ii) for falsely claiming U.S. citizenship. In addition, the record shows that counsel objected to the sworn statement signed by the applicant, challenging whether the interpreter was qualified in eastern Armenian.

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 entire record, the AAO finds that the applicant attempted to enter the United States using another person’s naturalization certificate. The record shows the applicant and the government filed a joint motion to dismiss the applicant’s case before the immigration judge in order for the applicant to pursue her application for adjustment of status. The record does not support counsel’s contention that the immigration judge found that the government did not meet its burden of proving the applicant presented a naturalization certificate. There is no indication in the record that the issue regarding whether or not the applicant represented herself as a U.S. citizen was resolved by the immigration judge prior to the termination of the case without prejudice. Regardless, even assuming, as counsel contends, that the government did not meet its burden in removal proceedings, for an application for a waiver of grounds of inadmissibility under section 212(a)(6)(C) of the Act, the burden of proving eligibility remains entirely with the applicant. *See* Section 291 of the Act, 8 U.S.C. § 1361; *Matter of Silva-Trevino*, 24 I&N Dec. 687, 709 (A.G. 2008) (“the burden is on [the applicant] to establish ‘clearly and beyond doubt’ that he is ‘not inadmissible.’” (citing section 240(c)(2)(A) of the Act and *Kirong v. Mukasey*, 529 F.3d 800 (8th Cir. 2008))). With respect to counsel’s contention before the immigration judge that the interpreter was not qualified in eastern Armenian, the record contains a letter from the Director of Quality Assurance for Language Services Associates stating that the interpreter grew up speaking Armenian and that the Eastern dialectal variety was and is the official language the interpreter grew up speaking. As such, there is no indication in the record showing that the interpretation during the applicant’s sworn statement was defective in any way. Therefore, considering the copy of the naturalization certificate in the record, the sworn statement, and the Form I-231, the AAO finds that the applicant attempted to enter the United States using another person’s naturalization certificate.

The applicant has not met her burden of showing she is admissible to the United States. The applicant is inadmissible to the United States for making a false claim to U.S. citizenship. There is no waiver of this permanent ground of inadmissibility. Accordingly, no purpose would be served in examining the applicant's eligibility for a waiver of any other grounds of inadmissibility and the appeal will be dismissed.

In application proceedings, it is the applicant's burden to establish eligibility for the immigration benefit sought. Section 291 of the Act, 8 U.S.C. § 1361. Here, that burden has not been met.

ORDER: The appeal is dismissed.