

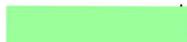


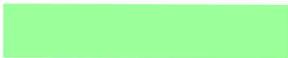
(b)(6)



DATE: **FEB 20 2013**

Office: NEW DELHI

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:

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.

Thank you,

for

Ron Rosenberg
Acting Chief, Administrative Appeals Office

DISCUSSION: The Field Office Director, New Delhi, India, denied the waiver application, and it is now before the Administrative Appeals Office (AAO) on appeal. The matter will be remanded for further action consistent with this decision.

The applicant is a native and citizen of India 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 procuring a U.S. visa by fraud or misrepresentation. The applicant contests this finding of inadmissibility, but alternatively seeks a waiver of inadmissibility in order to immigrate to the United States and reside with his U.S. citizen wife.

The field office director concluded the applicant had failed to establish that extreme hardship would be imposed on a qualifying relative and, accordingly, denied the Application for Waiver of Ground of Inadmissibility (Form I-601). *Decision of the Field Office Director*, April 9, 2012.

On appeal, the applicant contends that the field office director erred in not finding extreme hardship and in finding that the applicant committed fraud. The record also includes documentation supporting the applicant's application for waiver of inadmissibility, including, but not limited to: hardship statements; job letters and school records; birth and naturalization certificates, a copy of a passport data page and cancelled B1/B2 visa; a psychological evaluation; medical and job letters; a property deed and business license; and a pay stub. The entire record was reviewed and considered in rendering this decision.

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

- (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.

Section 212(i)(1) of the Act provides:

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 June 16, 2011, when the applicant interviewed for an immigrant visa, the consular officer determined that a nonimmigrant visa issued to the applicant in 2007 had been revoked in 2010 for having been procured by fraud.¹ Although the field office director accepted the consular determination that the applicant confessed to using altered documents to obtain his B1/B2

¹ An immigration database confirms Embassy New Delhi issued the applicant a B1/B2 visa on January 4, 2007 that was revoked on April 8, 2010.

visa, the applicant now contests the fraud alleged. The applicant provides no documentary evidence other than his own May 7, 2012 statement to contradict the consular finding. The AAO notes that the purported confession underlying the revocation is unclear regarding whether the applicant is referring to using altered documents to obtain only an Irish visa with a fake wife or whether he admits to having used the documents to apply for a U.S. visa as well. In relevant part, the applicant's written statement reads:

I got my U.S. visa on [2]4 Jan 2007. In 2008 i give my passport to [REDACTED] for France Visa. The travel agent showed [REDACTED] make us husband and wife. He promised to give Rs. 50,000 as to me for visa but refused at last. He after getting my visa refused to give money as i was not willing to go with her. In year 2009 i also applied for Ireland visa with [REDACTED] who is sister of my friend. He promised me to give ticket and USA visa fees but I do not traveled with her also and my visa was refused by Embassy. I was applied her visa as my wife [REDACTED]. The documents submitted at the time of visa were altered. I am writing these in my own words.

Applicant's Consular Affidavit, April 8, 2010; see also Applicant's Declaration, May 7, 2012.

The April 9, 2012 decision of the field office director concludes the applicant admitted to using altered documents to apply for a U.S. visa, which would render the applicant inadmissible under section 212(a)(6)(C) of the Act. However, although unclear due to grammatical errors, the applicant's statement suggests that a travel agent used the applicant's U.S. visa-containing passport to support visa applications to other countries for the applicant and for women posing as his wife.

The matter will be remanded to the field office director to resolve the question of whether the applicant admitted using altered documents to apply for a U.S. visa. If the field office director determines the applicant is not subject to section 212(a)(6)(C) of the Act, she should find the Form I-601 unnecessary, as the applicant is not inadmissible. If the director finds that the applicant used altered documents to receive or apply for a U.S. visa, then the director shall issue a new decision addressing the merits of the applicant's Form I-601 application. If that decision is adverse to the applicant, the field office director shall certify it to the AAO for review.

ORDER: The matter is remanded to the field office director for further proceedings consistent with this decision.