



U.S. Citizenship  
and Immigration  
Services

(b)(6)



DATE: **FEB 28 2013** Office: BANGKOK

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.

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 in accordance with the instructions on 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,

Ron Rosenberg  
Acting Chief, Administrative Appeals Office

**DISCUSSION:** The Field Office Director, Bangkok, Thailand, denied the waiver application, and it is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The applicant is a native and citizen of Vietnam who was found by a Consular Officer to be inadmissible to the United States under section 212(a)(6)(C)(i) of the Act, 8 U.S.C. § 1182(a)(6)(C)(i), for having sought to procure an immigration benefit by fraud or willful misrepresentation. The applicant is the daughter of a U.S. citizen and the beneficiary of her approved Petition for Alien Relative (Form I-130). The applicant contests the inadmissibility finding, but alternatively seeks a waiver of inadmissibility pursuant to section 212(i) of the Act, 8 U.S.C. § 1182(i), in order to immigrate to the United States.

Noting the applicability of section 212(a)(6)(C)(i) of the Act and finding the applicant failed to establish the existence of a qualifying relative in the United States, the field office director concluded that the applicant was ineligible for a waiver.

On appeal, the applicant focuses exclusively on proving a bona fide relationship<sup>1</sup> to her daughter, apparently in response to a February 14, 2012 Request for Evidence by the field office. The applicant has provided no evidence that the misrepresentation finding is erroneous.

Section 212(a)(6)(C)(i) of the Act provides, in pertinent part, that:

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 [...].

In the present matter, the record reflects that USCIS stated in a Notice of Intent to Revoke the Form I-130 filed by the applicant's second husband that the marriage had been determined to be fraudulent. Although the applicant has never admitted marriage fraud, but rather contends that her 1997 marriage was valid, the record reflects that she was found to have made misrepresentations to a U.S. government official in the effort to procure an immigrant visa. The applicant submitted no

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<sup>1</sup> However, this relationship is irrelevant to establishing the existence of a qualifying relative, as the applicant's daughter cannot be a qualifying relative under section 212(i) of the Act. Without a qualifying relative, no extreme hardship analysis can be conducted and thus no waiver be granted.

(b)(6)

evidence contesting that she made such misrepresentations, and is inadmissible under section 212(a)(6)(C)(i) of the Act.

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. The applicant's daughter cannot serve as a qualifying relative in this case and the applicant has failed to show the existence of another person eligible to be a qualifying relative. Since the applicant does not have a qualifying relative, she is ineligible for a waiver of inadmissibility.

Because the applicant is statutorily ineligible for relief, no purpose would be served in discussing whether the applicant has established she would merit the waiver as a matter of discretion.

In proceedings for application for waiver of grounds of inadmissibility, the burden of proving eligibility remains entirely with the applicant. Section 291 of the Act, 8 U.S.C. § 1361. Here, the applicant has not met that burden. Accordingly, the appeal will be dismissed.

**ORDER:** The appeal is dismissed.