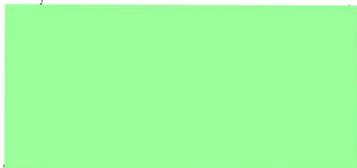




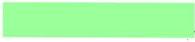
U.S. Citizenship
and Immigration
Services

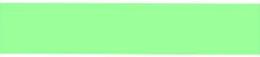
(b)(6)



Date: JAN 16 2013

Office: GUANGZHOU, CHINA

FILE: 

IN RE: 

APPLICATION: 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 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,

A handwritten signature in black ink, appearing to read "Ron Rosenberg".

Ron Rosenberg
Acting Chief, Administrative Appeals Office

DISCUSSION: The waiver application was denied by the Field Office Director, Guangzhou, China. The matter is now before the Administrative Appeals Office (AAO) on appeal. The matter will be remanded to the field office director for further action.

The record reflects that the applicant is a native and citizen of China who was found to be inadmissible to the United States pursuant to section 212(a)(6)(C)(i) of the Act for fraud or willful misrepresentation of a material fact in order to obtain an immigration benefit. 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 in the United States.

In a decision, dated January 14, 2011, the field office director found that the record did not support a finding that the applicant's spouse would experience extreme hardship and denied the application accordingly.

On appeal, the applicant states that her spouse is suffering extreme hardship without her in the United States. She states that he has numerous health problems and is suffering financially as a result of her absence.

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

In general.—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.

In this case, the field office director found that the applicant was inadmissible for being involved with immigration benefit fraud in 2003. On December 19, 2000, a Petition for Alien Fiancée (Form I-129F) was filed on her behalf by a Vietnamese petitioner and naturalized U.S. citizen, who was later found to have filed numerous fraudulent alien relative petitions. The record indicates that the applicant's Form I-129F was approved on January 16, 2001 and the record does not indicate any further how this petition was resolved. The record does not indicate that this petition was found to be fraudulent or revoked for other reasons.

On March 4, 2005, the applicant's current husband filed an Alien Relative Petition (Form I-130) on her behalf, which was approved on June 7, 2005. On May 26, 2008, the petitioner filed a second Form I-130 on the applicant's behalf, which was approved on February 26, 2009. On January 13, 2010, a Notice of Intent to Revoke the Form I-130 filed in 2005 was issued because the petitioner had failed to establish a bona fide spousal relationship. On March 6, 2010, the approval of the petitioner's Form I-130 from 2005 was reaffirmed. Then, on June 1, 2011, a Notice of Intent to Revoke was issued for the Form I-130 filed in 2008. On June 27, 2011, counsel, purporting to represent the applicant, submitted a letter requesting that the Form I-130 filed in 2008 be withdrawn

(b)(6)

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in light of the reaffirmation of the approval of the Form I-130 filed in 2005.¹ On September 12, 2011, the Form I-130 filed in 2008 was revoked based on this request from counsel.

The AAO finds that the field office director's finding of fraud or willful misrepresentation is vague and not supported by the record. It is unclear what the 2003 immigrant benefit fraud refers to. As such, the AAO remands the matter to the field office director to reevaluate the applicant's inadmissibility under section 212(a)(6)(C)(i) of the Act for fraud or willful misrepresentation of a material fact in order to obtain an immigration benefit. The field office director shall issue a new decision addressing specifically what actions the applicant took which constituted fraud or willful misrepresentation. The new decision is to be certified to the AAO and the applicant shall be given thirty days in which to respond to the new decision.

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

¹ The record does not include a Form G-28, Notice of Entry of Appearance as Attorney or Accredited Representative.