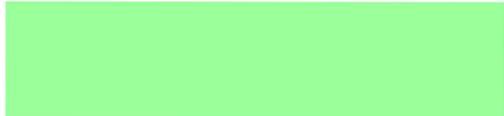
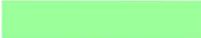


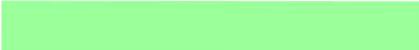
(b)(6)



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

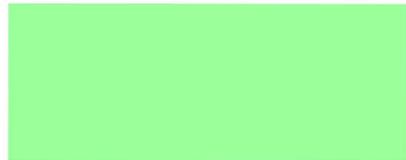


DATE: **JUN 18 2013** Office: SAN FERNANDO FILE: 

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:



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,

  
f.  
Ron Rosenberg  
Acting Chief, Administrative Appeals Office

**DISCUSSION:** The waiver application was denied by the Field Officer Director, San Fernando, California. 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 Jamaica found 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 attempting to procure admission to the United States through fraud or misrepresentation. The applicant is the beneficiary of an approved Petition for Alien Relative (Form I-130).<sup>1</sup> The applicant seeks a waiver of inadmissibility pursuant to section 212(i) of the Act to remain in the United States with his U.S. citizen spouse.

The field office director found that the applicant failed to establish that his qualifying relative would experience extreme hardship as a consequence of his inadmissibility. The application was denied accordingly. See *Decision of the Field Office Director* dated November 2, 2010.

On appeal counsel for the applicant contends in the Notice of Appeal (Form I-290B) that the Service erred in determining that the applicant had not been admitted and inspected on December 4, 2005, that the applicant was unemployed, and that no evidence was submitted to support a showing of extreme hardship. With the appeal counsel submits a brief; an affidavit from the applicant's spouse; medical information for the applicant's spouse; and country information for Jamaica. The record also contains financial information for the applicant and spouse. The entire record was reviewed and considered in rendering a decision on the appeal.

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.

Section 212(i) of the Act provides that:

The Attorney General [now the Secretary of Homeland Security (Secretary)] may, in the discretion of the Attorney General [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 Attorney General [Secretary] that the refusal of admission to the United States of such immigrant alien would

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<sup>1</sup> USCIS received a letter from the applicant's spouse dated May 23, 2013 indicating that she and the applicant were divorced on May 20, 2013 and she no longer intended to sponsor him in any way. As such, the Petition for Alien Relative has been automatically revoked in accordance with 8 C.F.R. § 205.1 due to its withdrawal by the petitioner and the legal termination of their marriage.

result in extreme hardship to the citizen or lawfully resident spouse or parent of such an alien ....

The field office director determined that the record showed the applicant had been inspected and admitted to the United States on September 10, 2005 and departed on September 14, 2005. The record reflects that at his November 2009 interview with USCIS regarding his I-485, Application for Adjustment of Status, the applicant testified he had been again inspected and admitted to the United States as a non-immigrant C-1 crewman on December 4, 2005, and he submitted a photo copy of his stamped passport. As the field office director found no records to support that the applicant had been inspected and admitted to the United States on December 4, 2005 following the September 2005 departure, it was determined that the applicant had not been inspected and admitted as he had stated and he was therefore found inadmissible under section 212(a)(6)(C)(i) of the Act for fraud or willful misrepresentation of a material fact.

On appeal counsel asserts that at his interview the applicant provided his actual entry document as evidence of a December 4, 2005, admission.

The AAO determines that government records show the applicant was in fact admitted to the United States on December 4, 2005, which supports the applicant's testimony and documentation submitted to the record by the applicant. As such, the applicant is not inadmissible under section 212(a)(6)(C)(i) of the Act for fraud or misrepresentation and the waiver application is dismissed as unnecessary.

**ORDER:** The appeal is dismissed, the prior decision of the field office director is withdrawn and the application for a waiver of inadmissibility is declared unnecessary.