



U.S. Citizenship
and Immigration
Services

(b)(6)



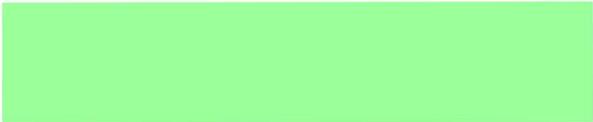
DATE: Office: ATLANTA, GA
JUN 21 2013

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.

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 waiver application was denied by the Field Office Director, Atlanta, Georgia, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The applicant is a native and a citizen of the Dominican Republic 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). The applicant is seeking a waiver under section 212(i) of the Act, 8 U.S.C. § 1182(i), in order to reside in the United States with her U.S. citizen daughter.

The Field Office Director denied the Application for Waiver of Grounds of Inadmissibility (Form I-601) on February 15, 2012, concluding that the applicant's Form I-601 was not filed in conjunction with an application for lawful permanent residence, and that it therefore had no basis. The Field Office Director also indicated that the applicant failed to show that a qualifying relative will endure extreme hardship should the waiver application be denied.

On appeal, counsel for the applicant asserts that the Field Office Director erred in citing the incorrect section of the Act under which the applicant is inadmissible, and asserts that the Field Office Director erred when he considered the Form I-601 submitted in 2002 by the applicant, rather than issuing her a notice that she should file a new Form I-601 with the Form I-485 she submitted in June 2011. *Form I-290B*, received March 15, 2012.

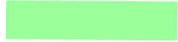
Section 212(a)(6)(C) of the Act states, in pertinent part:

- (i) 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 chapter is inadmissible.

The record indicates that the applicant presented a passport with two false back-dated stamps, purchased by the applicant to conceal prior overstays in the United States, when attempting to enter the United States in February 2000. Therefore the applicant was found to be inadmissible pursuant to section 212(a)(6)(C)(i) of the Act for making a material misrepresentation for the purpose of gaining admission to the United States. The applicant requires a waiver under section 212(i) of the Act. Though the Field Office Director indicated that the applicant requires a waiver under section 212(h) of the Act, such error does not have a bearing on the viability of the present application, as discussed below.

As observed by the Field Office Director, the present Form I-601 application was filed separately in 2002, without reference to an application for lawful permanent residence or a fiancée visa. The applicant did not file a Form I-485 application for adjustment of status until 2011. Accordingly, there was no basis for the Form I-601 application at the time that it was filed. For this reason, it may not be approved. Therefore, no purpose is served in reaching the merits of the applicant's claim that she is eligible for a waiver under section 212(i) of the Act.

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Counsel asserts that the Field Office Director should have advised the applicant that she could have filed a new Form I-601 application to accompany her 2011 Form I-485 application for adjustment of status. However, such circumstance does not overcome the reason for denial of the present Form I-601 application. It is noted that, as of the date of the present appeal, the record does not reflect that the applicant has in fact sought to file a new Form I-601 waiver application.

Based on the foregoing, the appeal will be dismissed.

ORDER: The appeal is dismissed.