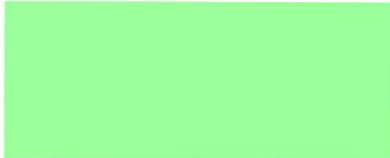


(b)(6)

U.S. Department of Homeland Security  
U.S. Citizenship and Immigration Services  
Administrative Appeals Office (AAO)  
20 Massachusetts Ave., N.W., MS 2090  
Washington, DC 20529-2090



U.S. Citizenship  
and Immigration  
Services

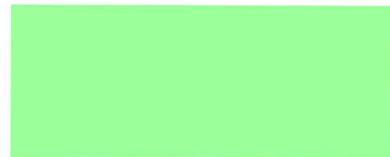


Date: **NOV 26 2013** Office: NEBRASKA SERVICE CENTER FILE: 

IN RE: Applicant: 

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:



INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office (AAO) in your case. This is a non-precedent decision. The AAO does not announce new constructions of law nor establish agency policy through non-precedent decisions.

Thank you,

A handwritten signature in black ink that reads "Ron Rosenberg".

Ron Rosenberg  
Chief, Administrative Appeals Office

**DISCUSSION:** The Director, Nebraska Service Center, denied the waiver application and the matter is now before the Administrative Appeals Office (AAO) on appeal. The matter will be remanded to the director for further action.

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 willful misrepresentation of a material fact in order to procure an immigration benefit. The applicant contends she 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.

The director found that the immigrant visa officer was unable to determine the applicant's true identity and, therefore, the relationship between the applicant and the qualifying relative cannot be established. The director denied the application as a matter of discretion.

On appeal, counsel contends that the applicant's birth year was inaccurately entered by overworked government bureaucrats during China's Cultural Revolution. According to counsel, this change in birth year is nothing more than a typographical error and the evidence shows a valid marriage. Documents purporting to support this assertion are submitted on appeal.

The record reflects that a consular officer interviewed the applicant and reviewed documents submitted to explain the applicant's different dates of birth. The record further reflects that after a review of the documents the consular officer was still unable to determine the true identity of the applicant and concluded that as the applicant's identity cannot be confirmed there is no waiver available. It was recommended that the Form I-130 Petition for Alien Relative (Form I-130) filed on the applicant's behalf be returned to USCIS for possible revocation. It is unclear what action has been taken on this recommendation. Therefore, the AAO remands the matter to the director determine whether the revocation process has begun and, if not, to initiate proceedings for the revocation of the approved Form I-130 petition. Should the approved Form I-130 petition be revoked, the applicant's Form I-601 will be moot as there will be no underlying petition and no means for the applicant to obtain an immigrant visa. No further action will be required. In the alternative, if the Form I-130 is not revoked, the director shall issue a new decision addressing the merits of the applicant's waiver application. The new decision, if adverse to the applicant, is to be certified to the AAO for review.

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