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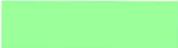


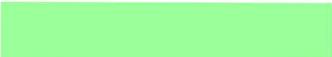
U.S. Citizenship
and Immigration
Services



DATE: NOV 10 2014

Office: NEBRASKA SERVICE CENTER

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 (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. If you believe the AAO incorrectly applied current law or policy to your case or if you seek to present new facts for consideration, you may file a motion to reconsider or a motion to reopen, respectively. Any motion must be filed on a Notice of Appeal or Motion (Form I-290B) within 33 days of the date of this decision. **Please review the Form I-290B instructions at <http://www.uscis.gov/forms> for the latest information on fee, filing location, and other requirements. See also 8 C.F.R. § 103.5. Do not file a motion directly with the AAO.**

Thank you,

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

Ron Rosenberg
Chief, Administrative Appeals Office

DISCUSSION: The waiver application was denied by the Director, Nebraska Service Center. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The applicant is a native of Iran and citizen of Armenia who was found to be inadmissible to the United States under section 212(a)(3)(B) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(a)(3)(B), for engaging in terrorist activities. The applicant is also 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 seeks waivers of inadmissibility in order to reside in the United States with his U.S. citizen spouse children.

The Director denied the Application for Waiver of Grounds of Inadmissibility (Form I-601) as a matter of discretion due to his inadmissibility under section 212(a)(3)(B) of the Act. *See Decision of the Director*, dated February 19, 2014.

On appeal, the applicant asserts that statements in his October 23, 2000 application for asylum in the United States were incorrect, and that he never engaged in the terrorist activities described in that application. The applicant asserts that he was employed as an accountant from 1985 to 1998, he never joined the militia in [REDACTED] and he did not provide material support to that group.

The record includes, but is not limited to, statements from the applicant, his spouse, and his children, financial documentation, and evidence of hardship to his qualifying relative. 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.

The record indicates that the applicant attempted to enter the United States on September 14, 2004 using a refugee travel document that belonged to another person, and, as such, is inadmissible under section 212(a)(6)(C) of the Act.

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 result in extreme hardship to the citizen or lawfully resident spouse or parent of

such an alien or, in the case of an alien granted classification under clause (iii) or (iv) of section 204 (a)(1)(A) or clause (ii) or (iii) of section 204(a)(1)(B), the alien demonstrates extreme hardship to the alien or the alien's United States citizen, lawful permanent resident, or qualified alien parent or child.

The record further indicates that the applicant engaged in terrorist activities, and thus is inadmissible under section 212(a)(3)(B) of the Act.

Section 212(a)(3)(B) of the Act provides, in pertinent part:

(B) Terrorist activities-

(i) IN GENERAL.-Any alien who-

(I) has engaged in a terrorist activity is inadmissible.

....

(iii) TERRORIST ACTIVITY DEFINED.-As used in this Act, the term "terrorist activity" means any activity which is unlawful under the laws of the place where it is committed (or which, if ⁴ it had been committed in the United States, would be unlawful under the laws of the United States or any State) and which involves any of the following:

(I) The hijacking or sabotage of any conveyance (including an aircraft, vessel, or vehicle).

(II) The seizing or detaining, and threatening to kill, injure, or continue to detain, another individual in order to compel a third person (including a governmental organization) to do or abstain from doing any act as an explicit or implicit condition for the release of the individual seized or detained.

(III) A violent attack upon an internationally protected person (as defined in section 1116(b)(4) of title 18, United States Code) or upon the liberty of such a person.

(IV) An assassination.

(V) The use of any-

(aa) biological agent, chemical agent, or nuclear weapon or device, or

(bb) explosive, ⁴ firearm, or other weapon or dangerous device (other than for mere personal monetary gain), with intent to endanger, directly or indirectly, the safety of one or more individuals or to cause substantial damage to property.

(VI) A threat, attempt, or conspiracy to do any of the foregoing.

(iv) ENGAGE IN TERRORIST ACTIVITY DEFINED- As used in this chapter, the term "engage in terrorist activity" means, in an individual capacity or as a member of an organization-

(I) to commit or to incite to commit, under circumstances indicating an intention to cause death or serious bodily injury, a terrorist activity;

(II) to prepare or plan a terrorist activity;

(III) to gather information on potential targets for terrorist activity;

(IV) to solicit funds or other things of value for--

(aa) a terrorist activity;

(bb) a terrorist organization described in clause (vi)(I) or (vi)(II); or

(cc) a terrorist organization described in clause (vi)(III), unless the solicitor can demonstrate by clear and convincing evidence that he did not know, and should not reasonably have known, that the organization was a terrorist organization;

(V) to solicit any individual--

(aa) to engage in conduct otherwise described in this subsection;

(bb) for membership in a terrorist organization described in clause (vi)(I) or (vi)(II); or

(cc) for membership in a terrorist organization described in clause (vi)(III) unless the solicitor can demonstrate by clear and convincing evidence that he did not know, and should not reasonably have known, that the organization was a terrorist organization; or

(VI) to commit an act that the actor knows, or reasonably should know, affords material support, including a safe house, transportation, communications, funds, transfer of funds or other material financial benefit, false documentation or identification, weapons (including chemical, biological, or radiological weapons), explosives, or training--

(aa) for the commission of a terrorist activity;

(bb) to any individual who the actor knows, or reasonably should know, has committed or plans to commit a terrorist activity;

(cc) to a terrorist organization described in subclause (I) or (II) of clause (vi) or to any member of such an organization; or

(dd) to a terrorist organization described in clause (vi)(III), or to any member of such an organization, unless the actor can demonstrate by clear and convincing evidence that the actor did not know, and should not reasonably have known, that the organization was a terrorist organization.

The record indicates that on his asylum application and during his asylum interview in December 2000, the applicant stated that he joined a militia during the war in [REDACTED], serving on a part-time basis from 1988 to 1992 and making more frequent trips to the region after losing his accountant job in 1992. He testified that he recruited soldiers to fight and he bought supplies, including guns and ammunition, for the militia. He further testified that he was entering the region in 1993 with a convoy carrying food, 40 rifles, ammunition, and recruits, and a gun battle occurred after they were attacked. He stated that he captured two injured assailants and held them for one week before delivering them to the police in [REDACTED], Armenia. He was found ineligible for asylum for having committed and act which he knew, or should have known, afforded material support to an individual, organization, or government in conducting a terrorist activity as defined in section 212(a)(3)(B)(iii) of the Act. He was therefore found to be inadmissible under section 212(a)(3)(B)(i) of the Act.

There is no statutory waiver available for the ground of inadmissibility arising under section 212(a)(3)(B) of the Act. Inadmissibility under section 212(a)(3)(B) of the Act is not the subject of the Form I-601 and is not within the jurisdiction of the AAO to adjudicate with this appeal, and thus no purpose would be served in determining whether the applicant qualifies for a waiver under section 212(i) of the Act. The appeal will therefore be dismissed.

ORDER: The appeal is dismissed.