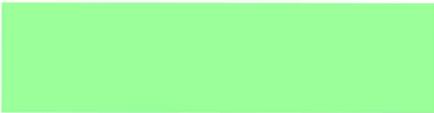




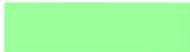
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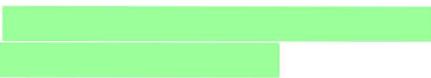


DATE: NOV 19 2014

Office: NEW YORK

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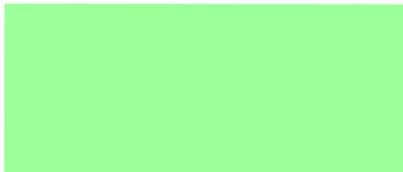
IN RE:

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 (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,

Ron Rosenberg
Chief, Administrative Appeals Office

DISCUSSION: The waiver application was denied by the District Director, New York, New York. 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 Guyana 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), for attempting to procure admission to the United States by fraud or willful misrepresentation of a material fact. The applicant seeks a waiver of inadmissibility under section 212(i) of the Act, 8 U.S.C. § 1182(i), in order to reside in the United States.

The District Director found that the applicant's children are not qualifying relatives under section 212(i) of the Act, and the applicant provided no evidence to support a finding that a qualifying relative would experience extreme hardship if her waiver application were not approved. She denied the Form I-601, Application for Waiver of Grounds of Inadmissibility, accordingly. *Decision of the District Director*, dated May 15, 2014.

On appeal, counsel asserts that the District Director denied the applicant equal protection of the law under the 14th Amendment of the U.S. Constitution, because “distinguishing between the categories of qualifying relatives is unreasonable, arbitrary and does not ‘rest upon some ground of difference having a fair and substantial relation to the object’ of the waiver provision.” *Statement in Support of Form I-290B, Notice of Appeal or Motion*, dated February 27, 2014 (citation omitted).

The record includes, but is not limited to, counsel’s brief, the applicant's statement, the applicant's son's statement and country-conditions information for Guyana. 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, that:

- (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:

- (1) The Attorney General [now Secretary of the Department of Homeland Security (Secretary)] may, in the discretion of the [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 [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.

The record reflects that the applicant presented a photo-substituted passport and B-1 visa with the name [REDACTED] to U.S. immigration officials on August 4, 1996, while seeking admission to the United States. She is therefore inadmissible to the United States pursuant to section 212(a)(6)(C)(i) of the Act for seeking to procure admission to the United States through willful misrepresentation of a material fact. The applicant does not contest this ground of inadmissibility.

A waiver of inadmissibility under section 212(i) of the Act is dependent on a showing that the bar to admission imposes extreme hardship on a qualifying relative, which includes the U.S. citizen or lawfully resident spouse or parent of the applicant. The record does not include evidence that the applicant has a qualifying relative as defined in section 212(i) of the Act.

Counsel asserts that section 212(i) of the Act violates the Equal Protection clause and is unconstitutional. Constitutional issues are not within our appellate jurisdiction; therefore this assertion will not be addressed in the present decision.

The documentation in the record fails to establish the existence of a qualifying relative. Therefore, we find that no purpose would be served in discussing whether the applicant merits a waiver as a matter of overall discretion.

In application proceedings, it is the applicant's burden to establish eligibility for the immigration benefit sought. Section 291 of the Act, 8 U.S.C. § 1361. Here, that burden has not been met.

ORDER: The appeal is dismissed.