



U.S. Citizenship
and Immigration
Services

(b)(6)

[Redacted]

DATE: **JUN 23 2015**

FILE #: [Redacted]

APPLICATION RECEIPT #: [Redacted]

IN RE: Applicant: [Redacted]

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:
[Redacted]

Enclosed is the non-precedent decision of the Administrative Appeals Office (AAO) for your case.

Thank you,

A handwritten signature in cursive script, appearing to read "Ron Rosenberg".

Ron Rosenberg
Chief, Administrative Appeals Office

DISCUSSION: The waiver application was denied by the Field Office Director, Atlanta, Georgia. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed, the decision of the Field Office Director will be withdrawn, and the application for waiver of inadmissibility declared unnecessary.

The applicant is a native and citizen of Venezuela who was 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 using a fraudulent Social Security card and U.S. lawful permanent resident card not belonging to him to obtain employment in the United States. The applicant seeks a waiver of inadmissibility pursuant to section 212(i) of the Act, 8 U.S.C. § 1182(i), to live in the United States with his U.S. citizen wife and children.

The Field Office Director concluded that the applicant did not establish that his removal from the United States would result in extreme hardship to his qualifying relative. The Field Office Director denied the application accordingly. *See Decision of the Field Office Director*, dated May 14, 2014.

On appeal, the applicant, through counsel, asserts that the Field Office Director did not properly evaluate the evidence of hardship to his U.S. citizen spouse. In addition, he reasserts that the evidence establishes that his spouse would experience extreme hardship if his Form I-601, Application for Waiver of Grounds of Inadmissibility (Form I-601), is not approved.

The record includes, but is not limited to, documents establishing relationships and identity; financial records; photographs; letters from the applicant, his spouse, and their family members; school records; and country-conditions reports about Venezuela. The entire record was reviewed and considered in rendering this decision on appeal.

We conduct appellate review on a de novo basis. *See Soltane v. DOJ*, 381 F.3d 143, 145 (3d Cir. 2004).

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)(1) of the Act provides that:

The Attorney General [now the Secretary 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.

In this case, the record establishes that the applicant was admitted into the United States as a non-immigrant on September 12, 2000, and his application to extend his period of authorized stay was granted to December 31, 2001. The record does not reflect that the applicant ever departed from the United States. The applicant was placed into immigration proceedings on September 16, 2009, for staying in the United States beyond than the time permitted and for working without authorization; these proceedings appear to have been terminated.

The applicant, on his Form I-601, states that he presented a fraudulent Social Security card and lawful permanent resident card to obtain employment in the United States. In denying the applicant's waiver application, the Field Office Director found that the applicant is inadmissible under section 212(a)(6)(C)(i) of the Act, for using these documents to find private employment.

Upon review of the record, we find that the applicant is not inadmissible under section 212(a)(6)(C)(i) of the Act, and he does not require a waiver under section 212(i) of the Act. The statute requires the applicant's fraud or misrepresentation to have been made to procure or attempt to procure a visa, other documentation, admission, or other benefits under the Act. The record does not show that the applicant used fraudulent identification documents to apply for work authorization, a benefit under the Act, from U.S. Citizenship and Immigration Services. The record reflects instead that he used fraudulent documents to seek private employment.

Moreover, according to the record, the applicant presented a lawful permanent resident card and Social Security card to a private employer, not a U.S. government official authorized to grant visas or other immigration benefits. He did so for the purpose of obtaining employment, which has not been determined to be a "benefit provided under [the] Act" as contemplated by section 212(a)(6)(C)(i) of the Act. Therefore, the record fails to establish that the applicant is inadmissible under 212(a)(6)(C)(i) of the Act. *See Matter of Y-G-*, 20 I&N Dec. 794 (BIA 1994); *Matter of Cervantes-Gonzalez*, 22 I&N Dec. 560, 571 (Villageliu, concurring).

The appeal will be dismissed because the record does not demonstrate that the applicant is inadmissible under section 212(a)(6)(C)(i) of the Act, and an application for a waiver of inadmissibility is therefore not required.

ORDER: The appeal is dismissed, the Field Office Director's decision withdrawn, and the waiver application declared unnecessary.