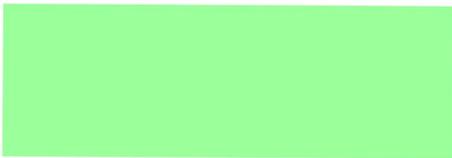




U.S. Citizenship  
and Immigration  
Services

(b)(6)



DATE: Office: NEBRASKA SERVICE CENTER

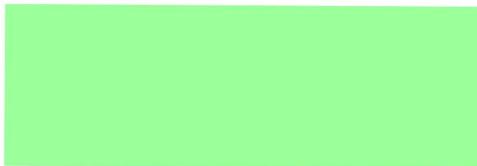
FILE:

MAR 11 2015

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.

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 Nebraska Service Center Director. The matter is now before the Administrative Appeals Office (AAO) on appeal. The matter will be remanded for further consideration consistent with this decision.

The applicant is a native a citizen of Nigeria 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 a visa by fraud or willful misrepresentation. The applicant is the beneficiary of a Form I-130, Petition for Alien Relative that his mother, a U.S. citizen, filed on his behalf. He seeks a waiver of inadmissibility in order to reside in the United States with his family.

The Director found that the applicant had failed to provide proof that he has a qualifying relative or that his qualifying relative would experience extreme hardship and denied the Form I-601, Application for Waiver of Grounds of Inadmissibility (Form I-601), accordingly.

On appeal, the applicant continues to contest the finding of inadmissibility, asserting that he did not make a material misrepresentation. In addition, he asserts that the Director abused his discretion in finding him inadmissible, given the evidence he submitted to support his assertion that he did not commit a material misrepresentation; specifically, he claims that the Director “rubberstamped” the U.S. consulate’s determination without considering his evidence. Alternatively, the applicant asserts the Director abused his discretion in not finding extreme hardship to his U.S. citizen parent.

The record includes, but is not limited to: briefs; statements from the applicant, his mother and brother; and relationship documentation. 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 is the beneficiary of a Form I-130 his U.S. citizen mother filed on his behalf, as the unmarried son of a U.S. citizen. During his immigrant visa interview at the U.S. consulate in [REDACTED] Nigeria, on November 18, 2010, the applicant told the consular officer that he was unmarried. The record includes evidence showing that nearly two years later, on July 23, 2012, a Department of State investigator interviewed the applicant's eldest brother, [REDACTED] who said that the applicant was married and had one child. The record also shows that as a result, the Department of State changed the applicant's immigrant-visa classification from unmarried son of a U.S. citizen to married son of a U.S. citizen, and they found the applicant inadmissible under section 212(a)(6)(C)(i) of the Act.

With his Form I-601 and on appeal, the applicant asserts that he did not commit a material misrepresentation, because he became married after his 2010 immigrant-visa interview and before the Department of State investigator interviewed his brother in 2012. He submits a marriage certificate showing he was married in April 2011.

In his decision denying the applicant's Form I-601, the Director does not address the applicant's evidence supporting his assertion that he did not make a material misrepresentation at his immigrant-visa interview in 2010. Although the record reflects that the applicant submitted copies of his marriage certificate with his Form I-601 and again on appeal, the Director's decision does not include an analysis of this evidence and its effect on the inadmissibility finding. If the evidence establishes that the applicant is not inadmissible, the Director's conclusions regarding missing evidence concerning the applicant's qualifying relative become immaterial, because the applicant would not require a waiver or a qualifying relative. This matter therefore will be remanded to the Director to permit him an opportunity to evaluate the applicant's evidence contesting the inadmissibility finding.

As always in these proceedings, the burden of proof rests solely with the applicant. Section 291 of the Act, 8 U.S.C. § 1361.

**ORDER:** The case will be remanded to the Director for further consideration. If the Director issues a decision that is adverse to the applicant, he will certify his decision to the Administrative Appeals Office.