



**U.S. Citizenship  
and Immigration  
Services**

**Non-Precedent Decision of the  
Administrative Appeals Office**

MATTER OF V-D-P-

DATE: JAN. 5, 2016

APPEAL OF NEWARK FIELD OFFICE DECISION

APPLICATION: FORM I-601, APPLICATION FOR WAIVER OF GROUNDS OF  
INADMISSIBILITY

The Applicant, a native and citizen of Jamaica, seeks a waiver of inadmissibility. *See* Immigration and Nationality Act (INA & the Act) § 212(i), 8 U.S.C. § 1182(i). The Field Office Director, Newark, New Jersey, denied the application. The matter is now before us on appeal. The appeal will be dismissed.

The Applicant was found to be inadmissible to the United States pursuant to section 212(a)(6)(A)(i) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(a)(6)(A)(i), for having entered the United States without inspection. The Applicant's spouse is a U.S. citizen.

In a decision dated March 28, 2015, the Director found that the Applicant did not establish that she is inadmissible under section 212(a)(6)(C)(i) of the Act; she entered the United States without inspection and is inadmissible under 212(a)(6)(A) of the Act; and there is not a waiver available for inadmissibility under 212(a)(6)(A) of the Act. The Director denied the Form I-601, Application for Waiver of Grounds of Inadmissibility, accordingly.

On appeal, the Applicant asserts that she was inspected and admitted into the United States under an assumed name; that she qualifies to apply for a waiver of inadmissibility under section 212(i) of the Act for her inadmissibility under section 212(a)(6)(C)(i) of the Act; and that a waiver should be granted as a matter of discretion.

The record includes, but is not limited to, a brief, a partial copy of the passport with a visa that the Applicant purported to use to enter the United States, identity and relationship documents, financial records, an employment letter, medical records, and the Applicant's sworn statement. The entire record was reviewed and considered in rendering a decision on the appeal.

Section 212(a)(6)(A)(i) of the Act states, in pertinent parts:

(6) Illegal entrants and immigration violators.-

(A) ALIENS PRESENT WITHOUT admission or parole.-

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- (i) In general.-An alien present in the United States without being admitted or paroled, or who arrives in the United States at any time or place other than as designated by the Attorney General, is inadmissible.
- (ii) Exception for certain battered women and children.-Clause (i) shall not apply to an alien who demonstrates that-
  - (I) the alien is a VAWA self-petitioner;
  - (II)(a) the alien has been battered or subjected to extreme cruelty by a spouse or parent, or by a member of the spouse's or parent's family residing in the same household as the alien and the spouse or parent consented or acquiesced to such battery or cruelty, or
  - (b) the alien's child has been battered or subjected to extreme cruelty by a spouse or parent of the alien (without the active participation of the alien in the battery or cruelty) or by a member of the spouse's or parent's family residing in the same household as the alien when the spouse or parent consented to or acquiesced in such battery or cruelty and the alien did not actively participate in such battery or cruelty, and
  - (III) there was a substantial connection between the battery or cruelty described in subclause (I) or (II) and the alien's unlawful entry into the United States.

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.

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The Applicant claims that she entered the United States on January 7, 1992 under an assumed name at the [REDACTED] Florida airport. She claims that she paid someone for the visitor's visa and passport with her photo placed in it; and someone took the passport and Form I-94, Arrival-Departure Card, from her after she went through the immigration inspection process. The record includes a copy of the visa and entry stamp that the Applicant claims she used to enter the United States; and a partial copy of the passport that she claims she used to enter the United States. The Applicant cites to case law which reflects that using false documents to enter the United States is considered an inspection and admission.

The issue before us is whether the Applicant has established that she was inspected and admitted to the United States with the aforementioned passport and visa. The Applicant has not provided the Form I-94 and original passport and visa which she claims she was admitted to the United States with. In her February 3, 2015 sworn statement, she was asked how she was able to get copies of the passport pages if the passport was taken from her at the airport and she stated, "Because, I supposed [sic] to pay the rest of the money. I had to give me [sic] the paper, and then I gave them the rest of the money." Her reason does not establish how she was able to obtain copies of the passport pages. Furthermore, there is no evidence in government records that the Applicant was inspected and admitted to the United States on January 7, 1992 under her name or under the assumed name. There is no other evidence that the Applicant was inspected and admitted to the United States with a B-2 visitor's visa or in any other legal status. *Matter of Ho*, 19 I&N Dec. 582, 591-592 (BIA 1988), states, "It is incumbent on the petitioner to resolve any inconsistencies in the record by independent objective evidence, and attempts to explain or reconcile such inconsistencies, absent competent objective evidence pointing to where the truth, in fact, lies, will not suffice." We find that the Applicant entered the United States without inspection and admission. As such, she is inadmissible to the United States pursuant to section 212(a)(6)(A)(i) of the Act. There is no waiver for inadmissibility under section 212(a)(6)(A)(i) of the Act and the exception in section 212(a)(6)(A)(ii) of the Act does not apply. We find that she is not inadmissible under section 212(a)(6)(C)(i) for willfully misrepresenting herself to procure admission to the United States, and therefore she does not require a waiver under section 212(i) of the Act, and her hardship and discretionary claims will not be addressed.

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.

Cite as *Matter of V-D-P-*, ID# 14829 (AAO Jan. 5, 2016)