



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

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

MATTER OF S-A-A-

DATE: JAN. 21, 2016

APPEAL OF VERMONT SERVICE CENTER DECISION

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

The Applicant, who identifies himself as a native and citizen of Somalia, seeks a waiver of inadmissibility. *See* Immigration and Nationality Act (the Act) § 212(i), 8 U.S.C. § 1182(i). The Director, Vermont Service Center, 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)(C)(i) of the Act, 8 U.S.C. § 1182(i), for seeking admission into the United States through fraud or misrepresentation of a material fact. The Applicant seeks a waiver of inadmissibility pursuant to section 212(i) of the Act, 8 U.S.C. § 1182(i), in order to reside in the United States. On January 9, 2015, the Director denied the application finding that the Applicant could not overcome the ineligibility issues of the Applicant's Form I-821, Application for Temporary Protected Status.

On appeal, the Applicant asserts that he has presented adequate evidence to establish his identity and nationality. The Applicant addresses each statement that the Director found to be inconsistent. In support, the Applicant submits: affidavits from himself and two relatives; a copy of counsel's handwritten interview notes; maps and an article on Mogadishu; articles on Somali and Islamic customs related to birthdays; copies of the Applicant's Somali identification card and birth certificate; and articles on infrastructure in Mogadishu.

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 244 of the Act contains the eligibility standards for aliens applying for temporary protected status (TPS) and includes provisions for a waiver of most grounds of inadmissibility. Except as provided in clause (iii), the Secretary may waive certain provisions of section 212(a), including section 212(a)(6)(C), in the case of individual aliens for humanitarian purposes, to assure family

unity, or when it is otherwise in the public interest. Section 244(c)(2)(A)(ii) of the Act, 8 U.S.C. § 1254a(c)(2)(A)(ii).

The record establishes that at the time of his asylum interview on January 21, 2000, and in a declaration accompanying the Form I-821 filed July 8, 2012, the Applicant attested that on October 20, 1999, he presented fraudulent identity documentation for admission into the United States. On the Form I-601, part 6, the Applicant stated that he entered the United States with false papers. The record therefore establishes that the Applicant is inadmissible to the United States pursuant to section 212(a)(6)(C)(i) of the Act for procuring admission to the United States by fraud or willful misrepresentation of a material fact. The Applicant does not contest his inadmissibility on appeal.

The Applicant's Form I-821 was subsequently denied on January 15, 2015, as the Director determined that the Applicant was ineligible for temporary protected status because the Applicant had not credibly established his identity and that he is a national of Somalia. 8 C.F.R. § 244.9(a)(1). The Director, in denying the Form I-601, determined that the Form I-601 cannot be used as a basis to overcome the eligibility grounds for TPS. We affirmed the Director's findings, and a decision on the appeal of the Form I-821 denial will be provided under separate cover.

In our decision on the I-821 denial, we affirmed that the Applicant has not demonstrated his nationality and identity, and consequently, that he is eligible for TPS under section 244 of the Act. Although the Applicant's inadmissibility under section 212(a)(6)(C) of the Act may be waived pursuant to section 244(c)(2) of the Act and 8 C.F.R. §244.3(b), in light of the Applicant's ineligibility for TPS under 8 C.F.R. § 244.9(a)(1), which he has not overcome, we need not address whether the Applicant merits a waiver.

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 S-A-A-*, ID# 14986 (AAO Jan. 21, 2016)