



U.S. Citizenship
and Immigration
Services

[REDACTED]

H6

Date: NOV 03 2012 Office: DETROIT, MI FILE: [REDACTED]

IN RE: [REDACTED]

APPLICATION: Application for Waiver of Grounds of Inadmissibility under section 212(a)(9)(B) of the Immigration and Nationality Act, 8 U.S.C. § 1182(a)(9)(B) and section 212(i) of the Immigration and Nationality Act, 8 U.S.C. § 1182(i)

ON BEHALF OF APPLICANT:

SELF-REPRESENTED

INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office in your case. All of the documents related to this matter have been returned to the office that originally decided your case. Please be advised that any further inquiry that you might have concerning your case must be made to that office.

If you believe the AAO inappropriately applied the law in reaching its decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen in accordance with the instructions on Form I-290B, Notice of Appeal or Motion, with a fee of \$630. The specific requirements for filing such a motion can be found at 8 C.F.R. § 103.5. **Do not file any motion directly with the AAO.** Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires any motion to be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you,

Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The waiver application was denied by the Field Office Director, Detroit, Michigan. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The applicant is a native of Iran and a citizen of Canada 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 having attempted to procure entry into the United States by fraud or willful misrepresentation and section 212(a)(9)(B)(i)(II) of the Act, 8 U.S.C. § 1182(a)(9)(B)(i)(II), for having been unlawfully present in the United States for more than one year and seeking readmission within ten years of his last departure from the United States. The applicant is the brother of a U.S. citizen and has two U.S. citizen children. He seeks a waiver of inadmissibility in order to reside in the United States.

In a decision, dated December 2, 2010, the field office director found that the applicant was not the spouse or son of a U.S. citizen or lawful permanent resident and thus, lacked the qualifying relationship to be eligible to apply for a waiver of inadmissibility under sections 212(i) and 212(a)(9)(B)(i) of the Act. The application was denied accordingly.

On appeal, the applicant states that he did not overstay his visa, that he is frustrated by his being told to apply for a waiver when he did not qualify for one, that he has been living or traveling to the United States for several years on various types of visas, and that he is a highly skilled engineer.

The record indicates that the applicant entered the United States in 1992 using a passport that did not contain his true identity. The applicant does not contest this ground of inadmissibility on 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.

Because the applicant is inadmissible under section 212(a)(6)(C) of the Act, his potential inadmissibility under section 212(a)(9)(B)(i)(II) of the Act is of no consequence to this application and will not be discussed further.

A waiver for inadmissibility under section 212(a)(6)(C) of the Act is provided for under section 212(i) of the Act.

Section 212(i) of the Act provides that:

- (1) The Attorney General [now the Secretary of Homeland Security (Secretary)] may, in the discretion of the Attorney General [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 Attorney General [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 does not indicate that the applicant is the spouse or son of a U.S. citizen or lawful permanent resident. The previous instructions from the Detroit, Michigan field office to submit a waiver application were not correct. The applicant does not have the requisite qualifying relationship to be eligible to apply for a waiver of inadmissibility.

In proceedings for application for waiver of grounds of inadmissibility under section 212(i) of the Act, the burden of proving eligibility remains entirely with the applicant. *See* section 291 of the Act, 8 U.S.C. § 1361. Here, the applicant has not met that burden. Accordingly, the appeal will be dismissed.

ORDER: The appeal is dismissed.