



U.S. Citizenship
and Immigration
Services

(b)(6)

DATE: **FEB 14 2014**

Office: ANAHEIM

IN RE:

APPLICATION: Application for Waiver of Grounds of Inadmissibility under Section 212(d)(11) of the Immigration and Nationality Act, 8 U.S.C. § 1182(d)(11)

ON BEHALF OF APPLICANT:

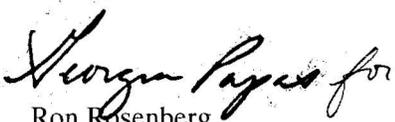
SELF-REPRESENTED

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. If you believe the AAO incorrectly applied current law or policy to your case or if you seek to present new facts for consideration, you may file a motion to reconsider or a motion to reopen, respectively. Any motion must be filed on a Notice of Appeal or Motion (Form I-290B) within 33 days of the date of this decision. **Please review the Form I-290B instructions at <http://www.uscis.gov/forms> for the latest information on fee, filing location, and other requirements. See also 8 C.F.R. § 103.5. Do not file a motion directly with the AAO.**

Thank you,



Ron Rosenberg
Chief, Administrative Appeals Office

DISCUSSION: The waiver application was denied by the International Adjudications Support Branch (Anaheim) on behalf of the Field Office Director, Ciudad Juarez, Mexico, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The applicant is a native and citizen of Mexico who was found to be inadmissible to the United States pursuant to section 212(a)(6)(E) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(a)(6)(E), for having knowingly encouraged, induced, assisted, abetted, or aided another alien to enter or to try to enter the United States in violation of law. She seeks a waiver of inadmissibility in order to reside in the United States.

The Field Office Director concluded that the applicant had failed to establish that she was eligible for a waiver under section 212(d)(11) of the Act, as the individual that she assisted in trying to enter the United States in violation of law was not her spouse, parent, son or daughter; and the Field Office Director denied the Form I-601, Application for Waiver of Grounds of Inadmissibility (Form I-601), accordingly. *Decision of the Field Office Director*, dated July 24, 2013.

On appeal, the applicant's U.S. citizen daughter asserts that the applicant has initiated the adoption process for the child she assisted in trying to enter the United States in violation of law. *See Form I-290B, Notice of Appeal or Motion (I-290B)*, dated August 24, 2013. The applicant submits Mexican court documents concerning the correction of birth records and other records for the child.

The record includes, but is not limited to, Form I-290B, the Form I-601, a Mexican court document, a baptism document, a doctor's letter and the applicant's daughter's statements. The entire record was reviewed and considered in rendering a decision on the appeal.

The record reflects that on or about October 25, 2004, the applicant helped her spouse apply for a visa for a minor child, [REDACTED] by helping her spouse prepare documents for the visa interview. The child was given to the applicant and her spouse by a midwife, and the natural mother never registered the child as her own. The midwife instead filled out a birth certificate naming the applicant and her spouse as the child's biological parents. The record does not contain evidence that the minor child was the biological or adopted child of the applicant's spouse when he applied for the visa on the child's behalf. The record reflects that the applicant assisted [REDACTED] in trying to enter the United States in violation of law and is therefore inadmissible under section 212(a)(6)(E) of the Act. The applicant does not contest the finding of inadmissibility.

Section 212(a)(6)(E) of the Act provides, in pertinent part, that:

- (i) In general-Any alien who at any time knowingly has encouraged, induced, assisted, abetted, or aided any other alien to enter or to try to enter the United States in violation of law is inadmissible.

- (ii) Waiver authorized-For provision authorizing waiver of clause (i), see subsection (d)(11).

Section 212(d)(11) of the Act provides, in pertinent part, that:

(11) The Attorney General [now Secretary of Homeland Security] may, in his discretion for humanitarian purposes, to assure family unity, or when it is otherwise in the public interest, waive application of clause (i) of subsection (a)(6)(E) in the case of . . . an alien seeking admission or adjustment of status as an immediate relative or immigrant under section 203(a) (other than paragraph (4) thereof), if the alien has encouraged, induced, assisted, abetted, or aided only an individual who at the time of the offense was the alien's spouse, parent, son, or daughter (and no other individual) to enter the United States in violation of law.

The applicant's daughter states that the applicant and her spouse have initiated the formal adoption of [REDACTED]; the initial paperwork accompanies the appeal; and the adoption process takes eight to twelve months. The record includes a court document related to the annulment of [REDACTED]'s birth certificate and his baptism certificate. The applicant also submits school and insurance records, some of which name the applicant as [REDACTED]'s mother. The documents submitted, however, do not establish that [REDACTED] was the applicant's child when the applicant's spouse submitted a visa application on his behalf.

As noted above, a waiver under section 212(d)(11) of the Act is available only to individuals whose smuggling violations involved encouraging, inducing, assisting, abetting, or aiding a spouse, parent, son, or daughter to enter the United States unlawfully. Section 212(d)(11) of the Act does apply to the applicant as the person she assisted in trying to enter the United States was not her spouse, parent, son, or daughter at the time of the offense. The applicant therefore is statutorily ineligible to apply for a waiver of her 212(a)(6)(E)(i) inadmissibility and is permanently barred from entering the United States. Having found the applicant statutorily ineligible for relief, no purpose would be served in discussing whether she merits a waiver as a matter of discretion.

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. Accordingly, the appeal will be dismissed.

ORDER: The appeal is dismissed.