



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

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

MATTER OF W-B-G-

DATE: APR. 12, 2016

APPEAL OF NEBRASKA SERVICE CENTER DECISION

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

The Applicant, a native and citizen of Sri Lanka, seeks a waiver of inadmissibility for alien smuggling. *See* Immigration and Nationality Act (the Act) § 212(d)(11), 8 U.S.C. § 1182(d)(11). A foreign national seeking to be admitted to the United States as an immigrant or to adjust to lawful permanent resident (LPR) status must be admissible or receive a waiver of inadmissibility. U.S. Citizenship and Immigration Services (USCIS) may grant this discretionary waiver to serve humanitarian purposes, to assure family unity, or when it is otherwise in the public interest, if the individual smuggled was at that time a qualifying relative.

The Director, Nebraska Service Center, denied the application. The Director concluded that the Applicant was not eligible for a waiver under section 212(d)(11) of the Act because the individual he assisted in attempting to enter the United States in violation of law was not his spouse, parent, son, or daughter, but his son-in-law.

The matter is now before us on appeal. In the appeal, the Applicant claims that a son-in-law is the same as a son in Sri Lankan traditional values, that he submitted fraudulent documents on his son-in-law's behalf so that he could reunite with his wife and child (the Applicant's daughter and grandchild), and that he did not receive any remuneration or any other benefit for assisting his son-in-law.

Upon *de novo* review, we will dismiss the appeal.

I. LAW

The Applicant is seeking admission as an immigrant and has been found inadmissible for alien smuggling, specifically for assisted his son-in-law in an attempt to obtain a nonimmigrant visa and entry to the United States under a false identity. Section 212(a)(6)(E) of the Act provides, in pertinent part:

- (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.

....

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

Section 212(d)(11) of the Act provides:

The Attorney General [now Secretary, Department of Homeland Security, "Secretary"] 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 such action was the alien's spouse, parent, son, or daughter (and no other individual) to enter the United States in violation of law.

II. ANALYSIS

The issue on appeal is whether the Applicant was properly found ineligible for a waiver under section 212(d)(11) of the Act because the individual he assisted in attempting to enter the United States in violation of law was not his spouse, parent, son, or daughter, but his son-in-law. On appeal, the Applicant states that he considers his son-in-law to be just like his own son and indicates that he did not receive any money or benefit to assist his son-in-law and that his son-in-law is now in the United States after obtaining an immigrant visa. The record does not establish that the individual the Applicant attempted to smuggle is a qualifying relative for purposes of section 212(d)(11) of the Act. We therefore find that the Applicant's inadmissibility under section 212(a)(6)(E) cannot be waived.

A. Inadmissibility

As stated above, the Applicant has been found inadmissible under section 212(a)(6)(E) of the Act for alien smuggling, specifically for assisted his son-in-law in an attempt to obtain a nonimmigrant visa and entry to the United States under a false identity. The record reflects that in November 2004, the Applicant provided false information and fraudulent documents, including a passport under a false name, for his son-in-law in support of his application for a nonimmigrant visa to the United States. On appeal, the Applicant states that he did not receive any money or benefit to assist his son-in-law. However, section 212(a)(6)(E) of the Act does not require the receipt of money or other benefit for an inadmissibility finding, but provides that an individual is inadmissible for knowingly having "encouraged, induced, assisted, abetted, or aided any other alien to enter or to try to enter the United States in violation of law." The record indicates that the Applicant assisted his son-in-law in an attempt to obtain a visa and entry to the United States under a false identity and submitted the application, along with fraudulent documentation, on his behalf. As a result, he is inadmissible under section 212(a)(6)(E) of the Act.

B. Waiver

The Applicant is the beneficiary of an approved Petition for Alien Relative (Form I-130) filed on his behalf by his U.S. citizen daughter and seeks a waiver of inadmissibility pursuant to section 212(d)(11) of the Act, which requires that the individual smuggled be the spouse, parent, son, or daughter of the Applicant. The Applicant states that he considers his son-in-law to be just like his own son and that a son-in-law is the same as a son in Sri Lankan traditional values and addresses his father-in-law as father in Sri Lanka. He additionally indicates that after his son-in-law failed two times to obtain a visa to join his family, the Applicant felt desperate, causing him to submit fraudulent documents on his son-in-law's behalf so that he could reunite with the Applicant's daughter and grandchild.

Although the Applicant would be eligible to apply for a waiver under section 212(d)(11) of the Act if the incident for which he is inadmissible involved the Applicant's son or daughter, rather than his son-in-law, the Act does not define a son or daughter to include a son-in-law. *See* section 101(b)(1) of the Act, 8 U.S.C. § 1101(b)(1) (defining "child" for immigration purposes). Thus, the Applicant is not eligible for a waiver because he assisted an individual other than his spouse, parent, son, or daughter to try to enter the United States unlawfully. Accordingly, the Applicant's waiver application was properly denied, and he remains inadmissible to the United States pursuant to section 212(a)(6)(E)(i) of the Act.

III. CONCLUSION

The Applicant has the burden of proving eligibility for a waiver of inadmissibility. *See* section 291 of the Act, 8 U.S.C. § 1361. The Applicant has not met that burden. Accordingly, we dismiss the appeal.

ORDER: The appeal is dismissed.

Cite as *Matter of W-B-G-*, ID# 16043 (AAO Apr. 12, 2016)