



U.S. Citizenship
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FILE: 

Office: St. Paul (Bloomington)

Date: **OCT 17 2005**

IN RE: Applicant: 

APPLICATION: Application for Temporary Protected Status under Section 244 of the Immigration and Nationality Act, 8 U.S.C. § 1254

ON BEHALF OF APPLICANT:



INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

Robert P. Wiemann
Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The application was denied by the District Director, St. Paul, Minnesota, and is now before the Administrative Appeals Office (AAO) on appeal. The case will be remanded to the District Director for further consideration and action.

The applicant claims to be a citizen of Somalia who indicated on her application that she entered the United States without a lawful admission or parole in December 2000. The District Director determined that the applicant used a false Kenyan passport to gain entry into the United States. The District Director concluded that the applicant was ineligible for TPS because she was inadmissible under section 212(a)(6)(C) of the Act and denied the application for Temporary Protected Status (TPS) on August 18, 2004.

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(a)(6)(C) of the Act.

Citizenship and Immigration Services (CIS) may waive inadmissibility under section 212(a)(6)(C) of the Act in the case of individual aliens for humanitarian purposes, to assure family unity, or when the granting of such a waiver is in the public interest. If an alien is inadmissible on grounds that may be waived, he or she shall be advised of the procedures for applying for a waiver of grounds of inadmissibility on Form I-601 (Application for Waiver of Grounds of Excludability). 8 C.F.R. § 244.3(b).

In this case, the District Director failed to notify the applicant of the availability of the waiver. Nevertheless, the applicant submitted a Form I-601 application with her appeal (receipt # [REDACTED]). There is no indication in the record that the District Director adjudicated the Form I-601 application. Therefore, the case will be remanded and the District Director shall fully adjudicate the Form I-601, Application for Waiver of Grounds of Excludability. The District Director may request any evidence deemed necessary to assist with the determination of the applicant's eligibility for a waiver. As always in these proceedings, the burden of proof rests solely with the applicant. Section 291 of the Act, 8 U.S.C. 1361.

ORDER: The case is remanded to the District Director for further action in accordance with the foregoing.