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U.S. Department of Homeland Security
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Washington, DC 20536

U.S. Citizenship and Immigration Services

[redacted]

FILE: [redacted] Office: MIAMI, FLORIDA Date: JUN 03 2004

IN RE: [redacted]

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

ON BEHALF OF APPLICANT: SELF-REPRESENTED

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, Director
Administrative Appeals Office

DISCUSSION: The waiver application was denied by the District Director, Miami, Florida, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The applicant is a native and citizen of Haiti who was found to be inadmissible to the United States under 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 admission into the United States by fraud or willful misrepresentation on December 10, 1994. The applicant seeks a waiver of inadmissibility pursuant to section 212(i) of the Act in order to remain in the United States.

The district director found that based on the evidence in the record, the applicant had failed to establish the requisite relationship for waiver eligibility. The application was denied accordingly. *Decision of the District Director*, dated January 11, 2001.

On appeal, the applicant contends that he is qualified to adjust status under the Haitian Refugee Immigrant Fairness Act of 1998, Pub. L. 105-277 (HRIFA). He asserts that he relied on HRIFA to receive his green card. *Form I-290B*, dated January 27, 2001.

The entire record was reviewed and considered in rendering a decision on the appeal.

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

> (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 212(i) of the Act provides:

> (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 reflects that the applicant attempted to procure entry into the United States on or about December 10, 1994 by presenting an immigration officer at Miami, Florida with a fraudulent I-551 Permanent Resident Card in the name of Charles Jadotte.

A section 212(i) waiver of the bar to admission resulting from violation of section 212(a)(6)(C) of the Act is dependent first upon a showing that the bar imposes an extreme hardship to *the citizen or lawfully resident spouse or parent of the applicant.* Hardship the alien himself experiences upon deportation is irrelevant to section 212(i) waiver proceedings.

The record demonstrates that the applicant is married to a native of Haiti. The record does not establish that the applicant's spouse is either a lawful permanent resident or naturalized citizen of the United States. Therefore, the AAO finds that the applicant has not established a relationship with a qualifying relative as required by section 212(i) of the Act and, based on the record, the applicant is ineligible for a waiver of his inadmissibility to the United States.

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.