



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

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

In Re: 22745816

Date: OCT. 4, 2022

Appeal of Atlanta, Georgia Field Office Decision

Form I-601, Application to Waive Inadmissibility Grounds

The Applicant is a native and citizen of Mexico who seeks a waiver of inadmissibility under section 212(i) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(i), to adjust status to that of a lawful permanent resident.

The Director of the Atlanta, Georgia Field Office denied the Form I-601, concluding that the Applicant was inadmissible under section 212(a)(6)(C)(i) of the Act for misrepresentation, and that the record did not establish that her U.S. citizen spouse, the only qualifying relative, would face extreme hardship if the Applicant is unable to remain in the United States. On appeal, the Applicant argues that the Director erred.

In these proceedings, it is the Applicant's burden to establish eligibility for the requested benefit. Section 291 of the Act, 8 U.S.C. § 1361. Upon *de novo* review, we will dismiss the matter as moot.

Any foreign national 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 the Act, is inadmissible. Section 212(a)(6)(C)(i) of the Act.

The Director indicated that when the Applicant entered the United States without inspection in or about [] 2005, she used a name and date of birth she knew was not hers when she was encountered by U.S. Customs and Border Protection (USCBP). Furthermore, the Director noted that the Applicant did not disclose her use of this false name and date of birth on her adjustment of status application and during her first adjustment of status interview. The Director determined that consequently the Applicant was inadmissible for fraud or misrepresentation under section 212(a)(6)(C)(i) of the Act. However, those actions do not reflect that the Applicant sought to procure a visa, admission into the United States, or a benefit under the Act. Illustrative examples of a benefit under the Act include requests for extension of nonimmigrant stay, change of nonimmigrant status, permission to re-enter the United States, waiver of the two-year foreign residency requirement, employment authorization, parole, voluntary departure, adjustment of status, and requests for stay of deportation. See 8 USCIS Policy Manual 3.B(3), <https://www.uscis.gov/policymanual>.

As such, the Applicant's use of a false name, and date of birth, during an encounter with USCBP did not constitute an attempt to obtain a benefit under the Act, or a request for other documentation, such as a re-entry permit, a refugee travel document, a border crossing card, or a U.S. passport. 8 *USCIS Policy Manual, supra*, at 3.B(2). The Applicant's failure to disclose her use of a false name and date of birth on her adjustment of status application and during her first interview was rectified by her disclosure of these facts during her second adjustment of status interview.

We therefore conclude that the Applicant is not inadmissible under section 212(a)(6)(C)(i) of the Act. As this is the sole inadmissibility identified in the Director's denial, the Applicant consequently does not require a waiver based on the Director's current inadmissibility finding. Thus, the appeal is dismissed as moot.

ORDER: The appeal is dismissed.