

**In Re: 13010888**

**Administrative Appeals Office**

**13010888**

**APR. 12, 2021**

Appeal of San Juan, Puerto Rico Field Office  
Decision

Form I-601, Application to Waive Inadmissibility  
Grounds

The Applicant, a native and citizen of the Dominican Republic, seeks a waiver of inadmissibility under section 212(h) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(h).

The Director of the San Juan, Puerto Rico Field Office denied the application, concluding that, in addition to being inadmissible under section 212(a)(2)(A)(i) of the Act for a crime involving moral turpitude, the Applicant was also inadmissible under section 212(a)(6)(C)(ii)(I), for making a false claim to U.S. citizenship, for which there is no waiver.

The Applicant bears the burden of proof to establish eligibility for the requested benefit by a preponderance of the evidence. Section 291 of the Act, 8 U.S.C. § 1361; *Matter of Chawathe*, 25 I&N Dec. 369, 375 (AAO 2010). Upon *de novo* review, we will dismiss the appeal.

## I. LAW

A foreign national convicted of (or who admits having committed, or who admits committing acts which constitute the essential elements of) a crime involving moral turpitude (other than a purely political offense) or an attempt or conspiracy to commit such a crime is inadmissible. Section 212(a)(2)(A)(i) of the Act.

Individuals found inadmissible under section 212(a)(2)(A)(i) of the Act may seek a discretionary waiver of inadmissibility under section 212(h) of the Act. Where the activities resulting in

inadmissibility occurred more than 15 years before the date of the application, a discretionary waiver is available if admission to the United States would not be contrary to the national welfare, safety, or security of the United States, and the foreign national has been rehabilitated. Section 212(h)(1)(A) of the Act. A discretionary waiver is also available if denial of admission would result in extreme hardship to a United States citizen or lawful permanent resident spouse, parent, son, or daughter. Section 212(h)(1)(B) of the Act. Finally, if a foreign national demonstrates his eligibility under section 212(h)(1)(A) or (B) of the Act, USCIS must then decide whether to exercise its discretion favorably and consent to the foreign national's admission to the United States. Section 212(h)(2) of the Act.

Section 212(a)(6)(C)(ii)(I) of the Act provides that a foreign national who, on or after September 30, 1996, falsely represents, or has falsely represented, themselves to be a U.S. citizen for any purpose or

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benefit under the Act or any other Federal or State law is inadmissible. There is no comparable waiver of the ground of inadmissibility. *See id.*

## II. ANALYSIS

The Director determined that the Applicant was inadmissible under section 212(a)(6)(C)(ii) for making a false claim to U.S. citizenship because he fraudulently obtained [Name redacted] identification card under the name of a U.S. citizen born in Puerto Rico in [Name redacted] 2000, as well as a Puerto Rico driver's license by claiming that he had been born in Puerto Rico.

On appeal, the Applicant contests his inadmissibility under section 212(a)(6)(C)(ii) of the Act. He concedes that he purchased the [Name redacted] identification card and social security card to work and support his family. He also concedes that he obtained a driver's license in Puerto Rico. He contends however, that Puerto Rico law allowed foreign nationals with no legal

status to obtain driver's licenses. He further contends that he has never falsely claimed to be a U.S. citizen and has always stated that he was a citizen of the Dominican Republic.

In order to be found inadmissible under section 212(a)(6)(C)(ii)(I) of the Act, there must be evidence that a foreign national made a false representation of U.S. citizenship for any purpose or benefit under the Act or any other federal or state law. Upon *de novo* review, we agree with the Director's finding that the Applicant is inadmissible under section 212(a)(6)(C)(ii)(I), for a false claim to U.S. citizenship. The record contains evidence that the Applicant obtained a Puerto Rico Class 3 driver's license in [Name redacted] 2018 by claiming that he was born in Puerto Rico. We acknowledge the Applicant's assertion that Puerto Rico law allows foreign nationals to obtain driver's licenses.<sup>1</sup> Nevertheless, that legislation does not change the fact that the Applicant applied for and obtained a license in 2018 by claiming he was born in Puerto Rico.<sup>2</sup> As stated above, the explicit language of section 212(a)(6)(C)(ii)(I) of the Act renders an individual inadmissible for making a false claim to U.S. citizenship "for any purpose or benefit under this Act . . . or any other Federal or State law" (emphasis added). Here, the Applicant has not demonstrated that a driver's license is not a benefit under State law.

While we acknowledge the Applicant's arguments that he is eligible for a waiver under section 212(h) of the Act, the record indicates that he is also inadmissible under section 212(a)(6)(C)(ii)(I). Under the Act, there is no waiver for a false claim to U.S. citizenship, and the only exception is reserved for an individual who permanently resided in the United States prior to age 16, and reasonably believed that they were a U.S. citizen □ circumstances not applicable here. As there is no waiver of this

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inadmissibility, we need not determine whether the Applicant has met the requirements for a waiver under section 212(h) of the Act.

**ORDER:** The appeal is dismissed.

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Notes:

<sup>1</sup> The government of Puerto Rico passed legislation in 2014 allowing individuals who cannot show proof of authorized presence in Puerto Rico, but who have lived in Puerto Rico for at least one year to obtain three-year provisional driver's license. See National Immigration Law Center, State Laws Providing Access to Driver's Licenses or Cards, Regardless of Immigration Status, available at <https://www.nilc.org/wp-content/uploads/2015/11/drivers-license-access-table.pdf> (summarizing the applicability of the legislation).

<sup>2</sup> The record also contains evidence that the Applicant obtained a Puerto Rico driver's license in 2008. At that time, Puerto Rico law required individuals to show, among other things, that they had documentation attesting that they were a United States citizen or national, a foreign national with permanent or temporary legal status or valid visa, or that they had requested or been granted political asylum as a refugee. Laws of Puerto Rico Annotated § 5056 (West 2000). However, the Applicant was never a U.S. citizen, and there is no evidence indicating that he had permanent or temporary legal status, a valid visa, or had been granted political asylum in 2008.

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