

U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Tucson Field Office
4475 S. Coach Drive
Tucson, AZ 85714



U.S. Citizenship
and Immigration
Services

Date: **MAR 19 2020**

Irang Im GUERRERO
1201 Colombo Ave., Apt 17203
Sierra Vista, Az 85635

File Number: A208955115-cla
Receipt Number: MSC1991158279

NOTICE OF INTENT TO DENY

Dear Irang Im GUERRERO:

Thank you for submitting Form I-485, Application to Register Permanent Residence or Adjust Status, to U.S. Citizenship and Immigration Services (USCIS) under section 245 of the Immigration and Nationality Act (INA).

After a thorough review of your application, the testimony provided during your interview, and the record of evidence, unfortunately, we must inform you that we intend to deny your application for the following reason(s).

Generally, to qualify for adjustment of status under INA 245, an applicant must:

- Be inspected and admitted or paroled into the United States;
- Be eligible to receive an immigrant visa;
- Be admissible to the United States for permanent residence; and
- Have an immigrant visa immediately available at the time the application is filed.

Statement of Facts and Analysis, Including Ground(s) for Denial

I. Background Facts and Procedural History

You filed Form I-485 based on being the beneficiary of an approved visa petition as the spouse of a United States citizen. The visa petition was filed on March 14, 2018 and was later approved by consulate processing on September 20, 2018.

USCIS received your Form I-485 on June 5, 2019, and on December 10, 2019, you appeared for an interview to determine your eligibility for adjustment of status. During the interview and review of your application with an Immigration Services Officer, you testified that the information on your Form I-485, along with any amendments made during the adjustment interview, and supporting documents were true and correct.

II. Issue

In order for your Form I-485 to be approved, you must establish that you are admissible to the United States for permanent residence and have not misrepresented yourself to an immigration officer.

III. Applicable Law (Rule)

Pursuant to section 212(a)(6)(C)(i) of the INA, an applicant will be found inadmissible when he or she seeks to procure, by willfully misrepresenting a material fact, entry into the United States or any other immigration benefit.

IV. Analysis and Discussion

On June 5, 2019, you filed a Form I-485 and on December 10, 2019, you appeared for an interview to determine your eligibility for adjustment of status.

During this interview, you testified under oath that you first attempted to enter the United States on March 2, 2018 with a valid ESTA application. On March 2, 2018, you stated the purpose of your entry to the United States was to visit your friend, Jordan Guerrero. You were then placed under oath by a Customs and Border Patrol (CBP) officer the CBP officer specifically asked you if your friend was your boyfriend and you first denied it. Later, you admitted that you had denied your true relationship with Mr. Guerrero because you were afraid to be sent back to Korea. The CBP officer then asked you why you withheld information that you were entering to get married. You stated that you were scared and acknowledged that you withheld this information in order to facilitate your entry to the United States. You were then denied entry into the United States.

On December 26, 2018, you were authorized a K-1 Fiancé visa and your last entry to the United States was on February 20, 2019. You were married to Jordan Guerrero on February 21, 2019.

On December 10. 2019, during your I-485 interview, you admitted to the U.S. Citizenship and Immigration Officer (Officer) that you had misrepresented yourself at the port of entry when you attempted to enter with a valid ESTA application on March 2, 2018. You stated that on March 2, 2018, you had stated to the CBP officer that you were entering to visit your friend, Jordan Guerrero and had denied he was your fiancé and the purpose of your entry was to adjust your status to a permanent resident.

Based on the testimony you provided during your interview, it appears that you are inadmissible to the United States for willfully misrepresenting to a CBP officer your true purpose of entering the United States. Due to your willful misrepresentation, you are inadmissible pursuant to Section 212(a)(6)(C)(i) of the INA. That section states, in pertinent parts:

Except as otherwise provided in this Act, aliens who are inadmissible under the following paragraphs are ineligible to receive visas and ineligible to be admitted to the United States.

(6) Illegal entrants and immigration violators.-

(C) Misrepresentation. -

- (i) In general.-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.

USCIS has determined that you are inadmissible to the United States pursuant to section 212(a)(6)(C)(i) of the INA. You are, however, eligible to file a Form I-601, Application for Waiver of Ground of Inadmissibility, in order to overcome this finding. The filing of Form I-601 does not guarantee that you will overcome your inadmissibility, but rather will allow you to present evidence showing that the refusal of your admission would result in extreme hardship to a qualifying relative.

The provisions for a waiver of inadmissibility under Section 212(a)(6)(C)(i) are found in Section 212(i) of the Act, which states, in pertinent part:

- (1) USCIS may, in its discretion, waive the application of clause (i) of subsection (a)(6)(C) in the case of an immigrant who is the spouse, son, or daughter of a United States citizen or lawful permanent resident, if it is established to the satisfaction of USCIS that the refusal of such immigrant alien's admission to the United States would result in extreme hardship to the alien's citizen or permanent resident spouse or parent...

The key term in the provision is "extreme", and thus, only in cases of great or prospective hardship to a qualifying relative will the bar to admission be removed. The term "extreme hardship" is not defined in statute; therefore, it is necessary to rely on precedent decisions of USCIS for guidance in determining extreme hardship in specific cases. (See: Matter of Ngai, 19 I&N Dec. 245, Matter of Shaughnessy, 12 I&N Dec. 810, Matter of W-, 9 I&N Dec. 1). A common thread that runs through these decisions is that extreme hardship constitutes something more than the usual hardship that is encountered by the move of a United States citizen or permanent resident alien to a different country, or by the usual hardship incurred in a separation.

In other cases of extreme hardship it has been found that individual factors such as the loss of employment, the inability to maintain one's present standard of living or to pursue a chosen profession, the separation of a family member or cultural readjustment do not, by themselves, constitute extreme hardship. [See: Matter of Pilch, Interim Decision #3298; Marquez-Medina v. INS, 765 F.2d 673 (7th Cir. 1985); Banks v. INS, 594 F.2d 760 (9th Cir. 1979); Matter of Kojoory, 12 I&N Dec 215.] Although not limited to these circumstances, extreme hardship has been found in cases where a qualifying party is physically unable to care for him/herself and unable to return to the alien's homeland, or where the qualifying party has contracted a life-threatening disease for which treatment is available in the United States but not in the alien's homeland.

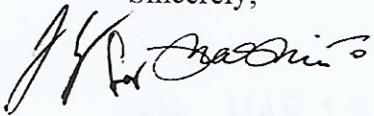
V. Conclusion

Accordingly, USCIS intends to deny your I-485 application for willful misrepresentation of a material fact. Through this letter, you are granted the opportunity to submit evidence that you are not inadmissible to the United States or to file Form I-601, Application for Waiver of Ground of Inadmissibility, as discussed above.

You are hereby granted thirty (30) days from the date of this letter to either submit such documentation or to file Form I-601 with evidence of eligibility. Failure to respond within that period will result in the denial of your application upon the above stated grounds of ineligibility. If you believe you are eligible and choose to file a Form I-601, that form must be filed in accordance with the instructions to that form. [Note: Form I-601

cannot be filed at this office]. Form I-601 and further information, including filing location and fees, can be found at www.uscis.gov. Please note that pursuant to Title 8, Code of Federal Regulations, Part 103.2(b)(8)(iv) additional time to respond to the notice of intent to deny cannot be granted.

Sincerely,



Julie M. Hashimoto
Field Office Director
Tucson, Arizona