

to an alien who was exempted from the contract laborer provisions of section 3 of the Immigration Act of February 5, 1917, as amended, through the exercise, expressly or impliedly, of the 4th or 9th provisos to section 3 of that act.

(j) *Erroneous admission as United States citizens or as children of citizens.* (1)(i) An alien for whom there exists a record of admission prior to September 11, 1957, as a United States citizen who establishes that at the time of such admission he was the child of a United States citizen parent; he was erroneously issued a United States passport or included in the United States passport of his citizen parent accompanying him or to whom he was destined; no fraud or misrepresentation was practiced by him in the issuance of the passport or in gaining admission; he was otherwise admissible at the time of entry except for failure to meet visa or passport requirements; and he has maintained a residence in the United States since the date of admission, or (ii) an alien who meets all of the foregoing requirements except that if he were, in fact, a citizen of the United States a passport would not have been required, or it had been individually waived, and was erroneously admitted as a United States citizen by a Service officer. For the purposes of all of the foregoing, the terms *child* and *parent* shall be defined as in section 101(b) of the Immigration and Nationality Act, as amended.

(2) An alien admitted to the United States before July 1, 1948, in possession of a section 4(a) 1924 Act nonquota immigration visa issued in accordance with State Department regulations, including a child of a United States citizen after he reached the age of 21, in the absence of fraud or misrepresentation; a member of a naturalized person's family who was admitted to the United States as a United States citizen or as a section 4(a) 1924 Act nonquota immigrant on the basis of that naturalization, unless he knowingly participated in the unlawful naturalization of the parent or spouse rendered void by cancellation, or knew at any time prior to his admission to the United States of the cancellation; and a member of a naturalized person's family who knew at any time prior to

his admission to the United States of the cancellation of the naturalization of his parent or spouse but was admitted to the United States as a United States citizen pursuant to a State Department or Service determination based upon a then prevailing administrative view, provided the State Department or Service knew of the cancellation.

[23 FR 9119, Nov. 26, 1958, as amended at 24 FR 2583, Apr. 3, 1959; 24 FR 6476, Aug. 12, 1959; 25 FR 581, Jan. 23, 1960; 31 FR 535, Jan. 15, 1966]

§ 101.2 Presumption of lawful admission; entry under erroneous name or other errors.

An alien who entered the United States as either an immigrant or non-immigrant under any of the following circumstances shall be regarded as having been lawfully admitted in such status, except as otherwise provided in this part: An alien otherwise admissible whose entry was made and recorded under other than his full true and correct name or whose entry record contains errors in recording sex, names of relatives, or names of foreign places of birth or residence, provided that he establishes by clear, unequivocal, and convincing evidence that the record of the claimed admission relates to him, and, if entry occurred on or after May 22, 1918, if under other than his full, true and correct name that he also establishes that the name was not adopted for the purpose of concealing his identity when obtaining a passport or visa, or for the purpose of using the passport or visa of another person or otherwise evading any provision of the immigration laws, and that the name used at the time of entry was one by which he had been known for a sufficient length of time prior to making application for a passport or visa to have permitted the issuing authority or authorities to have made any necessary investigation concerning him or that his true identity was known to such officials.

[32 FR 9622, July 4, 1967]