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U.S. Department of Homeland Security

Bureau of Citizenship and Immigration Services

ADMINISTRATIVE APPEALS OFFICE
425 Eye Street N.W.
BCIS, AAO, 20 Mass, 3/F
Washington, D.C. 20536

[redacted]

File: [redacted] Office: HARLINGEN, TEXAS Date: AUG 20 2003

IN RE: Applicant: [redacted]

Application: Application for Permission to Reapply for Admission into the United States after Deportation or Removal under Section 212(a)(9)(A)(iii) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(a)(9)(A)(iii) filed in conjunction with Application for Waiver of Grounds of Inadmissibility under Section 212(h) of the Act, 8 U.S.C. § 1182(h), and section 212(a)(9)(B)(v) of the Act, 8 U.S.C. § 1182(a)(9)(B)(v)

ON BEHALF OF APPLICANT: SELF-REPRESENTED

PUBLIC COPY

INSTRUCTIONS:

This is the decision 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.

If you believe the law was inappropriately applied or the analysis used in reaching the decision was inconsistent with the information provided or with precedent decisions, you may file a motion to reconsider. Such a motion must state the reasons for reconsideration and be supported by any pertinent precedent decisions. Any motion to reconsider must be filed within 30 days of the decision that the motion seeks to reconsider, as required under 8 C.F.R. § 103.5(a)(1)(i).

If you have new or additional information that you wish to have considered, you may file a motion to reopen. Such a motion must state the new facts to be proved at the reopened proceeding and be supported by affidavits or other documentary evidence. Any motion to reopen must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires may be excused in the discretion of the Bureau of Citizenship and Immigration Services (Bureau) where it is demonstrated that the delay was reasonable and beyond the control of the applicant or petitioner. *Id.*

Any motion must be filed with the office that originally decided your case along with a fee of $110 as required under 8 C.F.R. § 103.7.

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The application for permission to reapply for admission into the United States after deportation or removal was denied by the District Director, Harlingen, Texas. The matter is now on appeal before the Administrative Appeals Office (AAO). The appeal will be dismissed

The applicant is a 24-year old native and citizen of Mexico who was found by the district director to be inadmissible for permanent residence under section 212(a)(6)(C) of the Act, 8 U.S.C. § 1182(a)(6)(C) for having represented himself to be a citizen of the United States for the purpose of gaining entry into the United States.

The applicant is married to a United States citizen and is the beneficiary of an approved petition for alien relative. He seeks permission to reapply for admission to the United States after deportation or removal in order to travel to the United States to reside with his United States citizen wife and children.

The district director denied the application for permission to reapply as a matter of discretion.

On appeal, the applicant's spouse asserts that her husband did not act with malice when the question arose about his citizenship, but that the applicant believed that he was a United States citizen by virtue of his marriage to a United States citizen.

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

> (ii) Falsely claiming citizenship. -
>
> In General
>
> Any alien who falsely represents or has falsely represented, himself or herself to be a citizen of the United States for any purpose or benefit under this Act (including section 274A) or any other Federal or State law is inadmissible.

Here, the applicant falsely represented himself to be a citizen of the United States to gain admission into the United States. He is thus statutorily ineligible for a waiver of his ground of inadmissibility.

In *Matter of Tin,* 14 I&N Dec. 373 (BIA 1973), the Board of Immigration Appeals (BIA) held that:

> In determining whether the consent required by statute [for an application for permission to reapply for admission] should be granted, all pertinent circumstances relating to the applicant which are set forth in the record of proceedings are considered. These include but are not limited to the basis for deportation, recency of deportation, length of residence in the United States, the moral character of the applicant, his respect for law and order, evidence of reformation and rehabilitation, his family responsibilities, any inadmissibility to the United States under other sections of law, hardship involved to himself and others, and the need for his services in the United States.

In *Matter of Martinez-Torres,* 10 I&N Dec. 776 (BIA 1964), the BIA held that in the case of an applicant who is mandatorily inadmissible to the U.S. "no purpose would be served in granting [the] application for permission to reapply for admission into the United States."

A review of the evidence in the record reflects that the applicant is statutorily inadmissible to the United States pursuant to section 212(a)(6)(C)(ii) of the Act. Thus, the district director's discretionary denial of his application was proper.

ORDER: The appeal is dismissed.