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U.S. Department of Homeland Security
20 Mass. Ave., N.W., Rm. A3042
Washington, DC 20529



U.S. Citizenship
and Immigration
Services

PUBLIC COPY

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DEC 30 2004

FILE: [REDACTED] Office: EL PASO, TEXAS Date:

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, 8 U.S.C. § 1182(a)(9)(A)(iii)

ON BEHALF OF APPLICANT:

[REDACTED]

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office 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.

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The application for permission to reapply for admission after deportation or removal was denied by the District Director, El Paso, Texas, and is now before the Administrative Appeals Office (AAO) on appeal. The District Director's decision will be withdrawn and the matter remanded to him for further consideration and action.

The applicant is a native and citizen of Mexico who states on her Form I-212 that she was deported or removed from the United States on January 9, 1984, and January 24, 1985. Based on her statements the applicant is inadmissible under section 212(a)(9)(A)(ii) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(a)(9)(A)(ii). The applicant seeks permission to reapply for admission into the United States under section 212(a)(9)(A)(iii) of the Act, 8 U.S.C. § 1182(a)(9)(A)(iii) in order to remain in the United States and reside with her U.S. citizen children.

In his decision the District Director states that the applicant did not submit any evidence that she was deported. In addition the District Director states that Service records do not show that the applicant was ever deported or removed from the United States. The District Director determined that the applicant is not inadmissible pursuant to section 212(a)(9)(A)(ii) of the Act and she is not required to file a Form I-212. The District Director then denied the application. See *District Director's Decision* dated May 12, 2004.

On appeal, counsel submits a brief and a copy of the applicant's FBI identification record. The FBI record reveals that the applicant was charged with illegal entry into the United States and that she was deported.

A search of the electronic database of Citizenship and Immigration Services (CIS) reveals that the applicant has an additional service file under number [REDACTED] that relates to her deportation. This file should be consolidated with service file [REDACTED] before a final decision on her Form I-212 is made.

The CIS Operation Instructions in 103.3(C) provide, in part, that the record of proceeding must contain all evidence used in making the decision. Without the complete record of proceeding and documentary evidence that the applicant was removed or deported from the United States the AAO cannot make a decision on the appeal.

In view of the foregoing, the application will be remanded to the District Director for further action. After preparing a proper record of proceeding the documentation should be resubmitted to the AAO for review.

ORDER: The matter is remanded to the District Director for further action consistent with the foregoing discussion.