



U.S. Citizenship
and Immigration
Services

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[Redacted]

JUN 7 2004

FILE:

[Redacted]

Office: SAN ANTONIO, TX

Date:

IN RE:

[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 into the United States after Deportation or Removal (Form I-212) was denied by the District Director, San Antonio, Texas, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The applicant is a native and citizen of Mexico who was found to be inadmissible to the United States under section 212(a)(6)(C)(ii) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(a)(6)(C)(ii), for falsely claiming to be a citizen of the United States. The applicant is married to a citizen of the United States and 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 reside with his U.S. citizen wife.

The district director determined that the applicant was ineligible for a waiver under section 212(i) of the Act because he falsely claimed to be a U.S. citizen, 8 U.S.C. § 1182(a)(6)(C)(ii). The I-212 application was denied accordingly. *Decision of the District Director*, dated November 6, 2002.

On appeal, counsel asserts that the applicant never made a false claim to U.S. citizenship for any purpose or benefit under any law. *Form I-290B*, dated December 5, 2002.

Section 212(a)(6)(C) of the Act, 8 U.S.C. § 1182(a)(6)(C) states in pertinent part:

(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.

(ii) Falsely claiming citizenship. –

(I) 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 . . . is inadmissible.

....

(iii) Waiver authorized. – For provision authorizing waiver of clause (i), see subsection (i).

The record reflects that the applicant was the subject of a local law enforcement search for controlled substances in Nashua, Minnesota and was remanded to the custody of the Immigration and Naturalization Service [now Customs and Border Protection (CBP)] on or about July 20, 1998. In custody, the applicant falsely claimed to be a U.S. citizen.

Counsel contends that the applicant has never made a false claim to U.S. citizenship for a purpose or benefit under any law, however the applicant presented fraudulent documentation of U.S. citizenship in an effort to avoid removal from the United States, a purpose under the Immigration and Nationality Act.

The statutory language is clear that the waiver authorized by section 212(a)(6)(C)(iii) of the Act, 8 U.S.C. § 1182(a)(6)(C)(iii), and described at section 212(i) of the Act, 8 U.S.C. § 1182(i), is not available to aliens who violate section 212(a)(6)(C)(ii) of the Act, 8 U.S.C. § 1182(a)(6)(C)(ii). The applicant is therefore ineligible for waiver and no purpose would be served by granting him permission to reapply for admission. Therefore, the appeal will be dismissed.

ORDER: The appeal is dismissed.