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**U.S. Citizenship  
and Immigration  
Services**

HH



FILE:



Office: CALIFORNIA SERVICE CENTER

Date:

IN RE:

Applicant:



JUN 25 2009

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:

SELF-REPRESENTED

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 Director, California Service Center, and is now before the Administrative Appeals Office (AAO) on appeal. The Director's decision will be withdrawn and the matter remanded to him for further consideration and action.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 it is claimed was removed from the United States on March 31, 1998. The applicant was found to be inadmissible into the United States pursuant to section 212(a)(6)(C)(i) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(a)(6)(C)(i) for attempting to procure admission into the United States by fraud and willful misrepresentation of a material fact. The record reflects that the applicant reentered the United States after her removal on April 1, 1998, without a lawful admission or parole and without permission to reapply for admission in violation of section 276 of Act, 8 U.S.C. § 1326 (a felony). She is inadmissible under section 212(a)(9)(A)(ii) 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 Lawful Permanent Resident (LPR) spouse and U.S. citizen child.

The Director determined that section 241(a)(5) of the Act, 8 U.S.C. § 1231(a)(5) applies in this matter and the applicant is not eligible and may not apply for any relief. The Director then denied the application accordingly. *See Director's Decision* dated December 19, 2003.

The record of proceedings includes only one document that refers to the applicant's deportation order. A Notice of Decision issued by the Missouri Service Center on February 12, 2003, states: ". . . on March 31, 1998, you have been deported or removed from the United States by SAN DIEGO, CA I.N.S. District." The Notice of Decision refers to Service file number [REDACTED]. A thorough search of the electronic database of Citizenship and Immigration Services (CIS) does not reveal a record existing under file number [REDACTED]. Additionally the receipt number for an application of Form I-539, as mentioned in the Notice of Decision, is MSC #02-143-60546. The electronic database of CIS reveals that the alien registration number related to this receipt number is A3-00038250, which is not a valid number. Furthermore a search based on the applicant's name and date of birth did not reveal any additional alien registration numbers.

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 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 Director for further action consisted with the foregoing discussion.