

identifying data deleted to  
prevent clearly unwarranted  
invasion of personal privacy



U.S. Citizenship  
and Immigration  
Services



**PUBLIC COPY**

*HY*

NOV 30 2004

FILE:  Office: CALIFORNIA SERVICE CENTER Date:  
WAC-01-288-57491

IN RE: Applicant: 

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:



**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*

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 appeal will be dismissed.

The applicant is a native and citizen of Mexico who on January 3, 2001, at the San Ysidro, California port of entry was found to be inadmissible to the United States pursuant to section 212(a)(6)(C)(ii) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(a)(6)(C)(ii), as an alien who falsely represents himself to be a citizen of the United States for any purpose or benefit under this Act and section 212(a)(7)(A)(i)(I) of the Act, 8 U.S.C. § 1182 (a)(7)(A)(i)(I) for being an immigrant not in possession of a valid immigrant visa or lieu document. On January 4, 2001, the applicant was removed to Mexico pursuant to section 235(b)(1) of the Act, 8 U.S.C. § 1225. The applicant is inadmissible under section 212(a)(9)(A)(i) the Act, 8 U.S.C. § 1182(a)(9)(A)(i). He 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 travel to the United States and reside with his U.S. citizen spouse and children.

The Director determined that section 212(a)(6)(C)(ii) of the Act applies in this matter and the applicant is not eligible and may not apply for any relief under this section of the Act and denied the applicant's Application for Permission to Reapply for Admission After Removal (Form I-212) accordingly. *See Director's Decision* dated April 5, 2004.

On appeal, counsel states that the applicant's file does not contain probative evidence or documentation, sustaining the applicant's violation under 212(a)(6) of the Act. He further states that employees of Citizenship and Immigration Services (CIS) and/or Immigration and Customs Enforcement (ICE) coerced certain information from the applicant that clearly wasn't based upon proper consent given by the applicant.

Counsel's assertion is not persuasive. The record of proceedings clearly reflect that on January 3, 2001, the applicant was placed under oath and stated that he would willingly answer questions addressed to him by an Immigration Officer. The applicant stated on that date that he presented a U.S. birth certificate to an Immigration Inspector in an attempt to gain entry into the United States. In addition the record of proceedings contains a letter from the applicant dated March 31, 2003 in which he states "She gave me a birth certificate of one her sons that was born in Los Angeles, California telling me to present this document to the man from Immigration . . . I told him that my name was Fausto Lopez Lopez and that I was born in Los Angeles, California."

Based on the above facts the AAO finds that the applicant is clearly inadmissible under section 212(a)(6)(C)(ii) of the Act.

Section 212(a)(6)(C) of the Act provides, in pertinent part, that:

(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 (including section 274A) or any other Federal or State law is inadmissible.

There is no waiver available under this section of the Act.

Notwithstanding the arguments on appeal, the applicant is subject to the provision of section 212(a)(6)(C)(ii) of the Act, which is very specific and applicable. The applicant is not eligible for any relief under the Act.

*Matter of Martinez-Torres*, 10 I&N Dec. 776 (reg. Comm. 1964) held that an application for permission to reapply for admission is denied, in the exercise of discretion, to an alien who is mandatorily inadmissible to the United States under another section of the Act, and no purpose would be served in granting the application.

No purpose would be served in the favorable exercise of discretion in adjudicating the application to reapply for admission into the United States under section 212(a)(9)(A)(iii) of the Act. The applicant is not eligible for any relief under the Act and the appeal will be dismissed.

**ORDER:** The appeal is dismissed.