



U.S. Citizenship
and Immigration
Services

114



FILE:



Office: CALIFORNIA SERVICE CENTER

Date:

SEP 14 2004

IN RE:

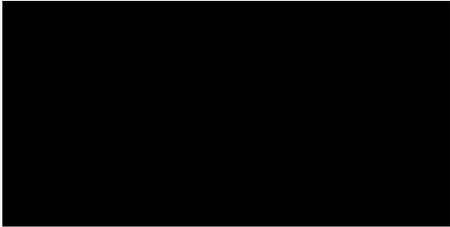
Applicant:



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:



PUBLIC COPY

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

U.S. DEPARTMENT OF HOMELAND SECURITY
ADMINISTRATIVE APPEALS OFFICE
ATTENTION: IMMIGRATION AND NATURALIZATION SERVICE

DISCUSSION: The application for permission to reapply for admission after 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 August 14, 1997, 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 herself to be a citizen of the United States for any purpose or benefit under this Act. Consequently the applicant was expeditiously removed from the United States pursuant to section 235(b)(1) of the Act 8 U.S.C. § 1225(b)(1). The applicant is inadmissible under section 212(a)(9)(A)(i) the Act, 8 U.S.C. § 1182(a)(9)(A)(i). She now 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 spouse and children.

The Director determined that the applicant is not eligible for any exception or waiver under section 212(a)(6)(C)(ii) of the Act and denied the Application for Permission to Reapply for Admission After Removal (Form I-212) accordingly. *See Director's Decision* dated January 9, 2004.

On appeal, counsel states that the applicant never made a claim to U.S. citizenship. In addition, counsel states that the applicant entered the United States in January 1998 with a humanitarian parole, she is a person of good moral character, has no criminal record and her husband and children would suffer extreme hardship if she is not permitted to remain with her family. Counsel submits documents to show the applicant's long residency in the United States, her family ties and her good moral character

The AAO finds that the Director erred in his statement that the applicant entered the United States after deportation/removal without inspection or permission of the Attorney General. The record of proceedings reflects that the applicant was granted humanitarian parole for one (1) day on January 9, 1998, until January 10, 1998. The applicant remained beyond her authorized stay. This office finds the Director's statement harmless because the applicant remains inadmissible under section 212(a)(6)(C)(ii) of the Act. Further, the one-day parole she was given did not eliminate the need to apply for permission to reapply for admission.

The AAO finds counsel's statement that the applicant never made a claim to U.S. citizenship unpersuasive. The record reflects that the applicant represented herself to be a citizen of the United States in order to gain admission into the United States at the San Ysidro Port of Entry on August 11, 1997. In a sworn statement taken on August 14, 1997, the applicant admitted that she represented herself to be a U.S. citizen in order to gain admission into the United States. 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.

(II) EXCEPTION- In the case of an alien making a representation described in subclause (I), if each natural parent of the alien (or, in the case of an adopted alien, each adoptive parent of the alien) is or was a citizen (whether by birth or naturalization), the alien permanently resided in the United States prior to attaining the age of 16, and the alien reasonably believed at the time of making such representation that he or she was a citizen, the alien shall not be considered to be inadmissible under any provision of this subsection based on such representation.

There is no waiver available under this section of 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.

Notwithstanding the arguments on appeal, the applicant is subject to the provisions of section 212(a)(6)(C)(ii) of the Act, which is very specific and applicable. No waiver of the ground of inadmissibility under section 212(a)(6)(C)(ii) of the Act is available to an alien who made a false claim to United States citizenship. Therefore, 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.