

identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy



U.S. Citizenship
and Immigration
Services

Hy

PUBLIC COPY



FILE:



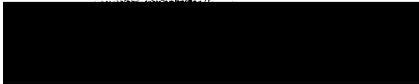
Office: CALIFORNIA SERVICE CENTER

Date:

APR 07 2006

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:

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 into the United States after Deportation or Removal (Form I-212) was denied by the Director, California Service Center, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected as improperly filed.

The applicant is a native and citizen of Mexico who on April 25, 2002, was ordered removed from the United States pursuant to section 212(a)(6)(E)(i) of the Act, 8 U.S.C. § 1182(a)(6)(E)(i) for knowingly encouraging, assisting, abetting, aiding any other alien to enter or to try to enter the United States in violation of law. The applicant filed an appeal with the Board of Immigration Appeals (BIA), which was dismissed on July 2, 2002, at untimely. Consequently, on March 6, 2003, the applicant was removed from the United States. 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 travel to the United States and reside with her U.S. citizen spouse.

The Director determined that the applicant did not provide information and documentation required to adjudicate the application and to establish eligibility for the waiver being sought. The Director denied the Form I-212 accordingly. *See Director's Decision* dated January 11, 2005.

An appeal filed by an individual by the name of Francisco Niebla was received by the California Service Center on February 8, 2005.

The regulation at 8 C.F.R. § 103.3(a) states in pertinent part:

(1)General

.....

(iii) Appeal-

.....

(B) Meaning of "affected party." For purposes of this section and Sec.Sec. 103.4 and 103.5 of this part, "affected party" (in addition to the Service) means the person or entity with legal standing in a proceeding. It does not include the beneficiary of a visa petition. An affected party may be represented by an attorney or representative in accordance with part 292 of this chapter.

.....

(2) AAU appeals in other than special agricultural worker and legalization cases.

(i) Filing appeal. The affected party shall file an appeal on Form I-290B. . .

The regulation at 8 C.F.R. § 292.1 states in pertinent part :

(a) A person entitled to representation may be represented by any of the following:

.....

(3) Reputable individuals. Any reputable individual of good moral character, provided that:

(i) He is appearing on an individual case basis, at the request of the person entitled to representation;

(ii) He is appearing without direct or indirect remuneration and files a written declaration to that effect;

(iii) He has a pre-existing relationship or connection with the person entitled to representation (e.g., as a relative, neighbor, clergyman, business associate or personal friend), provided that such requirement may be waived, as a matter of administrative discretion, in cases where adequate representation would not otherwise be available; and

(iv) His appearance is permitted by the official before whom he wished to appear (namely, a special inquiry officer, district director, officer-in-charge, regional commissioner, the Commissioner, or the Board), provided that such permission shall not be granted with respect to any individual who regularly engages in immigration and naturalization practice or preparation, or holds himself out to the public as qualified to do so.

The person filing the appeal is not an individual described in the regulation at 8 C.F.R. § 292.1(a) and therefore he cannot represent the applicant in this proceeding.

The regulation at 8 C.F.R. § 103.3(a)(2) states in pertinent part :

(v) Improperly filed appeal--

(A) Appeal filed by a person or entity not entitled to file it--

(1) Rejection without refund of filing fee. An appeal filed by a person or entity not entitled to file it must be rejected as improperly filed. In such a case, any filing fee the Service has accepted will not be refunded.

As the appeal was filed by a person not entitled to file an appeal, the appeal must be rejected as improperly filed.

ORDER: The appeal is rejected.