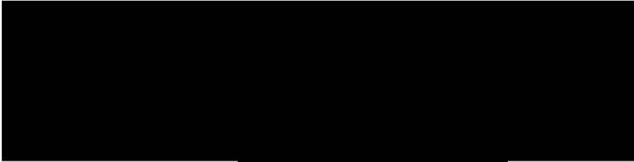


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FILE:



Office: CALIFORNIA SERVICE CENTER

Date: JUN 02 2006

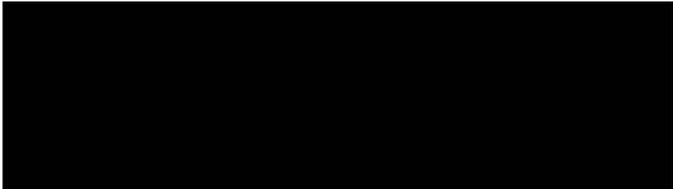
IN RE:

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:



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.

A handwritten signature in black ink, appearing to read "Robert P. Wiemann".

Robert P. Wiemann, Chief
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 summarily dismissed.

The applicant is a native and citizen of Mexico who, on March 31, 1997, at the San Ysidro, California, Port of Entry, represented herself to be a citizen of the United States in order to gain admission into the United States. The applicant presented a valid U.S. birth certificate that did not belong to her. The applicant was found to be inadmissible pursuant to 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 other valid entry document. Consequently, on April 7, 1997, an immigration judge ordered the applicant excluded and deported from the United States, and the applicant was removed to Mexico. The record reflects that the applicant reentered the United States without a lawful admission or parole and without permission to reapply for admission, in violation of section 276 the Act, 8 U.S.C. § 1326 (a felony), on an unknown date, but prior to July 18, 2000, the date she gave birth to a child. The applicant is the beneficiary of an approved Petition for Alien Relative (Form I-130) filed by her U.S. citizen spouse. The applicant is inadmissible under section 212(a)(9)(A)(i) of the Act, 8 U.S.C. § 1182(a)(9)(A)(i) 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 remain in the United States and reside with her U.S. citizen spouse and children

The Director determined that the applicant was inadmissible under section 212(a)(9)(C) of the Act, 8 U.S.C. § 1182(a)(9)(C) for being unlawfully present in the United States after a previous immigration violation and not eligible for any exception or waiver under the Act. The Director then denied the Form I-212 accordingly. See *Director's Decision* dated September 9, 2004.

On the Notice of Appeal to the AAO (Form I-290B), counsel writes:

“A. The respondent is eligible for relief pursuant to the application for permission to reapply for admission into the United States after deportation or removal, Form I-212.

B. The California Service Center misinterpreted the applicable provisions of Form I-212”.

In addition, on the Form I-290B counsel states that he will be submitting a brief and/or evidence to the AAO within 30 days. On March 16, 2006, the AAO forwarded a fax to counsel informing him that this office had not received a brief or evidence related to this matter and unless counsel responded within five business days the appeal may be summarily dismissed. Counsel has not responded to the AAO's fax of March 16, 2006. The appeal was filed on October 12, 2004, and to this date more than one and one half years later no documentation has been received by the AAO. Therefore, the AAO will adjudicate the appeal based on the documentation within the record of proceeding.

The regulation at 8 C.F.R. § 103.3(a)(1) states in pertinent part:

(v) Summary dismissal. An officer to whom an appeal is taken shall summarily dismiss any appeal when the party concerned fails to identify specifically any erroneous conclusion of law or statement of fact for the appeal....

In the instant case the applicant has failed to identify any erroneous conclusion of law or statement of fact for the appeal and, therefore, it will be summarily dismissed.

ORDER: The appeal is summarily dismissed.