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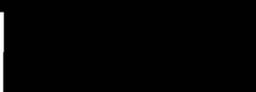
**U.S. Citizenship
and Immigration
Services**

HL

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FILE:



Office: SAN ANTONIO, TEXAS

Date: MAR 28 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.

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

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 District Director, San Antonio, Texas, and is now before the Administrative Appeals Office (AAO) on appeal. The District Director's decision will be withdrawn and the matter remanded to him for further consideration and action.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 on July 12, 2002, filed a Form I-212. On his application, the applicant states that he was removed from the United States on June 28, 1999. In his decision, the District Director states that immigration records show that the Pennsylvania State Police apprehended an individual, by the name of [REDACTED] on March 13, 1998. On March 19, 1998, an immigration judge ordered [REDACTED] removed from the United States pursuant to section 212(a)(6)(A)(i) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182 (a)(6)(A)(i) for having been present in the United States without being admitted or paroled. Consequently, he was removed from the United States on March 31, 1998. The record reflects that Mr. [REDACTED] entered the United States on March 5, 2003, 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 the same date a Notice of Intent/Decision to Reinstate Prior Order (Form I-871) was issued pursuant to section 241(a)(5) of the Act, 8 U.S.C. § 1231(a)(5), and Mr. [REDACTED] was removed to Mexico on March 7, 2003. 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 as a nonimmigrant visitor.

The District Director determined that the unfavorable factors in the applicant's case outweighed the favorable factors and denied Form I-212 accordingly. *See District Director's Decision* dated January 9, 2003.

On appeal, the applicant states that he has never used the name [REDACTED] as stated in the District Director's decision. The applicant states that his name is [REDACTED] and sometimes he has used the name [REDACTED] his biological father's last name. The applicant submits a copy of his birth certificate, and photocopies of payroll slips, in an effort to show that he was residing and working in Mexico during the period of January 1998 to July 1998 and, therefore, could not have been apprehended by the Pennsylvania State Police on March 13, 1998. In addition, the applicant submits a photocopy of his Mexican passport that contains a United States nonimmigrant visa issued on December 1, 1997 and valid to November 30, 1998. [REDACTED] passport reveals that the applicant was admitted to the United States as a nonimmigrant visitor for pleasure on June 19, 1998. Finally, the applicant states that the documentation he presented proves that he is not the individual referred to in the denial and requests a favorable reply to his appeal.

Before the AAO can make a decision on the appeal, the identity of the applicant must be established. It is not clear from the record of proceedings whether [REDACTED] the applicant, and [REDACTED] the individual who was apprehended by the Pennsylvania State Police and subsequently removed from the United States, on two occasions are the same person. The photographs of both individuals contained in the record of proceedings, reveal major differences and do not prove that they are the same person. Additionally the printed signatures of the two individuals are different and do not prove that the applicant and the individual who was removed are the same person. The record of proceedings fails to reveal whether the applicant was fingerprinted and his fingerprints compared with the fingerprints in the record of proceedings. For these reasons, the AAO finds that it cannot be stated conclusively that the applicant and the individual who was deported are the same person. The AAO requests that in order to resolve this, the District Director shall arrange for the applicant to appear at an American Consulate in Mexico in order to have a complete set of

fingerprints taken. Once the applicant is fingerprinted the District Director shall compare his fingerprints with the fingerprints in the record of proceedings in order to establish the applicant's true identity.

In view of the foregoing, the previous decision of the District Director will be withdrawn. The application is remanded to the District Director for reconsideration of the issues stated above and entry of a new decision, which, if adverse to the applicant, will be certified to the AAO for review.

ORDER: The District Director's decision is withdrawn. The matter is remanded to him for further action consistent with the foregoing discussion.