

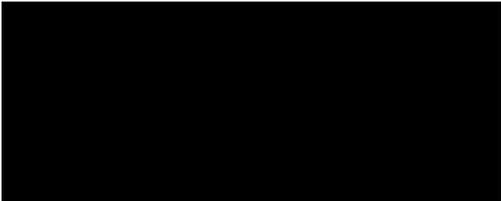
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U.S. Citizenship
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FILE:



Office: HARLINGEN, TEXAS

Date: **AUG 30 2007**

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) of the Immigration and
Nationality Act, 8 U.S.C. § 1182(a)(9)(A)

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, Chief
Administrative Appeals Office

DISCUSSION: The application for permission to reapply for admission after removal was denied by the District Director, Harlingen, Texas, 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 attempted to enter the United States by falsely claiming United States citizenship on June 24, 1998. On June 24, 1998, the applicant was removed to Mexico. On March 22, 2002, the applicant entered the United States without inspection at or near Los Ebanos, Texas. On March 22, 2002, the applicant's prior order of deportation was reinstated and the applicant was removed from the United States on April 2, 2002. The applicant is inadmissible to the United States under sections 212(a)(9)(A)(ii) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(a)(9)(A)(ii), 212(a)(6)(A)(i) of the Act, 8 U.S.C. § 1182(a)(6)(A)(i), and 212(a)(6)(C)(ii) of the Act, 8 U.S.C. § 1182(a)(6)(C)(ii). She now seeks permission to reapply for admission into the United States, in order to reside with her husband and three children.

The District Director determined that the applicant is inadmissible pursuant to sections 212(a)(6)(A)(i) of the Act, 8 U.S.C. § 1182(a)(6)(A)(i), and 212(a)(6)(C)(ii) of the Act, 8 U.S.C. § 1182(a)(6)(C)(ii), for being present in the United States without being admitted or paroled, and for falsely claiming United States citizenship. The District Director found that he "has no discretion in this matter. After September 30, 1996, a false claim to United States citizenship is a permanent bar. [The applicant] presented no evidence that [she is] eligible for the exception." *District Director's Decision*, dated December 16, 2005. The District Director denied the applicant's Application for Permission to Reapply for Admission After Deportation or Removal (Form I-212) accordingly. *Id.*

Section 212(a)(9). Aliens previously removed.-

(A) Certain alien previously removed.-

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(ii) Other aliens.- Any alien not described in clause (i) who-

(I) has been ordered removed under section 240 or any other provision of law, or

(II) departed the United States while an order of removal was outstanding, and seeks admission within 10 years of the date of such alien's departure or removal (or within 20 years of such date in the case of a second or subsequent removal or at any time in the case of an aliens convicted of an aggravated felony) is inadmissible.

(iii) Exception.- Clauses (i) and (ii) shall not apply to an alien seeking admission within a period if, prior to the date of the aliens' reembarkation at a place outside the United States or attempt to be admitted from foreign continuous territory, the Attorney

General [now, Secretary, Department of Homeland Security] has consented to the aliens' reapplying for admission.

Section 212(a)(6). Illegal entrants and immigration violators.-

(A) Aliens present without admission or parole.-

(i) In general.- An alien present in the United States without being admitted or paroled, or who arrives in the United States at any time or place other than as designated by the Attorney General [now, Secretary, Department of Homeland Security], is inadmissible.

(C) Misrepresentation.-

(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.

The AAO notes that aliens making false claims to United States citizenship on or after September 30, 1996 are ineligible to apply for a Form I-601 waiver. *See* Sections 212(a)(6)(C)(ii) and (iii) of the Act. As the applicant's false claim to United States citizenship occurred after September 30, 1996, the applicant is clearly inadmissible to the United States and not eligible for a waiver under section 212(a)(6)(C)(ii) of the Act. Additionally, the applicant is inadmissible under section 212(a)(6)(A)(i) of the Act for being present without admissible or parole.

On appeal, the applicant, through her husband, states that the applicant "was a victim of the 'coyote'" she used to cross the border. *Form I-290B*, filed January 17, 2006. The AAO notes that when the applicant falsely claimed United States citizenship, she did not claim she was following the advice of a "coyote," but claimed she was with her United States citizen friend, [REDACTED] who gave the applicant her birth certificate to use to cross the border. The applicant claims that she made a "big mistake" and her husband and children "are feeling the punishment" by not having the applicant in the United States. *Id.* The applicant's husband states he and the children are "suffering" and he wants "to bring them to the U.S. so that they can attend school and study." *Statement by* [REDACTED] dated August 18, 2006. The AAO notes that the applicant's United States citizen children can return to the United States at any time, and reside with their father.

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.

The applicant is subject to the provisions of section 212(a)(6)(C)(ii) of the Act. No waiver is available to an alien who has 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. As the applicant is statutorily inadmissible to the United States, the Form I-212 was properly denied by the District Director.

Section 291 of the Act, 8 U.S.C. § 1361, provides that the burden of proof is upon the applicant to establish that she is eligible for the benefit sought. After a careful review of the record, it is concluded that the applicant has failed to establish that a favorable exercise of the Secretary's discretion is warranted. Accordingly, the appeal will be dismissed.

ORDER: The appeal is dismissed.