

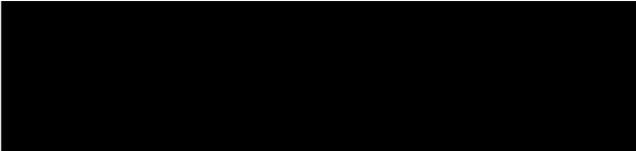
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U.S. Department of Homeland Security  
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FILE:



Office: PHOENIX, AZ (LAS VEGAS, NV)

Date: **MAY 07 2007**

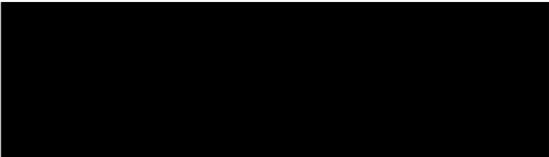
IN RE:



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.

Robert P. Wiemann, Chief  
Administrative Appeals Office

**DISCUSSION:** The application for permission to reapply for admission after deportation or removal was denied by the District Director, Phoenix, Arizona, 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 January 1, 1998, at the San Ysidro, California port of entry 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. The applicant was removed to Mexico pursuant to section 235(b)(1) of the Act, 8 U.S.C. § 1225. The record reflects that the applicant reentered the United States on an unknown date without a lawful admission or parole and without permission to reapply for admission in violation of section 276 of the Act, 8 U.S.C. § 1326 (a felony). The applicant was found to be inadmissible under section 212(a)(9)(A)(i) the Act, 8 U.S.C. § 1182(a)(9)(A)(i). She 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.

The District 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 District Director's Decision*, dated September 22, 2003.

On appeal, counsel asserts that the applicant's inadmissibility under section 212(a)(6)(C)(ii) of the Act for having falsely represented herself as a citizen of the United States was due to miscommunication caused by the immigration officer's intimidating questions and that the applicant should not be found inadmissible after January 1, 2003. *Form I-290B*, dated October 22, 2003.

The record reflects that the applicant made a false claim to U.S. citizenship while seeking admission into the United States on January 1, 1998. *Record of Sworn Statement in Proceedings under Section 235(b)(1) of the Act*, dated January 2, 1998. The proceedings were in the Spanish language and there is no indication that the inspecting officer asked intimidating questions. *Id.* The officer asked, "How did you attempt to enter the United States?" and the applicant answered, "With an ID, and I said I was a United States citizen." *Id.* at 2.

Section 212(a)(6)(C)(ii) of the Act provides, in pertinent part, that:

- (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.

*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 U.S. citizenship and the exception in section 212(a)(6)(C)(ii)(II) of the Act does not apply to the applicant. 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.

**ORDER:** The appeal is dismissed.