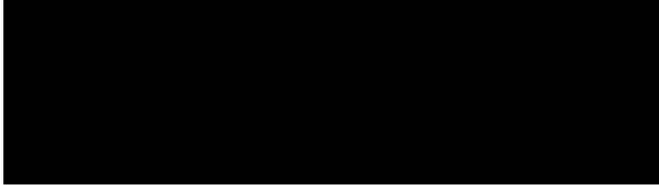


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FILE:



Office: VERMONT SERVICE CENTER  
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Date:

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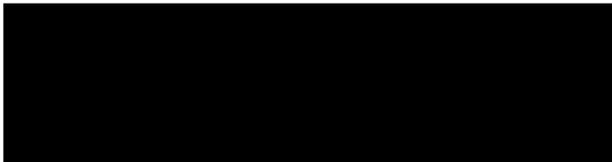
Applicant:



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:



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 Director, Vermont Service Center, 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 August 27, 1997. On August 28, 1997, the applicant was removed to Mexico. On September 1, 1997, the applicant reentered the United States without inspection. On November 25, 2003, the applicant's prior order of deportation was reinstated and the applicant was removed from the United States on December 2, 2003. 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), and 212(a)(6)(C)(ii) of the Act, 8 U.S.C. § 1182(a)(6)(C)(ii). He now seeks permission to reapply for admission into the United States, in order to reside with his mother, brothers, and United States citizen daughter.

The Director determined that the applicant is inadmissible pursuant to section 212(a)(6)(C)(ii) of the Act, 8 U.S.C. § 1182(a)(6)(C)(ii), for falsely claiming United States citizenship. The Director found that the applicant was "statutorily inadmissible to the United States pursuant to Section 212(a) (6) [sic] of the Act." *Director's Decision*, dated January 18, 2006. The 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.-

.....

(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.-

(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)(9)(A)(ii) of the Act for being ordered removed.

On appeal, the applicant, through counsel, asserts that he is eligible for the exception to the false claim of United States citizenship ground of inadmissibility because he "reasonably believed that he was a USC at the time he made the [false] representation" of United States citizenship. *Form I-290B*, filed February 21, 2006. [REDACTED] a psychologist who treated the applicant in 1982, claims the applicant's grandparents had the applicant "believe that his parents resided in the United States and that he would get back together with thm [sic] and that he had been born there." *Letter from [REDACTED] Psychologist*, dated February 16, 2006. [REDACTED] claims that the applicant was "treated this way because he was so young to face the challenge and help him to recover quickly." *Id.* The applicant claims that his grandparents told him that he was "born in the United States...[He] always believed that [he] was an American like other kids in school...[He] would not have told the Immigration Officer that [he] was a United States Citizen unless [he] believed that was the truth." *Affidavit from the applicant*, February 17, 2006. The applicant's mother claims that she told the applicant "the truth, that he was born in Mexico", after he was caught at the border in 1997. *Affidavit from M [REDACTED]* dated February 24, 2006. The AAO notes that during the applicant's August 27, 1997 interview with an immigration officer, the applicant stated that he declared himself to be a United States citizen when he applied for admission into the United States; however, he was not a United States citizen, and he knew that it was illegal to falsely declare himself as a United States citizen. *Sworn Statement by the applicant*, dated August 27, 1997. The applicant stated he was born in "San Juan Del Rio, Durango, Mexico" and that he was a citizen of "Mexico." *Id.* Additionally, the applicant stated he had a pending application that would allow him to live in the United States, "but [he didn't] think [he was] supposed to be in the United States." *Id.* The AAO notes that the applicant's mother filed an Immigrant Petition for Relative (Form I-130) for the applicant on February 3, 1995, which was over two years before the applicant was arrested for falsely claiming United States citizenship. Furthermore, during the applicant's

interview, he stated he had nothing to add to his statement, even though at that point he could have stated that he believed he was a United States citizen.

*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 Director.

Section 291 of the Act, 8 U.S.C. § 1361, provides that the burden of proof is upon the applicant to establish that he 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.