

U.S. Citizenship
and Immigration
Services



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[REDACTED]

FILE:

[REDACTED]

Office: CALIFORNIA SERVICE CENTER

Date: JUL 14 2008

RELATES

IN RE:

[REDACTED]

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:

[REDACTED]

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 removal was denied by the Director, California 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 Guatemala who applied for admission into the United States on January 28, 1996 by misrepresenting himself as a U.S. citizen. The applicant was ordered excluded and deported on January 31, 1996. The applicant was deported on January 31, 1996, reentered the United States without inspection on February 2, 1996, was ordered deported on May 16, 1996 and was subsequently deported to Guatemala on May 22, 1996. The applicant is inadmissible to the United States pursuant to 212(a)(9)(A)(i) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(a)(9)(A)(i).¹ The applicant now 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 reside in the United States.

The director determined that her office lacked jurisdiction to adjudicate the Application for Permission to Reapply for Admission After Deportation or Removal (Form I-212) and denied the application accordingly. *Director's Decision*, at 3, dated February 7, 2007.

On appeal, counsel asserts that the applicant's children are being deprived of the love and support of the applicant and they are experiencing undue hardship. *Brief in Support of Appeal*, at 3, dated February 26, 2007.

The director cites 8 C.F.R. § 212.2(d) in asserting that her office lacks jurisdiction to adjudicate the application. *Director's Decision*, at 2-3. This section provides that an applicant who is applying for an immigrant visa and requires a Form I-601, Application for Waiver of Grounds of Inadmissibility, must file the Form I-212 with the American consul having jurisdiction over the applicant's place of residence. 8 C.F.R. § 212.2(d). However, the applicant is not an immigrant visa applicant, therefore, he is not subject to 8 C.F.R. § 212.2(d). The director also states that if the applicant is applying for a nonimmigrant visa or nonresident alien border crossing card, that the Form I-212 should be filed with the American consul per 8 C.F.R. § 212.2(b) and 8 C.F.R. § 212.2(c). *Director's Decision*, at 3. However, the applicant is not applying for a nonimmigrant visa or nonresident alien border crossing card as mentioned in 8 C.F.R. § 212.2(b) or a nonimmigrant visa under section 101(a)(15)(K) of the Act as mentioned in 8 C.F.R. § 212.2(c).

The record indicates that the applicant is filing Form I-212 pursuant to 8 C.F.R. § 212.2(g) which states, in pertinent part:

- (1) Any applicant for permission to reapply for admission under circumstances other than those described in paragraphs (b) through (f) of this section must file Form I-212. This form is filed with either: (i) the district director having jurisdiction over the place where the deportation or removal proceedings were held....

¹ The AAO notes that the applicant is inadmissible under section 212(a)(6)(C)(i) of the Act, 8 U.S.C. § 1182(a)(6)(C) for willfully misrepresenting a material fact. As such, he would be required to file Form I-601, Application for Waiver of Grounds of Inadmissibility. The record is not clear as to whether the applicant has the requisite qualifying relative needed to file Form I-601.

The record reflects that the applicant filed the Form I-212 with the district director of the Los Angeles Citizenship and Immigration Services (CIS) Office. However, this district director does not have jurisdiction over Imperial, California, the place where the applicant's deportation proceedings were held. The San Diego district director has jurisdiction over Imperial, California.

As the applicant has not complied with the regulatory requirements for filing the Form I-212, the application in this matter was improperly filed. Accordingly, the appeal will be dismissed.

ORDER: The appeal is dismissed.