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U.S. Citizenship  
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Services

714

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FILE:



Office: SANTA ANA, CALIFORNIA

Date: SEP 10 2008

IN RE:

Applicant:



APPLICATION:

Application for Permission to Reapply for Admission into the United States after  
Deportation or Removal

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 removal was denied by the Field Office Director, Santa Ana, California, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed as the underlying application is moot.

The record reflects that the applicant is a native and citizen of Mexico who claims to have entered the United States without inspection in May 2000. On June 1, 2007, the applicant filed an Application for Permission to Reapply for Admission After Deportation or Removal (Form I-212) stating that he had been removed from the United States in May 2000. The Field Office Director determined that the applicant is inadmissible pursuant to section 212(a)(9)(A)(i) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(a)(9)(A)(i), for being ordered removed from the United States; and section 212(a)(6)(A)(i) of the Act, 8 U.S.C. § 1182(a)(6)(A)(i), for being present in the United States without being admitted or paroled, and she denied the applicant's Form I-212 accordingly. *Field Office Director's Decision*, dated August 14, 2007. However, the AAO notes that there is no evidence in the record that the applicant was ordered removed from the United States.

On appeal, the applicant, through counsel, claims the applicant is the primary wage earner in the household and his family will suffer if he is removed from the United States. *Attachment to Form I-290B*, filed September 11, 2007.

Section 212(a)(9) of the Act states in pertinent part:

(A) Certain alien previously removed.-

(i) Arriving Aliens.-Any alien who has been ordered removed under section 235(b)(1) or at the end of proceedings under 240 initiated upon the alien's arrival in the United States and who again seeks admission within 5 years of the date of such removal (or within 20 years in the case of a second or subsequent removal or at any time in the case of an alien convicted of an aggravated felony) is inadmissible.

(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 [Secretary] has consented to the aliens' reapplying for admission.

A review of the record and CIS electronic databases reflects no indication that the applicant has ever been ordered removed from the United States; therefore, he is not required to file a Form I-212 at this time. If in the future it is determined that he was, in fact removed, he may be required to file another Form I-212.

**ORDER:** The appeal is dismissed as it has not been established that the applicant was deported or removed from the United States and therefore not in need of permission to reapply for admission.