U.S. Department of Homeland Security
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Washington, DC 20529

U.S. Citizenship and Immigration Services

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[redacted] H4

FILE: [redacted] Office: LAS VEGAS, NEVADA Date: AUG 04 2004

IN RE: Applicant: [redacted]

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:

[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, Director
Administrative Appeals Office

DISCUSSION: The application for permission to reapply for admission after deportation or removal was denied by the District Director, Las Vegas, Nevada, 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. In formation in the record of proceeding indicates that on January 1, 1998, at the San Ysidro, California port of entry the applicant 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 represented 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).[1] 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. Counsel does not deny the applicant's expedited removal from the United States on January 1, 1998, but states that the applicant should not be inadmissible after January 1, 2003. Counsel provides no additional documentation to substantiate his assertion.

A review of the record does not reflects any documentation to substantiate the District Director's finding of the applicant's inadmissibility under section 212(a)(6)(C)(ii) of the Act. There is nothing in the record of proceedings to support a false claim to a U.S. citizenship. Absent supporting documentation, the AAO is unable to confirm the director's conclusion that that the applicant was inadmissible pursuant to section 212(a)(6)(C)(ii) of the Act.

CIS Operating Instructions at 103.3(C) provide, in part, that the record of proceeding must contain all evidence used in making the decision. Without the complete record of proceeding and documentary evidence that the applicant represented herself to be a citizen of the United States and was removed or deported from the United States the AAO cannot make a decision on the appeal.

In view of the foregoing, the application will be remanded to the Director for further action. After preparing a proper record of proceedings the documentation should be resubmitted to the AAO for review.

ORDER: The matter is remanded to the Director for further action consistent with the foregoing discussion.

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[1] It is noted that this information is contained only in the director's decision and nowhere else in the record.