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U.S. Department of Homeland Security
20 Mass, Rm. A3042, 425 I Street, N.W.
Washington, DC 20536

U.S. Citizenship and Immigration Services

[redacted]

FILE: [redacted] Office: SAN ANTONIO, TX Date: FEB 06 2004

IN RE: [redacted]

PETITION: 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 PETITIONER: SELF-REPRESENTED

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 into the United States after Deportation or Removal (Form I-212) was denied by the District Director, San Antonio, Texas, 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 was denied entry to the United States on October 21, 2000 after making a false claim to United States citizenship. The applicant was found inadmissible under section 212(a)(7)(A)(i)(I) of the Immigration and Nationality Act (the Act) and ordered removed pursuant to section 235(b)(1) of the Act. The removal order subjected the applicant to a 5-year bar of admission into the United States. The applicant 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 with her U.S. citizen husband.

The district director determined that the applicant was ineligible for a waiver under section 212(i) of the Act because she falsely claimed to be a U.S. citizen, 8 U.S.C. § 1182(a)(6)(C)(ii). The I-212 application was denied accordingly.

On appeal, the applicant's spouse states that he wants his wife to reside with him in his home country and he believes this reason is enough in and of itself to sustain the appeal. The applicant's husband indicates that he understands that using documents "not belonging to you is a very sensitive crime, especially now in light of September 11." He states that he and the applicant are not terrorists and requests a pardon on behalf of the applicant.

The record contains a copy of the Mexican birth certificate of the applicant; a copy of the U.S. birth certificate of the applicant's husband and two letters from the applicant's husband, dated February 3, 2001 and November 26, 2001, respectively.

Section 212(a)(6)(C) of the Act, 8 U.S.C. § 1182(a)(6)(C) states in pertinent part:

> (i) In general. – Any alien who, by fraud or willfully misrepresenting a material fact, seeks to procure (or has sought to procure or has procured) a visa, other documentation, or admission into the United States or other benefit provided under this Act is inadmissible.
>
> (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 . . . is inadmissible.
> >
> > . . . .
>
> (iii) Waiver authorized. – For provision authorizing waiver of clause (i), see subsection (i).

Section 212(i) of the Act provides:

> (1) The Attorney General [now the Secretary of Homeland Security (Secretary)] may, in the discretion of the Attorney General [Secretary], waive the application of clause (i) of subsection (a)(6)(C) in the case of an alien who is the spouse, son or daughter of a United States citizen or of an alien lawfully

> admitted for permanent residence, if it is established to the satisfaction of the Attorney General [Secretary] that the refusal of admission to the United States of such immigrant alien would result in extreme hardship to the citizen or lawfully resident spouse or parent of such an alien.

The statutory language is clear that the waiver authorized by section 212(a)(6)(C)(iii) of the Act, 8 U.S.C. § 1182(a)(6)(C)(iii), and described at section 212(i) of the Act, 8 U.S.C. § 1182(i), is not available to aliens who violate section 212(a)(6)(C)(ii), 8 U.S.C. § 1182(a)(6)(C)(ii). The applicant is therefore ineligible for waiver and the appeal will be dismissed without consideration of the hardship that the applicant's husband asserts on his behalf.

ORDER: The appeal is dismissed.