(b)(6)

U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Administrative Appeals Office (AAO)
20 Massachusetts Ave., N.W., MS 2090
Washington, DC 20529-2090

U.S. Citizenship and Immigration Services

[redacted]

Date: AUG 2 7 2013 Office: LOS ANGELES, CA FILE: [redacted]

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:

SELF-REPRESENTED

Enclosed please find the decision of the Administrative Appeals Office (AAO) in your case.

This is a non-precedent decision. The AAO does not announce new constructions of law nor establish agency policy through non-precedent decisions. If you believe the AAO incorrectly applied current law or policy to your case or if you seek to present new facts for consideration, you may file a motion to reconsider or a motion to reopen, respectively. Any motion must be filed on a Notice of Appeal or Motion (Form I-290B) within 33 days of the date of this decision. **Please review the Form I-290B instructions at http://www.uscis.gov/forms for the latest information on fee, filing location, and other requirements.** *See also* 8 C.F.R. § 103.5. **Do not file a motion directly with the AAO.**

Thank you,

Ron Rosenberg
Chief, Administrative Appeals Office

DISCUSSION: The Field Office Director, Los Angeles, California, denied the Application for Permission to Reapply for Admission into the United States after Deportation or Removal (Form I-212). After a subsequent appeal, the matter was remanded to the Field Office Director by the Administrative Appeals Office (AAO). The applicant has filed an appeal of the AAO's decision. The appeal will be dismissed.

The record reflects that the applicant is a native and citizen of Mexico who was granted voluntary departure by the Board of Immigration Appeals (BIA) on September 26, 2003. The Ninth Circuit Court of Appeals denied the applicant's petition for review on December 10, 2003. The applicant was found to be inadmissible pursuant to section 212(a)(9)(A)(ii) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(a)(9)(A)(ii). He 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 Field Office Director determined the applicant was inadmissible pursuant to section 212(a)(9)(C) and denied the Form I-212 accordingly. *See Field Office Director's Decision,* dated September 16, 2009.

The AAO remanded the matter to the Field Office Director, finding the applicant was not inadmissible under section 212(a)(9)(C) of the Act, and that the Field Office Director should determine whether the applicant qualifies for permission to reapply for admission as he remains inadmissible pursuant to section 212(a)(9)(A)(ii) of the Act. *See AAO Decision,* June 18, 2010.

The applicant has appealed the AAO's June 18, 2010 decision, indicating on the Form I-290B, Notice of Appeal or Motion, that he was a victim of political asylum fraud. *See Form I-290B, Notice of Appeal or Motion,* dated July 5, 2010 and received by the AAO on June 4, 2013. The applicant additionally claimed the individuals he asked for help knew he could not obtain asylum status as a Mexican citizen. *Id.* No other documents were submitted on appeal.[1]

The applicant, however, filed the appeal prematurely. The record reflects that the Field Office Director has not yet issued a decision after the AAO remanded the matter in June 2010. Without an unfavorable decision, the applicant is not entitled to an appeal. 8 C.F.R. §103.3(a).

Nevertheless, the AAO notes the present record does not indicate the applicant has any immigration petitions with which to adjust status to that of a permanent resident or obtain an immigrant visa. In the absence of an approved immigrant petition no purpose is served in adjudicating his application for permission to reapply for admission into the United States after deportation or removal.

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[1] The record reflects the applicant may be represented by [redacted] of "Inmigration Servicios Internationales." *See Form I-290B.* However, [redacted] did not file a properly executed Form G-28, Notice of Entry if Appearance or Accredited Representative, and she failed to respond after multiple attempts were made to contact her. As such, the applicant will be considered as self-represented.

In application proceedings, it is the applicant's burden to establish eligibility for the immigration benefit sought. Section 291 of the Act, 8 U.S.C. § 1361. Here, that burden has not been met. The appeal must therefore be dismissed.

ORDER: The appeal is dismissed.