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

(b)(6)

U.S. Citizenship and Immigration Services

[redacted]

DATE: AUG 18 2014 OFFICE: NEBRASKA SERVICE CENTER 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) of the Immigration and Nationality Act, 8 U.S.C. § 1182(a)(9)(A)

ON BEHALF OF APPLICANT:

SELF-REPRESENTED

INSTRUCTIONS:

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,

Morgan Payne for

Ron Rosenberg
Chief, Administrative Appeals Office

DISCUSSION: The Director, Nebraska Service Center, denied the Form I-212, Application for Permission to Reapply for Admission into the United States after Deportation or Removal (Form I-212), and it is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The record reflects the applicant is a native and citizen of Mexico who was found to be inadmissible to the United States under section 212(a)(9)(A)(ii) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(a)(9)(A)(ii), for having been ordered removed from the United States and seeking admission within the proscribed period since the date of removal. 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 with her family in the United States.

The Director found that because the applicant's Form I-601, Application for Waiver of Grounds of Inadmissibility, was denied, the applicant would remain inadmissible to the United States even if her Form I-212 application were approved. The Director denied the Form I-212 as a matter of discretion. *Form I-212 Decision*, dated September 23, 2013.

On appeal, the applicant asserts that her family would suffer emotional and economic stress because her family members were approved for residency in the United States, whereas she has been left behind in Mexico. *Form I-290B, Notice of Appeal or Motion*, dated October 18, 2013.

The record includes, but is not limited to: affidavits by the applicant, her spouse, their son and daughter, her mother-in-law, and brother-in-law; letters of support; documents establishing identity and relationships; and academic, financial, medical, residential, and voter-registration documents. The entire record was reviewed and considered in rendering a decision on the appeal.

Section 212(a)(9) of the Act provides, in relevant part:

> (A) Certain aliens previously removed.-
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> ...
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> (ii) Other aliens.- Any alien not described in clause (i) who-
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> (I) has been ordered removed under section 240 or any other provision of law, or
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> ...
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> and who 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 alien 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 alien's reembarkation at a place outside the United States or attempt to be admitted from foreign contiguous territory, the Attorney General [now the Secretary of Homeland Security] has consented to the alien's reapplying for admission.

The record reflects an immigration judge ordered the applicant removed to Mexico pursuant to section 240 of the Act on August 26, 2005, upon the withdrawal with prejudice of her applications for asylum, withholding of removal, suspension or cancellation of removal under the Nicaraguan Adjustment and Central American Relief Act, and protection under the U.N. Convention Against Torture. On November 24, 2005, the applicant returned to Mexico, where she has remained to date. On December 27, 2012, U.S. Citizenship and Immigration Services received her Form I-212. Accordingly, the applicant is inadmissible pursuant to section 212(a)(9)(A)(ii)(I) of the Act. The applicant does not contest this finding.

Matter of Martinez-Torres, 10 I&N Dec. 776 (reg. Comm. 1964) held that an application for permission to reapply for admission is denied, in the exercise of discretion, to an alien who is mandatorily inadmissible to the United States under another section of the Act, and no purpose would be served in granting the application. As the applicant is inadmissible under sections 212(a)(9)(B)(i)(II) and 212(a)(6)(C)(i) of the Act and no waiver has been approved, no purpose would be served in approving the applicant's Form I-212.

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.

ORDER: The appeal is dismissed.