

Identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy



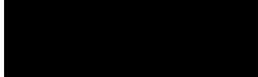
U.S. Citizenship
and Immigration
Services

HL4

PUBLIC COPY



FILE:



Office: DENVER, CO

Date:

FEB 01 2008

IN RE:



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

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.

A handwritten signature in black ink, appearing to read "Robert P. Wiemann".

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The District Director, Denver, Colorado, denied the 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 applicant is a native and citizen of Mexico who, on March 29, 2000, attempted to enter the United States at the El Paso, Texas Port of Entry by verbally stating that he was a U.S. citizen. When asked to present evidence of his U.S. citizenship, the applicant presented a Kansas registration card under the name [REDACTED] to immigration officers. The applicant was then referred to secondary inspection. The applicant was found to be inadmissible 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), for falsely claiming to be a U.S. citizen. On the same day, the applicant was expeditiously removed from the United States pursuant to section 235(b)(1) of the Act, 8 U.S.C. § 1225(b)(1). The applicant reentered the United States without inspection or admission on February 5, 2001. On September 9, 2002, the applicant married his spouse, [REDACTED] in Glenwood Springs, Colorado. On September 30, 2002, immigration officials apprehended the applicant when he attempted to file an Application to Register Permanent Residence or Adjust Status (Form I-485), based on a Petition for Alien Relative (Form I-130) to be filed by [REDACTED]. The applicant's prior removal order was reinstated and a warrant for his removal was issued on October 24, 2002. On October 29, 2002, the applicant was removed from the United States. On June 5, 2003, the applicant filed the Form I-212. The applicant reentered the United States without inspection or admission on September 25, 2005 and, on September 26, 2005, his removal order was again reinstated. On October 3, 2005, the applicant was removed from the United States and returned to Mexico, where he has since resided. The applicant is inadmissible under section 212(a)(9)(A)(i) of the Act, 8 U.S.C. § 1182(a)(9)(A)(i) and 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 his U.S. citizen spouse and daughter.

The district director determined that the applicant did not warrant a favorable exercise of discretion and denied the Form I-212 accordingly. *See District Director's Decision* dated February 22, 2006.

On appeal, the applicant's spouse contends that her husband is a man of good moral character and is hard working. She asks that the applicant be given the opportunity to reunite with his family in the United States, especially with his U.S. citizen daughter. She states that she and the applicant would like the opportunity to live where the tap water is truly pure and they are free of communicable diseases. She states that she and the applicant would like the opportunity to redeem their credit in the United States, to complete their education so that they can be gainfully employed and to begin a family. *See [REDACTED]'s Letter*, undated. In support of the appeal, [REDACTED] submits letters from herself and the applicant, medical documentation and evidence related to a 2006 traffic accident. The entire record was reviewed in rendering a decision in this case.

Section 212(a)(6)(C) of the Act provides, in pertinent part:

- (i) 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.

II. Exception-

In the case of an alien making a representation described in subclause (I), if each natural parent of the alien . . . is or was a citizen (whether by birth or naturalization), the alien permanently resided in the United States prior to attaining the age of 16, and the alien reasonably believed at the time of making such representation that he or she was a citizen, the alien shall not be considered to be inadmissible under any provision of this subsection based on such representation.

(iii) Waiver authorized. – For provision authorizing waiver of clause (i), see subsection (i).

Before the AAO can weigh the discretionary factors in this case, it must first determine whether the applicant is eligible to apply for the relief requested. As of September 30, 1996, the date of enactment of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, Pub.L. 104-208, aliens making false claims to U.S. citizenship are statutorily ineligible for a waiver of inadmissibility. *See* Sections 212(a)(6)(C)(ii) and (iii) of the Act, 8 U.S.C. §§ 1182(a)(6)(C)(ii) and 1182 (a)(6)(C)(iii). Therefore, if an alien makes a false claim to U.S. citizenship on or after September 30, 1996, the alien is subject to a permanent ground of inadmissibility.

On March 29, 2000, the applicant was expeditiously removed from the United States. The corresponding Notice and Order of Expedited Removal (Form I-860) indicates that the applicant made an oral false claim to U.S. citizenship, presented a Kansas registration card that did not belong to him and was deemed inadmissible for making a false claim to U.S. citizenship. The Record of Sworn Statement in Proceedings (Form I-867A) indicates that, after being placed in secondary inspection, the applicant admitted that he was not a U.S. citizen and that he had obtained the registration card for \$50. The record reflects that the applicant was not under the misconception that he was a U.S. citizen at the time he made the false claim to U.S. citizenship and that both of his parents were citizens of Mexico. The AAO finds that the applicant, by presenting a U.S. birth certificate belonging to another, is inadmissible pursuant to section 212(a)(6)(C)(ii) of the Act for attempting to enter the United States by making a false claim to U.S. citizenship. The AAO also finds that the applicant is ineligible for the exception to the inadmissibility grounds under section 212(a)(6)(C)(ii)(II) of the Act.

The AAO therefore finds that the applicant is inadmissible to the United States pursuant to section 212(a)(6)(C)(ii) of the Act and that no waiver is available to the applicant for this ground of inadmissibility. *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.

The applicant is inadmissible under the provisions of section 212(a)(6)(C)(ii) of the Act and no waiver is available. Therefore, no purpose would be served in the favorable exercise of discretion in adjudicating the application to reapply for admission into the United States under section 212(a)(9)(A)(iii) of the Act. As the applicant is statutorily inadmissible to the United States, the appeal will be dismissed.

ORDER: The appeal is dismissed.