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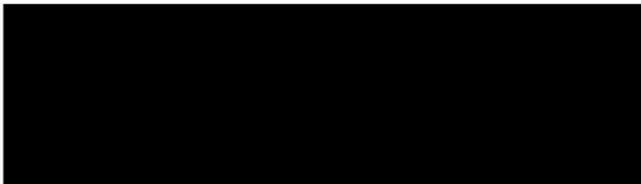
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U.S. Department of Homeland Security  
U. S. Citizenship and Immigration Services  
Office of Administrative Appeals MS 2090  
Washington, DC 20529-2090



U.S. Citizenship  
and Immigration  
Services

Hly



FILE: [REDACTED] Office: SAN ANTONIO, TX

Date: SEP 10 2009

IN RE: [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

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.

If you believe the law was inappropriately applied or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. Please refer to 8 C.F.R. § 103.5 for the specific requirements. All motions must be submitted to the office that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion, with a fee of \$585. Any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen, as required by 8 C.F.R. § 103.5(a)(1)(i).

John F. Grissom,  
Acting Chief, Administrative Appeals Office

**DISCUSSION:** The Field Office Director, San Antonio, Texas, 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, whose U.S. citizen spouse, on June 18, 2003, filed a Petition for Alien Relative (Form I-130) on her behalf. On July 1, 2003, the applicant's spouse filed a Petition for Alien Fiancée (Form I-129F) on the applicant's behalf. On August 21, 2003, the Form I-129F was approved. On March 2, 2004, the applicant appeared at the U.S. Consulate in Ciudad Juarez, Mexico. The applicant testified that, in April 2000, she had attempted to enter the United States at the Laredo, Texas port of entry by making an oral claim to U.S. citizenship. She testified that she was denied entry and returned to Mexico. On November 10, 2004, the Form I-130 was approved. On May 24, 2005, the applicant filed the Form I-212, indicating that she resides in Mexico. A letter from the applicant accompanying the Form I-212 and dated May 28, 2008, indicates that the applicant intended to enter the United States as an American citizen at Nueva Laredo and that she declared herself to be a U.S. citizen before an immigration official at the port of entry. The applicant is inadmissible under section 212(a)(9)(A)(i) of the Act, 8 U.S.C. § 1182(a)(9)(A)(i). 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 reside in the United States with her U.S. citizen spouse and two U.S. citizen children.<sup>1</sup>

The field office director determined that the applicant is inadmissible pursuant to section 212(a)(6)(C)(ii) and that there is no waiver available for this ground of inadmissibility. The field office director denied the Form I-212 accordingly. *See Field Office Director's Decision*, dated November 20, 2008.

On appeal, the applicant's spouse states that he did not find any erroneous conclusion by the field office director, but that he desperately wants his family to reside in the United States together. He states that his spouse has done nothing else other than make the false claim to U.S. citizenship and he can guarantee that no other problems would occur if she was given an opportunity to come to the United States. *See Form I-290B*, dated December 12, 2008. In support of his contentions, the applicant submits only the Form I-290B and copies of documentation already in the record. 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 –

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<sup>1</sup> The AAO notes that, despite the applicant's claims that she has resided in Mexico, the record reflects that the applicant was present in the United States to give birth to her two U.S. citizen children in December 1999 and December 2003.

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 parents 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).

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.

The AAO finds that the applicant, by making a oral false claim to U.S. citizenship in April 2000, 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.

*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 adjudicating the application to reapply for admission into the United States under sections 212(a)(9)(A)(iii) and 212(a)(9)(C)(ii) of the Act. As the applicant is statutorily inadmissible to the United States, the appeal will be dismissed as a matter of discretion.

**ORDER:** The appeal is dismissed.