

identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy

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



PUBLIC COPY



H4

Date: **JAN 23 2012**

Office: SACRAMENTO, CA

FILE: 

IN RE:

Applicant: 

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:



INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office in your case. All of the documents related to this matter have been returned to the office that originally decided your case. Please be advised that any further inquiry that you might have concerning your case must be made to that office.

If you believe the law was inappropriately applied by us in reaching our decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. The specific requirements for filing such a request can be found at 8 C.F.R. § 103.5. 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 \$630. Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires that any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you,

for Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The application for permission to reapply for admission after removal was denied by the Acting Field Office Director, Sacramento, California, and is now before the Administrative Appeals Office (AAO) on appeal. The application shall be denied.

The applicant is a native and citizen of Mexico who was found to be inadmissible to the United States pursuant to section 212(a)(2)(A)(i)(I) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(a)(2)(A)(i)(I), for having been convicted of crimes involving moral turpitude. The applicant sought a waiver of inadmissibility pursuant to section 212(h) of the Act, 8 U.S.C. § 1182(h). The director concluded that the applicant had failed to establish that his bar to admission would impose extreme hardship on a qualifying relative, and denied the Application for Waiver of Grounds of Inadmissibility (Form I-601) accordingly.

On March 1, 1988 the applicant was deported from the United States. The applicant reentered the United States without inspection sometime in 1988 and left the country in 1991. Sometime in 1999, the applicant reentered the United States without inspection and has remained in the United States since then. On November 14, 2006, the applicant sought permission to reapply for admission into the United States. On July 27, 2007, the director denied the applicant's Application for Permission to Reapply for Admission After Deportation or Removal (Form I-212), finding that the unfavorable factors in the applicant's case (his convictions involving moral turpitude and disregard of immigration laws) outweighed the favorable factors. The applicant now 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).

The record establishes that the applicant is inadmissible under section 212(a)(9)(A)(ii)(I) of the Act, 8 U.S.C. § 1182(a)(9)(A)(ii)(I), as an applicant seeking readmission after previously being removed.

Section 212(a)(9)(A) of the Act stated, in pertinent parts:

(A) Certain aliens previously removed

...

(ii) Other aliens

Any alien not described in clause (i) who--

(I) has been ordered removed under section 1229a of this title or any other provision of law, or

(II) departed the United States while an order of removal was outstanding,

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 recmbarkation at a place outside the United States or attempt to be admitted from foreign contiguous territory, the Attorney General has consented to the alien's reapplying for admission.

In a Notice of Appeal to the AAO (Form I-290B), counsel contends that the director failed to properly weigh the equities and that U.S. Citizenship and Immigration Services abused its discretion in denying the applicant's Form I-212.

The AAO notes that it has dismissed the applicant's appeal of the Form I-601 decision in a separate decision. Thus, as the applicant remains inadmissible under section 212(a)(2)(A)(i)(I) of the Act, adjudication of the Form I-212 serves no purpose. An application for permission to reapply for admission may be denied, in the exercise of discretion, to an alien who is mandatorily inadmissible to the United States under another section of the Act, as no purpose would be served in granting the application. *Matter of Martinez-Torres*, 10 I&N Dec. 776 (reg. Comm. 1964). Chapter 43.2(d) of the Adjudicator's Field Manual states:

If the alien has filed both applications (Forms I-212 and I-601), adjudicate the waiver application first. If the Form I-601 waiver is approved, then consider the Form I-212 on its merits; if the Form I-601 is denied (and the decision is final), deny the Form I-212 since its approval would serve no purpose.

The applicant's Form I-601 has been denied. Thus, no purpose would be served in adjudicating the applicant's Form I-212 as an approval would serve no purpose. Accordingly, the appeal will be dismissed.

ORDER: The appeal is dismissed.