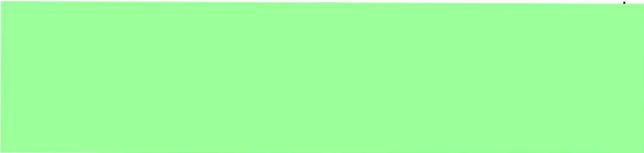


(b)(6)

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

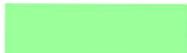


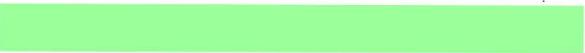
U.S. Citizenship
and Immigration
Services



Date: **APR 02 2013**

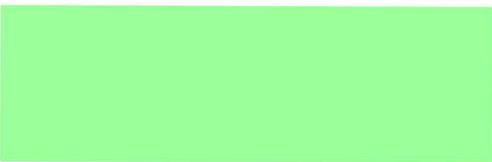
Office: Dallas

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)(iii) of the Immigration and Nationality Act, 8 U.S.C. § 1182(a)(9)(A)(iii)

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 AAO inappropriately applied the law in reaching its decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen in accordance with the instructions on Form I-290B, Notice of Appeal or Motion, with a fee of \$630. The specific requirements for filing such a motion can be found at 8 C.F.R. § 103.5. **Do not file any motion directly with the AAO.** Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires any motion to be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you,

Ron Rosenberg,
Chief, Administrative Appeals Office

DISCUSSION: The Field Office Director, Dallas, 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 as the applicant is not inadmissible under section 212(a)(9)(A)(ii) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(a)(9)(A)(ii), and the Form I-212 application is thus unnecessary.

The record reflects that the applicant is a native and citizen of Mexico who was found to be inadmissible to the United States pursuant to section 212(a)(6)(C)(i) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(a)(6)(C)(ii), for falsely claiming to be a citizen of the United States; and section 212(a)(2)(A) of the Act, 8 U.S.C. § 1182(a)(2)(A)(i)(I), for having been convicted of a crime involving moral turpitude. 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).

The director stated that U.S. Citizenship and Immigration Service (USCIS) records indicate that the applicant was removed from the United States on March 3, 1999 pursuant to section 212(a)(2)(A) for conspiracy to commit aggravated battery, and section 212(a)(6)(C)(i) of the Act for falsely claiming U.S. citizenship before an immigration judge. The director stated that in view of the false claim to U.S. citizenship the applicant was mandatorily inadmissible to the United States and the Form I-212 was therefore denied.

Section 212(a)(9) of the Act states in pertinent part:

(A) Certain aliens previously removed.-

- (i) Arriving aliens.- Any alien who has been ordered removed under section 235(b)(1) or at the end of proceedings under section 240 initiated upon the alien's arrival in the United States and who again seeks admission within five years of the date of such removal (or within 20 years 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.
- (ii) Other aliens.-Any alien not described in clause (i) who-
 - (I) has been ordered removed under section 240 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 reembarkation at a place outside the United States or attempt to be admitted from foreign contiguous territory, the Secretary has consented to the alien's reapplying for admission.

The director determined that the applicant was removed from the United States on March 3, 1999. Pursuant to section 212(a)(9)(A)(ii) of the Act the applicant is inadmissible to the United States until March 3, 2009. As the applicant has been outside the United States for the entire period of inadmissibility, he is no longer inadmissible under section 212(a)(9)(A)(ii) of the Act and consent to reapply is not required.

However, as the director found the applicant was convicted of a crime of moral turpitude and falsely claimed to be a citizen of the United States, the applicant is inadmissible to the United States on these grounds of inadmissibility, which are not waivable with the Form I-212 application. Thus, this decision applies only to the applicant's Form I-212 application. We will not address inadmissibility to the United States under section 212(a)(2)(A), for conspiracy to commit aggravated battery, and section 212(a)(6)(C)(i) of the Act, for falsely claiming U.S. citizenship.

ORDER: The appeal is dismissed as the waiver application is unnecessary.