



U.S. Citizenship
and Immigration
Services

(b)(6)

Date: FEB 27 2013

Office: LOS ANGELES, CA

FILE: [REDACTED]

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:

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
Acting Chief, Administrative Appeals Office

DISCUSSION: The Field Office Director, Los Angeles, California denied the Application for Permission to Reapply for Admission into the United States after Deportation or Removal (Form I-212). An appeal of the denial was dismissed by the Administrative Appeals Office (AAO). The matter is now before the AAO on motion. The motion will be granted and the underlying application will remain denied.

The record reflects that the applicant is a native and citizen of Mexico who on March 21, 2000 was ordered removed from the United States after presenting a valid U.S. birth certificate belonging to another person at the Los Angeles International Airport in an attempt to gain admission to the United States. The applicant then reentered the United States at some point after May 21, 2000. The applicant was found inadmissible pursuant to section 212(a)(9)(A)(ii) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(a)(9)(A)(ii). 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) in order to reside in the United States.

In a decision, dated November 10, 2011, the field office director determined that the applicant was inadmissible under section 212(a)(9)(A)(ii) of the Act as someone who had been ordered removed from the United States, section 212(a)(9)(C)(i)(II) of the Act as a person who was ordered removed and then reentered the United States without inspection or permission to reapply for admission, and under section 212(a)(6)(C)(ii) of the Act as a person who falsely represented himself as a U.S. citizen. The field office director found that there was no waiver for the applicant's ground of inadmissibility under section 212(a)(6)(C)(ii) of the Act, so no purpose would be served in granting the applicant's Form I-212. She denied the Form I-212 accordingly.

In a Notice of Appeal to the AAO (Form I-290B), dated December 8, 2011, the applicant stated that he disagreed with the decision of the field office director because he qualified for asylum, he has a U.S. citizen child, and his wife has Temporary Protected Status.

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.

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

Section 212(i) of the Act provides:

- (1) The Attorney General [now the Secretary of Homeland Security (Secretary)] may, in the discretion of the Attorney General [Secretary], waive the application of clause (i) of subsection (a)(6)(C) in the case of an alien who is the spouse, son or daughter of a United States citizen or of an alien lawfully admitted for permanent residence, if it is established to the satisfaction of the Attorney General [Secretary] that the refusal of admission to the United States of such immigrant alien would result in extreme hardship to the citizen or lawfully resident spouse or parent of such an alien.

Aliens making false claims to U.S. citizenship on or after September 30, 1996 are ineligible to apply for a Form I-601 waiver. See Sections 212(a)(6)(C)(ii) and (iii) of the Act.

In a decision, dated July 10, 2012, the AAO found that the applicant is subject to the provisions of section 212(a)(6)(C)(ii) of the Act with no waiver being available to an alien who falsely makes a claim to U.S. citizenship in an effort to gain an immigration benefit. Therefore, we found no purpose would be served in adjudicating the applicant's application to reapply for admission into the United States under section 212(a)(9)(A)(iii) or 212(a)(9)(C)(i)(II) of the Act. We found further that as the applicant is statutorily inadmissible to the United States, the Form I-212 was properly denied by the field office director as a matter of discretion. See *Matter of Martinez-Torres*, 10 I&N Dec. 776 (Reg. Comm. 1964).

On motion, the applicant submits additional evidence of hardship and request that discretion be exercised in his favor.

We recognize that the applicant and his family may experience hardship as a result of his inadmissibility, but the applicant is statutorily inadmissible under section 212(a)(6)(C)(ii) of the Act with no waiver available. Thus, we find again that no purpose would be served in adjudicating the applicant's application to reapply for admission into the United States under section 212(a)(9)(A)(iii) or 212(a)(9)(C)(i)(II) of the Act and that the Form I-212 was properly denied as a matter of discretion. See *Matter of Martinez-Torres*, 10 I&N Dec. 776 (Reg. Comm. 1964). Accordingly, the motion is granted and the underlying application remains denied.

ORDER: The application is denied.