



U.S. Citizenship
and Immigration
Services

(b)(6)

[REDACTED]

Date: **JAN 28 2014** Office: SAN FERNANDO VALLEY, CA [REDACTED]

IN RE: Applicant: [REDACTED]

APPLICATION: Application for Permission to Reapply for Admission into the United States after Prior Immigration Violations under Section 212(a)(9)(C)(ii) of the Immigration and Nationality Act, 8 U.S.C. § 1182(a)(9)(C)(ii)

ON BEHALF OF APPLICANT:

[REDACTED]

INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office (AAO) in your case.

This is a non-precedent decision. The AAO does not announce new constructions of law nor establish agency policy through non-precedent decisions. If you believe the AAO incorrectly applied current law or policy to your case or if you seek to present new facts for consideration, you may file a motion to reconsider or a motion to reopen, respectively. Any motion must be filed on a Notice of Appeal or Motion (Form I-290B) within 33 days of the date of this decision. **Please review the Form I-290B instructions at <http://www.uscis.gov/forms> for the latest information on fee, filing location, and other requirements. See also 8 C.F.R. § 103.5. Do not file a motion directly with the AAO.**

Thank you,

Ron Rosenberg
Chief, Administrative Appeals Office

DISCUSSION: The application for permission to reapply for admission after removal was denied by the Field Office Director, San Fernando Valley, California, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be summarily dismissed.

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)(9)(C)(i)(II) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(a)(9)(C)(i)(II), for having been ordered removed from the United States and subsequently entering the United States without being admitted. The applicant seeks permission to reapply for admission after removal pursuant to section 212(a)(9)(C)(ii) of the Act, 8 U.S.C. § 1182(a)(9)(C)(ii), in order to reside in the United States with her family.

The Field Office Director found that the applicant failed to establish that she meets the requirements for consent to reapply for admission because she has not left the United States and is not seeking readmission ten years after her last departure from the United States. She denied the Form I-212, Application for Permission to Reapply for Admission into the United States after Deportation or Removal (Form I-212), accordingly. *Decision of the Field Office Director*, dated June 26, 2013.

On appeal, counsel states, "See attached brief" on Form I-290B, Notice of Appeal or Motion (Form I-290B), in the section requesting the basis for the appeal. The attached brief he submits is titled, "Brief in support of application to adjust status" and is dated May 2, 2013. The brief predates the Field Office Director's denial of the applicant's Form I-212 by several weeks. The record reflects that the brief accompanying Form I-290B is an identical copy of the brief submitted with the applicant's Forms I-212 and I-601, Application for Waiver of Grounds of Inadmissibility. The Form I-290B does not dispute or otherwise address the grounds upon which the applicant's Form I-212 application was denied.

8 C.F.R. § 103.3(a)(v) states in pertinent part that:

(v) Summary dismissal. An officer to whom an appeal is taken shall summarily dismiss any appeal when the party concerned fails to identify specifically any erroneous conclusion of law or statement of fact for the appeal.

Because the applicant fails to identify any erroneous conclusion of law or statement of fact in the Field Office Director's Form I-212 decision, the appeal is summarily dismissed.

Even if the appeal were not summarily dismissed, it would be dismissed because counsel's assertions in his May 2013 brief, which were not addressed in the decision denying the applicant's Form I-212, do not overcome the finding of inadmissibility under section 212(a)(9)(C)(i)(II) of the Act. Counsel asserts that section 212(a)(9)(C)(i)(II) of the Act does not apply to the applicant, because her attempted entry on May 19, 1998 could not have subjected her to expedited removal, as she was not admitted nor did she enter the United States on that date. Counsel states that because the applicant "did not effectuate an entry and . . . was turned around," she "cannot be deemed to have been removed," and the expedited removal order is invalid. Counsel provides no legal basis for this assertion.

The record reflects that the applicant was ordered removed expeditiously from the United States on May 19, 1998, after presenting an entry document that was not her own at the Calexico port of entry. The record includes a Form I-860, Notice and Order of Expedited Removal, and a Form I-296, Notice to Alien Ordered Removed/Departure Verification with the applicant's photograph and fingerprint. The record does not support counsel's assertion that the applicant was turned around or permitted to withdraw her application for admission. The applicant then re-entered the United States without inspection on the same date.

According to section 235(b)(1)(A)(i) of the Act,

In general.-If an immigration officer determines that an alien (other than an alien described in subparagraph (F)) who is arriving in the United States or is described in clause (iii) is inadmissible under section 212(a)(6)(C) or 212(a)(7), the officer shall order the alien removed from the United States without further hearing or review unless the alien indicates either an intention to apply for asylum under section 208 or a fear of persecution.

This section of the Act, addressing the expedited-removal process, permits immigration officers to order removed arriving applicants for admission who are inadmissible under either section 212(a)(6)(C) or 212(a)(7) of the Act. On May 19, 1998, upon her arrival at the Calexico port of entry, the applicant was found inadmissible under section 212(a)(6)(C) of the Act for her willful misrepresentation of a material fact when she presented an entry document that was not her own. Therefore, counsel's claim that the applicant's expedited removal is invalid because she never entered the United States is not supported by the record or by the Act.

ORDER: The appeal is summarily dismissed.