



**U.S. Citizenship  
and Immigration  
Services**

**Non-Precedent Decision of the  
Administrative Appeals Office**

MATTER OF G-B-B-

DATE: MAY 11, 2016

APPEAL OF IMPERIAL, CALIFORNIA FIELD SUPPORT OFFICE DECISION

APPLICATION: FORM I-212, APPLICATION FOR PERMISSION TO REAPPLY FOR  
ADMISSION INTO THE UNITED STATES AFTER DEPORTATION OR  
REMOVAL

The Applicant, a native and citizen of Mexico, was found inadmissible for entering the United States without being admitted after having been ordered removed from the United States and seeks permission to reapply for admission into the United States. *See* Immigration and Nationality Act (the Act) section 212(a)(9)(C)(ii), 8 U.S.C. § 1182(a)(9)(C)(ii). For those inadmissible on this ground who seek admission after residing abroad for 10 years following their last departure, U.S. Citizenship and Immigration Services (USCIS) may remove the inadmissibility bar by granting permission to reapply in the exercise of discretion.

The Field Support Office Director, Imperial, California, denied the application. The Director concluded that the Applicant was inadmissible under section 212(a)(9)(C) of the Act, 8 U.S.C. § 1182(a)(9)(C), for reentering the United States without admission after having been ordered removed. The Director further concluded that she did not meet the requirements for permission to reapply for admission. The Director also determined that the Applicant is inadmissible for falsely representing herself to be a U.S. citizen and that the Act provides no waiver for this ground of inadmissibility.

The matter is now before us on appeal. In the appeal, the Applicant submits additional evidence and claims that the Director erred in finding her inadmissible under these grounds. She maintains that she is admissible only under section 212(a)(9)(A)(i), 8 U.S.C. § 1182(a)(9)(A), for having been previously removed. She further claims that the U.S. Department of State Consular Office must decide, in conjunction with her immigrant visa application, whether she is inadmissible under any other grounds.

Upon *de novo* review, we will dismiss the appeal.

**I. LAW**

The Applicant is seeking permission to reapply for admission to the United States and has been found inadmissible for reentering the United States without being admitted after having been ordered

removed from the United States and for falsely representing herself to be a U.S. citizen. Section 212(a)(9)(C) of the Act provides, in pertinent part:

**Aliens Unlawfully Present After Previous Immigration Violations.-**

**(i) In General**

Any alien who-

(I) has been unlawfully present in the United States for an aggregate period of more than 1 year, or

(II) has been ordered removed under section 235(b)(1), section 240, or any other provision of law,

and who enters or attempts to reenter the United States without being admitted is inadmissible.

Individuals found inadmissible under section 212(a)(9)(C) of the Act may seek permission to reapply for admission under section 212(a)(9)(C)(ii). Section 212(a)(9)(C)(ii) of the Act provides, in pertinent part:

Clause (i) shall not apply to an alien seeking admission more than 10 years after the date of the alien's last departure from the United States if, prior to the alien's reembarkation at a place outside the United States or attempt to be readmitted from a foreign contiguous territory, the Secretary of Homeland Security has consented to the alien's reapplying for admission.

Section 212(a)(6)(C)(ii) of the Act provides, in pertinent part, that:

- (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 (including section 274A) or any other Federal or State law is inadmissible.
- (II) Exception- In the case of an alien making a representation described in subclause (I), if each natural parent of the alien (or, in the case of an adopted alien, each adoptive parent 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.

Approval of an application for permission to reapply is discretionary, and any unfavorable factors will be weighed against the favorable factors to determine if approval of the application is warranted as a matter of discretion. *See Matter of Lee*, 17 I&N Dec. 275, 278-79 (Reg'l Comm'r 1978). Factors to be considered in determining whether to grant permission to reapply include the basis for the prior deportation; the recency of deportation; length of residence in the United States; the applicant's moral character; the applicant's respect for law and order; evidence of the applicant's reformation and rehabilitation; family responsibilities; any inadmissibility under other sections of law; hardship involved to the applicant or others; and the need for the applicant's services in the United States. *See Matter of Tin*, 14 I&N Dec. 371 (Reg'l Comm'r 1973); *see also Matter of Lee, supra*, at 278 (Finding that a record of immigration violations, standing alone, does not conclusively show lack of good moral character and "the recency of the deportation can only be considered when there is a finding of poor moral character based on moral turpitude in the conduct and attitude of a person which evinces a callous conscience"). Generally, favorable factors that come into existence after an alien is placed in removal proceedings, so-called "after-acquired equities," are accorded less weight in a discretionary determination. *See Matter of Mendez-Morales*, 21 I&N Dec. 296, 301-302 (BIA 1996); *see also Ghassan v. INS*, 972 F.2d 631 (5th Cir. 1992); *Garcia-Lopes v. INS*, 923 F.2d 72 (7th Cir. 1991); *Carnalla-Munoz v. INS*, 627 F.2d 1004 (9th Cir. 1980).

## II. ANALYSIS

The issue on appeal is whether the Applicant is inadmissible for reentering the United States without admission after having been ordered removed and for falsely representing herself to be a U.S. citizen. The Applicant claims that she is admissible only for having been previously removed. She further claims that whether she is inadmissible under other grounds must be decided by the U.S. Department of State Consular Office in its adjudication of her immigrant visa application.

The evidence in the record demonstrates that the Applicant is inadmissible for having reentered the United States after having been previously removed. The record further demonstrates that she is mandatorily inadmissible for falsely representing herself to be a U.S. citizen.

### A. Inadmissibility

As stated above, the Applicant has been found inadmissible under section 212(a)(9)(C) for reentering the United States without admission after having been ordered removed and section 212(a)(6)(C)(ii) for falsely representing herself to be a U.S. citizen. In her January 3, 1999 sworn statement, the Applicant stated that she attempted to enter the United States on January 3, 1999, by falsely representing herself to be a U.S. citizen. The Form I-860, Notice and Order of Expedited Removal, reflects that the Applicant is inadmissible under section 212(a)(6)(C)(ii) for attempting to procure admission into the United States by falsely representing herself to be a U.S. citizen. It further reflects that she is inadmissible under section 212(a)(7)(A)(i)(I) as an intending immigrant of the United States. The Form I-296, Notice to Alien Ordered Removed/Departure Verification, shows that on January 3, 1999, under section 235(b)(1) of the Act, she was expeditiously removed from the

United States. The Applicant claims, and her records show, that she reentered the United States without inspection shortly thereafter.<sup>1</sup> She is therefore inadmissible under section 212(a)(9)(C) for having reentered the United States after having been ordered removed, and under section 212(a)(9)(A)(iii) of the Act requires permission to reapply for admission into the United States. The record further establishes that the Applicant is inadmissible under section 212(a)(6)(C)(ii) of the Act for attempting to procure admission into the United States by falsely representing herself to be a U.S. citizen.

#### B. Permission to Reapply

An application for permission to reapply for admission is denied, in the exercise of discretion, to an individual who is mandatorily inadmissible to the United States under another section of the Act, and no purpose would be served in granting the application. *Matter of Martinez-Torres*, 10 I&N Dec. 776 (Reg'l Comm'r 1964). Applicants making false claims to U.S. citizenship on or after September 30, 1996, the date of enactment of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, are inadmissible under section 212(a)(6)(C)(ii)(I) of the Act and are ineligible for waiver consideration. In this case, the Applicant is mandatorily inadmissible under section 212(a)(6)(C)(ii) of the Act for having falsely represented herself to be a U.S. citizen on January 3, 1999. Therefore, we will dismiss the Form I-212 as a matter of discretion.

### III. CONCLUSION

The Applicant has the burden of proof in seeking permission to reapply for admission. *See* section 291 of the Act, 8 U.S.C. § 1361. The Applicant has not met that burden. Accordingly, we dismiss the appeal.

**ORDER:** The appeal is dismissed.

Cite as *Matter of G-B-B-*, ID# 17207 (AAO May 11, 2016)

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<sup>1</sup> The Applicant's Form I-130, Petition for Alien Relative, and Form G-325A, Biographic Information, indicate that she reentered the United States without inspection after her January 3, 1999 removal.