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U.S. Department of Homeland Security
Bureau of Citizenship and Immigration Services

ADMINISTRATIVE APPEALS OFFICE
425 Eye Street N.W.
BCIS, AAO, 20 Mass, 3/F
Washington, D.C. 20536

[redacted]

FILE [redacted] Office: Nebraska Service Center Date: JUL 02 2003

IN RE: Applicant: [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:

This is the decision in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

If you believe the law was inappropriately applied or the analysis used in reaching the decision was inconsistent with the information provided or with precedent decisions, you may file a motion to reconsider. Such a motion must state the reasons for reconsideration and be supported by any pertinent precedent decisions. Any motion to reconsider must be filed within 30 days of the decision that the motion seeks to reconsider, as required under 8 C.F.R. § 103.5(a)(1)(i).

If you have new or additional information that you wish to have considered, you may file a motion to reopen. Such a motion must state the new facts to be proved at the reopened proceeding and be supported by affidavits or other documentary evidence. Any motion to reopen must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires may be excused in the discretion of the Bureau of Citizenship and Immigration Services (Bureau) where it is demonstrated that the delay was reasonable and beyond the control of the applicant or petitioner. *Id.*

Any motion must be filed with the office that originally decided your case along with a fee of $110 as required under 8 C.F.R. § 103.7.

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, Nebraska Service Center, and is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The applicant is a native and citizen of Mexico who pleaded guilty on March 30, 1998, to violations of 18 U.S.C § 2 and 8 U.S.C § 1325(a)(3) for Aiding and Abetting Attempted and for Illegal Entry by False and Misleading Representation. The applicant was sentenced to 140 days in jail. He found to be removable under present section 212(a)(6)(E)(i) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1227(a)(6)(E)(i), and was removed from the United States on September 28, 1998. Therefore, he is also inadmissible under section 212(a)(9)(A) of the Act, 8 U.S.C § 1182(a)(9)(A), for having been removed from the United States. The applicant seeks permission to reapply for admission after removal under section 212(a)(9)(A)(iii) of the Act, 8 U.S.C. § 1181(a)(9)(A)(iii), for humanitarian reasons, to reside with his United States citizen wife and children.

Citing *Matter of J-F-D-*, 10 I&N Dec. 694 (Reg. Comm. 1963), and *Matter of Martinez-Torres*, 10 I&N Dec. 776 (Reg. Comm. 1964), the director noted that the above applicant is mandatorily inadmissible to the United States under section 212(a)(6)(E) of the Act, for having been convicted of a violation for which no waiver is available. The director concluded that no purpose would be served in granting the above application and denied the application accordingly.

On appeal, the applicant's wife discusses the difficulties she and the children experience without the applicant's presence and how the children miss him. The applicant's wife states that her husband is sorry for everything that happened and requests that he be given another chance.

The record reflects that the applicant attempted to bring his nephews into the United States by providing them with birth certificates that indicated they were born in the United States, knowing that they were Mexican citizens with no legal right to enter or to remain in the United States.

Section 212(a)(6)(E) of the Act provides that:

> (i) Any alien who at any time knowingly has encouraged, induced, assisted, abetted, or aided any other alien to enter or to try to enter the United States in violation of the law is inadmissible.
>
> (ii) Special Rule In The Case Of Family Reunification.- Clause (i) shall not apply in the case of alien who is an eligible immigrant...was physically present in the

> United States on May 5, 1988, and is seeking admission as an immediate relative or under section 203(a)(2) (including under section 112 of the Immigration Act of 1990) or benefits under section 301(a) of the Immigration Act of 1990 if the alien, before May 5, 1988, has encouraged, induced, assisted, abetted, or aided only the alien's spouse, parent, son, or daughter (and no other individual) to enter the United States in violation of law.

Section 212(d)(11) of the Act provides that:

> The Attorney General [now Secretary of Homeland Security], may, in his discretion for humanitarian purposes, to assure family unity, or when it is otherwise in the public interest, waive application of clause (i) of subsection (a)(6)(E) in the case of any alien lawfully admitted for permanent residence who temporarily proceeded abroad voluntarily and not under an order of removal, and who is otherwise admissible to the United States as a returning resident under section 211(b) and in the case of an alien seeking admission or adjustment of status as an immediate relative or immigrant under section 203(a) (other than paragraph (4) thereof), if the alien has encouraged, induced, assisted, abetted, or aided only an individual who at the time of the offense was the alien's spouse, parent, son, or daughter (and no other individual) to enter the United States in violation of law.

In *Matter of Martinez-Torres, supra,* it was held that an application for permission to reapply for admission is denied, in the exercise of discretion, to an alien convicted of violating a law which renders him mandatorily inadmissible to the United States, and no purpose would be served in granting the application.

The record reflects that the applicant is inadmissible to the United States under section 212(a)(6)(E) of the Act, for having been convicted of aiding and abetting aliens to enter the United States in violation of the law. Since the aliens were other than the applicant's spouse, parent, son, or daughter, no waiver is available for such ground of inadmissibility. Therefore, the favorable exercise of discretion in this matter is not warranted. Accordingly, the appeal will be dismissed.

ORDER: The appeal is dismissed.