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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: San Antonio Date: JUL 11 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 District Director, San Antonio, Texas, and is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The applicant is a native and citizen of Mexico. On December 12, 1997, the applicant applied for admission to the United States by representing herself as a United States citizen. On December 12, 1997, she was ordered removed from the United States under section 235(b)(1) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1225, after having been found inadmissible under sections 212(a)(6)(C)(ii) and 212(a)(7)(A)(i)(I) of the Act, 8 U.S.C. § 1182(a)(6)(C)(ii) and § 1181(a)(7)(A)(i)(I), for having falsely represented herself as a citizen of the United States and for having been an immigrant not in possession of a valid immigrant visa or lieu document. The applicant was removed on December 12, 1997.

On May 27, 1998, the applicant again applied for admission to the United States by falsely representing herself as a United States citizen. On May 27, 1998, she was ordered removed from the United States under section 235(b)(1) of the Act, 8 U.S.C. § 1225, after having been found inadmissible under sections 212(a)(6)(C)(ii) and 212(a)(7)(A)(i)(I) of the Act, for having falsely represented herself as a citizen of the United States and for having been an immigrant not in possession of a valid immigrant visa or lieu document. The applicant was removed on May 27, 1998. Therefore, she is inadmissible under section 212(a)(9)(A)(i) of the Act, 8 U.S.C. § 1182(a)(9)(A)(i). The applicant seeks permission to reapply for admission under section 212(a)(9)(A)(iii) of the Act, 8 U.S.C. § 1182(a)(9)(A)(iii).

The district director determined that no waiver was available for the ground of inadmissibility under section 212(a)(6)(C)(ii) of the Act and denied the application accordingly.

On appeal, the applicant admits breaking the law but states that she wanted to be with her husband and children and the process for immigrating was taking too long.

Section 212(a)(9)(A) of the Act provides, in part, that:

> (i) 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 5 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.
>
> (iii) EXCEPTION.-Clauses (i) 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 continuous territory, the Attorney General [now

> Secretary of Homeland Security] has consented to the alien's reapplying for admission.

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

> 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.

The Act was amended by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA). The provisions of any legislation modifying the Act must normally be applied to waiver applications adjudicated on or after the enactment date of that legislation, unless other instructions are provided. IIRIRA became effective on September 30, 1996, and applies to all false representation made on or after that date.

In *Matter of Martinez-Torres*, 10 I&N Dec. 776 (Reg. Comm. 1964), it was held that an application for permission to reapply for admission is denied, in the exercise of discretion, to an alien who is mandatorily inadmissible to the United States, and no purpose would be served in granting the application.

The applicant attempted to procure admission into the United States by falsely claiming to be a United States citizen on two occasions, December 12, 1997 and May 27, 1998. By making a false claim to U.S. citizenship the applicant is inadmissible under section 212(a)(6)(C)(ii) of the Act.

No waiver of a ground of inadmissibility under section 212(a)(6)(C)(ii) of the Act is available to an alien who makes a false claim to United States citizenship on or after September 30, 1996. Therefore, no purpose would be served in the favorable exercise of discretion in adjudicating her application in this matter.

Section 291 of the Act, 8 U.S.C. § 1361, provides that the burden of proof is upon the applicant to establish that she is eligible for the benefit sought. After a careful review of the record, it is concluded that the applicant has failed to establish the warranting of a favorable exercise of the Attorney General's discretion. Accordingly, the appeal will be dismissed.

ORDER: The appeal is dismissed.