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U.S. Department of Homeland Security

Bureau of Citizenship and Immigration Services

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

FILE [redacted] Office: SAN ANTONIO, TEXAS Date:

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) of the Immigration and Nationality Act, 8 U.S.C. § 1182(a)(9).

ON BEHALF OF APPLICANT: Self-represented

INSTRUCTIONS:

PUBLIC COPY

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 for Permission to Reapply for Admission into the United States after Deportation or Removal (I-212 Application) was denied by the District Director, San Antonio, Texas, and is now before the Administrative Appeals Office (AAO) on appeal. The District Director's decision will be withdrawn. The I-212 application is moot, as there is insufficient evidence to establish that the applicant was in immigration proceedings in the past, or that he was ordered removed or deported from the United States.

The record contains the applicant's I-212 application indicating that he is a native and citizen of Mexico who was excluded and deported from the United States on June 2, 1997. The application indicates that the applicant may have family members that are U.S. citizens. However, the applicant provided no information or details to establish that he has any U.S. citizen family members. The record contains no statement or other evidence regarding the reasons for the applicant's request for permission to reapply for admission into the U.S. after removal.

Section 212(a)(9) of the Act, 8 U.S.C. § 1182(a)(9), states in pertinent part:

> (9) Aliens previously removed.–
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> (A) Certain aliens previously removed.-
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> (i) Arriving aliens.–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.
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> . . . .
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> (iii) Exception.- Clauses (i) and (ii) 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 . . . the Attorney General has consented to the alien's reapplying for admission.

The record reflects that on July 1, 2002, the district director stated in a letter to the applicant that:

> You failed to submit correspondence relating to your deportation . . . . You state in your I-212 application, that you were deported or removed on June 2, 1997 through Laredo, Texas. No record was found for your deportation.

See District Director Letter, dated July 1, 2002. The letter subsequently requested that the applicant submit evidence describing the circumstances of his removal from the United States as well as any documentation pertaining to his request for readmission. The letter advised the applicant that failure to comply with the district director's request would result in the denial of his I-212 application. No additional information was provided by the applicant, and the district director concluded on November 14, 2002, that based on the applicant's response to item #7 of his I-212 application, the applicant appeared inadmissible under section 212(a)(9) of the Act. The I-212 application was denied accordingly. (Item #7 of the I-212 application states, "circumstances under which deported or removed from the United States." In response, the applicant checked the box stating that he was excluded and deported (less than one year ago)).

In his Notice of Appeal, the applicant indicates that he needs to obtain a U.S. visa in order to continue working as a truck driver. The applicant provided no other explanation or information about his removal from the U.S. or regarding the basis of his appeal.

The AAO finds that, despite the fact that the applicant has provided insufficient evidence to establish that he should be granted permission to reapply for admission into the United States, the record in this case contains no evidence documenting that the applicant was in immigration proceedings in the past or that he was ordered removed or deported from the United States on June 2, 1997. Absent such evidence, the applicant's answer to question #7 of the I-212 application constitutes insufficient grounds for a finding of inadmissibility pursuant to section 212(a)(9) of the Act. The application will thus be denied as moot.

ORDER: The application for permission to reapply for admission into the United States after deportation or removal will be denied as moot, as there is insufficient evidence to establish that the applicant is inadmissible under section 212(a)(9) of the Act.