

June 23, 2016

United States Citizenship and Immigration Services
ATTN: 601/212 Foreign Filers
1820 E. Skyharbor, Circle S, Suite 100
Phoenix, AZ 85034

RE: Form I-212: Permission to Reapply for Admission [INA § 212(a)(9)(A)(i)]
Applicant: [REDACTED]

Dear Officer:

[REDACTED] (hereinafter "Applicant") hereby applies for Permission to Reapply for Admission into the United States. Enclosed please find Form I-212, a money order for \$585 for the requisite filing fee, along with the following supporting documents:

FORMS:

<u>Form</u>	<u>Description</u>
G-28	Notice of Appearance of Attorney;
I-212	Application for Permission to Reapply for Admission into the United States after Deportation or Removal.

TABLE OF EXHIBITS:

<u>Exhibit</u>	<u>Description</u>
"1"	Declaration of the United States Citizen Spouse- Applicant's husband;
"2"	Declaration of the Applicant;
"3"	Copy of Birth Certificate, Passport and Certificate of Naturalization of Applicant's husband;
"4"	Copy of Birth Certificate, Passport and Matricula Card of Applicant;
"5"	Copy of Certificate of Marriage;

- “6” Psychological Assessment Report of Applicant’s husband;
- “7” Approval Notice for I-130 petition for relative;
- “8” Copy of Visa Denial Notice by US Consulate General, Mexico;
- “9” Copy of Joint Bank account details of Applicant and Applicant’s husband;
- “10” Copy of monthly expenses of Applicant and Applicant’s husband;
- “11” Copy of Income tax returns of Applicant and Applicant’s husband;
- “12” Copy of Employment Record of Applicant’s husband;
- “13” Copy of supporting letter from family and friends;
- “14” Family Photographs;
- “15” Copy of Police record of Applicant by Department of Police- City of Chicago;
- “16” United States Department of State- Mexico Travel Warning January 2016;
- “17” Country information website- [<https://travel.state.gov>];
- “18” Human Rights Watch – Mexico Country Summary 2016;
- “19” Amnesty International – Mexico Annual Report 2015-16; and
- “20” United States Department of State – Mexico 2015 Human Rights Report

I.

STATEMENT OF FACTS

The Applicant was born on [REDACTED] in [REDACTED], Mexico. See, **Exhibit 4**. Applicant married [REDACTED], a United States citizen (hereinafter “Applicant’s husband”) on [REDACTED]. See, **Exhibit 3 and 5**. Applicant is thus, a qualifying relative (spouse) of United States citizen. They also have a United States citizen daughter- [REDACTED]. The Applicant has no criminal records whatsoever. See, **Exhibit 15**. She has always been a responsible and person of good character. See, **Exhibit 13**.

Applicant has been a responsible person who takes care of her husband, daughter and husband’s family and lives a humble life. See, **Exhibit 1 and 6**. She has worked hard to support the family. Applicant and Applicant’s husband have been responsible persons. They have joint Bank Accounts and have paid Income tax returns for the past years they have been together. See,

Exhibit 9 and 11. Applicant and her husband have collectively held family responsibilities and also settled all family expenses together. See, **Exhibit 10.** Applicant's husband has a clean employment record. See, **Exhibit 12 and 13.** He takes care of the family financially but all other family chores are handled by Applicant. Applicant's husband is therefore able to run the family with stability. Applicant is a beneficiary of petition for alien relative on May 5, 2014. See, **Exhibit 7.**

In accordance with the provisions of the *Immigration and Nationality Act* (hereinafter 'INA'), Applicant is now inadmissible under *INA section 212(a)(6)(C)(i)* and *section 212(a)(9)(B)(II)*. See, **Exhibit 8.**

Also, as per provisions of *INA section 212(a)(9)*, the Applicant was prohibited from entering, attempting to enter or being in the United States for a period of 10 years from the date of departure from the United States. She was found inadmissible under *INA section 212* and ordered to leave the United States at the port of entry by an immigration officer initiated as a result of attempt to reenter the United States without permit. The Applicant is now inadmissible under *INA section 212(a)(9)(C)(i)(I)*.

Applicant's visa was denied on [REDACTED] per the Visa denial order. See, **Exhibit 8.** Thereafter, Applicant tried to reenter the United States with fraudulent documentation and was ordered to leave the United States. Applicant has lived in Mexico ever since. Now, Applicant and her husband fear the possibility of her not being able to reenter the United States. Based on the tremendous hardships suffered by Applicant's husband as a result of this order, Applicant hereby applies for permission to reenter along with a waiver of 3/10 year bar. Applicant and her husband will suffer extreme hardship if Applicant is not allowed to return for 10 years. See, **Exhibit 1 and 2.**

II.

APPLICANT IS SEEKING PERMISSION TO REAPPLY FOR ADMISSION INTO THE UNITED STATES PURSUANT TO INA § 212

A. INADMISSIBILITY AS AN ALIEN PREVIOUSLY REMOVED-

Section 212(a) Classes of Aliens Ineligible for Visas or Admission.-Except as otherwise provided in this Act, aliens who are inadmissible under the following paragraphs are ineligible to receive visas and ineligible to be admitted to the United States:

(9) ALIENS PREVIOUSLY REMOVED-

(C) 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.

Applicant was ordered inadmissible under *INA section 212(a)(6)(C)(i)* as per the Visa Denial Order dated [REDACTED]. See, **Exhibit 8**. Thereafter, Applicant attempted to reenter the United States without being admitted or paroled. The Officer ordered the Applicant removed from the United States without further hearing or review. Applicant has been in Mexico ever since. Applicant thus, was ordered removed under *INA section 212(a)(9)(C)(i)(I)*. Hence, Applicant hereby is eligible to apply for permission to reenter the United States.

B. FACTORS INVOLVED IN GRANTING THE APPLICATION FOR PERMISSION TO REAPPLY FOR ADMISSION-

Applicant's absence in United States is going to cause extreme hardship to Applicant's husband and the family. As stated above, Applicant's visa was denied on [REDACTED] when Applicant had gone to Mexico for Visa interview. See, **Exhibit 8**. It was disheartening and Applicant did not know what to do. Then Applicant tried to reenter the United States to be with her family and decide what to do in the coming time and how to go about it. But Applicant was questioned at the port and sent back to Mexico. Applicant is in Mexico ever since. Applicant's husband is distraught and does not know what to do with the situation. All of this happened to unexpectedly. Their world is scattered in just few days and now Applicant, Applicant's husband, Applicant's daughter and the family are lost and do not know how to handle the situation. Applicant has a

daughter who is just 2 years 10 months old. It will be very difficult for Applicant and unfair to the daughter to have the Applicant be in Mexico. Every toddler needs his mother's love. Besides, Applicant's husband works full time at two jobs. It will be extremely difficult for him to spend time with his daughter and take care of her. Moreover, Applicant takes care of his family-brother and parents. Applicant also takes care of the household and the chores. It will create extreme hardship to Applicant's husband and the family. See, **Exhibit 1, 2 and 6.**

Applicant in her declaration states that, "██████████s my life and so is my daughter. He makes me happy. His mother treats me like her daughter. I love all of them very much.

I take care of the household. I cannot imagine how ██████████ and my in-laws will manage without me. They are used to a routine and pattern that we follow. It will be exceedingly difficult and taxing for my in-laws to manage all the chores. I feel sad because it is because of me they will face so much trouble. It is terrible how my immigration interview turned out to be. We had not thought through this. So it has come as a shock to me and my family. We do not know how to go about this now. I tried to enter United States after my visa was rejected only to figure out how to go about things in the coming time. I guess it was my mistake. But I was distraught. I did not know what to do. So I attempted to reenter the United States to be with my family. Now I would not be able to go to my family unless I am permitted to reenter into the United States.

I thus, humbly request to consider this testimony as a genuine call to permit me to reenter the United States and allow me to be with my family. I am a law-abiding person and want to undergo all the process that would take to be with my family. Please grant my request." See, **Exhibit 1.**

Applicant's husband in his declaration states that, "Since initiating the immigration process on behalf of ██████████, I am extremely depressed and distraught due to the possibility that she may not be granted a waiver. If ██████████ does not receive a waiver, she will be barred from re-entering the US for 10 years. I am devastated to know there is a possibility that ██████████'s waiver may not be granted when I received a RFE from immigration after her interview. Up to that point, being separated from Irene was an abstraction, but it was not something I believed would happen.

Now, I cannot stop thinking about the very real possibility that life as I know may change forever. I am exceedingly upset because I am convinced that there is no way I can follow her to Mexico and, I will not be able to manage here without her.

*I love and need Irene. My heart is breaking, because she is everything to me. We are one. Her breath is my breath. I live for him, and he lives for me. Without [REDACTED] by my side, my life would have no meaning. I need my partner by my side in order to function. Wedding takes a moment but a marriage develops over time. My marriage to [REDACTED] has been a process of adjusting and adapting to one another and becoming one in every sense of the word. Her mind is my mind, my family is her family, her heart is my heart and her body is my body. I am hers and without her, I would not belong anywhere. Soon I may have to make the gut-wrenching decision to separate and allow [REDACTED] to relocate to Mexico without me. I would not be able to rest, just worrying about her safety and well-being every moment of every day. I am responsible for keeping her safe and protecting her. I could not forgive myself if anything happen to her.” See, **Exhibit 2.***

The Psychological Assessment Report states that, “[REDACTED] (Applicant’s husband) works for Marriott from 4:00 p.m. to 12:30 a.m. five days a week, and for Uber three to four days out of the week, part-time. [REDACTED] arrives home at 1:00 a.m. from Marriott and showers. He goes to sleep and wakes up at 6:00 a.m. to drive for Uber for a few hours. He arrives home and takes a quick nap before leaving to Marriott. [REDACTED] is the lifeblood and the heartbeat of the household. She cooks, cleans, does the laundry, takes care of their daughter [REDACTED], and makes sure everything is in place when [REDACTED] comes back from work. She also helps [REDACTED]’s parents whenever necessary. She takes [REDACTED] to school, picks him up, and helps him with his homework. [REDACTED] also makes lunch for [REDACTED] [REDACTED]’s parents both work, and Irene is in charge of the house.

On their free days, [REDACTED] and [REDACTED] get together with his family. They enjoy going out with the whole family. R [REDACTED] says they are very close, and they love that unity. Family ties are extremely important for [REDACTED] He says they keep the Mexican traditions, and they love it. [REDACTED] mother loves [REDACTED], and that [REDACTED] is the daughter she never had. [REDACTED]’s whole

family depends on [REDACTED] for her help; she keeps the family organized, and his family loves her for all she does to care for them and maintain order.

[REDACTED] dream is to bring [REDACTED]'s daughter to the U.S. to reunite with the family. He loves [REDACTED] as his own daughter, because she is part of [REDACTED]. In February of 2016, [REDACTED] hurt his knees at work. He was out of work for three weeks. [REDACTED] attended to him and took him to therapy. He was having difficulty going up and down the stairs. [REDACTED] has been going to physical therapy since February 2016. He is not expected to end his therapy anytime soon. [REDACTED] mother suffers from diabetes and [REDACTED] helps make healthy meals for her and the family. [REDACTED] has been motivating his parents to live a healthier lifestyle by taking them to the gym four to five times a week. [REDACTED] reports his parents have been in better shape and have lost weight thanks to [REDACTED]'s incentive.

[REDACTED] plays a huge role in [REDACTED]'s family. Her availability makes it easy for the family to depend on her when a favor is needed. Not only does she manage his parent's nutrition, but she is always available to pick up his nephews from school. [REDACTED] (Applicant's husband's nephew) and [REDACTED] (Applicant's husband's brother) have extracurricular activities after school and [REDACTED] is able to help pick them up." See, **Exhibit 6**.

Applicant and Applicant's husband feel Mexico is not a safe place to live and raise a family. It is not possible for the Applicant's husband's entire family to move Mexico. The crime rate of Mexico and violence is known to them. They do not want to live in Mexico in the given situation of the country. See, **Exhibit 16, 17, 18, 19 and 20**.

Permission to reapply is a discretionary remedy. In determining whether discretionary relief is warranted in any particular application for permission to reapply, the adjudicator must apply a balancing test, weighing all factors presented on a case-by-case basis. *Dragon v. INS*, 748 F.2d 1304, 1306 (9th Cir. 1984) (failure to consider all factors presented is abuse of discretion).

Moreover, consent to reapply is generally granted if the alien seems otherwise admissible, and if entry is sought for a legitimate reason. *Matter of Rapacon*, 14 I. & N. Dec. 375 (Reg. Comm'r

1973) (relief granted notwithstanding adverse factors consisting of prior false testimony to the Service concerning his employment abroad and his return to the United States as a nonimmigrant without the requisite permission to reapply; such adverse factors outweighed by alien's previous departure at own expense, unawareness that he was executing deportation order, and urgent need for his services in United States); Matter of Acosta, 14 I. & N. Dec. 361 (Dist. Dir. 1973)(relief granted; good moral character and *bona fide* family ties justify approval of relief notwithstanding past immigration law violations in which the alien deserted his vessel as a seaman and then secured unauthorized employment as a dishwasher). It seems well established then, that the presence of adverse factors may be overcome by a demonstration of positive factors favorable to the Applicant.

For instance, in Poon v. McNary, 1991 U.S. Dist. LEXIS 12047 (D.D.C., 1991), the court found that an alien who had committed misrepresentation may still be entitled to seek permission to reenter. In that case, the prior instance of misrepresentation consisted of a bigamous marriage, based upon which Mr. Poon sought to obtain an immigration visa. The court considered Mr. Poon's favorable factors—more than eight years of residence within the United States as a respected and law-abiding member of this community, the fact that he was a homeowner and diligent taxpayer, ten years of gainful and productive employment within the United States, and the impact of abruptly disrupting the family—and found that approval of the permission to reenter was warranted notwithstanding the prior misrepresentation.

In another seminal case, the Commissioner noted that the statute dealing with permission to reapply was intended to be remedial rather than punitive, stating "a record of immigration violations alone will not conclusively support a finding of a lack of good moral character." Matter of Lee, 17 I. & N. Dec. 275, 278 (Comm'r 1978) (relief granted- as the Applicant demonstrated measurable reformation of character in surrendering himself to the Service and departing the United States voluntarily as requested despite having twice deserted the vessel on which he arrived). Further, the Commissioner found it significant that a labor certification and immigrant visa petition had been approved for the alien, and stated that "where the Applicant will provide services to the public in a job category where sufficient workers in the United States are not available, this is a favorable factor." *Id.* See also, Matter of Carbajal, 17 I. & N. Dec.

272 (*Comm'r 1978*) (relief granted, as four previous illegal entries with voluntary departure offset by employer's urgent need for services on basis of approved sixth preference petition and absence of other unfavorable factors).

Hence, the factors considered in granting permission to reapply may include: original basis for Applicant's deportation; Applicant's respect for law and order; Applicant's moral character; evidence of reformation and rehabilitation; Applicant's family responsibilities; hardships to the Applicant and family members; the need for the Applicant's services in the United States; length of time the Applicant has legally resided in the United States; and whether Applicant may be admissible under other sections of the law. *See, Matter of Lee at 277-78; Matter of Tin, 14 I. & N. Dec. 371, 373-74 (Reg. Comm'r 1973); Matter of Rapacon, at 378; Dragon v. INS, 748 F.2d 1304, 1307 (9th Cir. 1984).*

Thus, it is clear from the aforesaid, that the necessary requirements have been met in order to have this application granted.

III. **CONCLUSION**

For the foregoing reasons, the Applicant- [REDACTED] prays that the application for permission to reapply for admission be granted in order that she may be admitted into the United States.

Please contact our law office at [REDACTED] should there be any questions regarding this matter.
Kind Regards.

Sincerely,

[REDACTED]

Attorney at Law

[REDACTED]