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U.S. Department of Homeland Security
20 Mass. Ave., N.W., Rm. 3000
Washington, DC 20529



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

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FILE:



Office: CALIFORNIA SERVICE CENTER

Date:

JUL 23 2007

IN RE:



APPLICATION: Application for Permission to Reapply for Admission into the United States after Deportation or Removal under Section 212(a)(9)(A) of the Immigration and Nationality Act, 8 U.S.C. § 1182(a)(9)(A).

ON BEHALF OF APPLICANT:

SELF-REPRESENTED

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office 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.

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The application for permission to reapply for admission into the United States after deportation or removal was denied by the Director, California Service Center, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed, the decision of the Director withdrawn and the application declared moot.

The applicant is a native and a citizen of Nicaragua who, on April 28, 1997, was removed from the United States pursuant to section 241(a)(2) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1251(a)(2), as an alien who entered the United States without inspection. The record reflects that the applicant has been residing and working in Nicaragua since his removal. The applicant was found to be inadmissible under section 212(a)(9)(A)(ii) of the Act, 8 U.S.C. § 1182(a)(9)(A)(ii). He now seeks permission to reapply for admission into the United States under section 212(a)(9)(A)(iii) of the Act, 8 U.S.C. § 1182(a)(9)(A)(iii) in order to travel to the United States and reside with his U.S. citizen spouse.

The Director determined that the unfavorable factors in the applicant's case outweighed the favorable factors. The Director denied the applicant's Application for Permission to Reapply for Admission After Deportation or Removal (Form I-212) accordingly. *See Director's Decision* dated May 31, 2006.

On appeal the applicant requests his case be reconsidered so he can be reunited with his spouse. *Form I-290B*, dated June 12, 2006.

Section 212(a)(9). Aliens previously removed.-

(A) Certain alien previously removed.-

(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 five 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.

(ii) Other aliens.- Any alien not described in clause (i) who-

(I) has been ordered removed under section 240 or any other provision of law, or

(II) departed the United States while an order of removal was outstanding, and seeks admission within 10 years of the date of such alien's departure or removal (or within 20 years of such date in the case of a second or subsequent removal or at any time in the case of an aliens convicted of an aggravated felony) is inadmissible.

(iii) Exception.- Clauses (i) and (ii) shall not apply to an alien seeking admission within a period if, prior to the date of the aliens' reembarkation at a place outside the United States or

attempt to be admitted from foreign continuous territory, the Attorney General [now, Secretary, Department of Homeland Security] has consented to the aliens' reapplying for admission.

The AAO finds that it has been 10 years since the date of the applicant's removal on April 28, 1997 and he is no longer inadmissible under section 212(a)(9)(A)(ii) of the Act. Accordingly, the appeal will be dismissed, the decision of the director withdrawn and the application declared moot.

ORDER: The appeal is dismissed and the application declared moot.