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U.S. Department of Homeland Security  
20 Mass. Ave., N.W., Rm. A3042  
Washington, DC 20529



U.S. Citizenship  
and Immigration  
Services

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FILE:



Office: CALIFORNIA SERVICE CENTER

Date: **SEP 12 2005**

IN RE:

Applicant:



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 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, Director  
Administrative Appeals Office

**DISCUSSION:** The Application for Permission to Reapply for Admission into the United States after Deportation or Removal (Form I-212) was denied by the Director, California Service Center (CSC) and is now before the Administrative Appeals Office (AAO) on appeal. The Director's decision will be withdrawn, and the matter will be remanded to him for further action.

The applicant is a native and a citizen of Honduras who was present in the United States without a lawful admission or parole on April 29, 1999. The applicant was apprehended and on April 30, 1999, she was served with a Notice to Appear (NTA) for a removal hearing. On October 21, 1999, the applicant failed to appear for a removal hearing and she was subsequently ordered removed in absentia by an Immigration Judge pursuant to section 212(a)(6)(A)(i) of the Immigration and Nationality Act (the Act) 8 U.S.C. § 1182 (a)(6)(A)(i). The applicant failed to surrender for removal or depart from the United States and a Warrant of Removal or Deportation (Form I-205) was issued April 7, 2000. The record of proceeding reflects that the applicant departed the United States on December 4, 2002, executing the pending order of removal. The record further reflects that the applicant married a U.S. citizen and she is the beneficiary of an approved Petition for Alien Relative (Form I-130) filed on her behalf. The applicant is inadmissible under section 212(a)(9)(A)(ii) of the Act, 8 U.S.C. § 1182(a)(9)(A)(ii). She 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 her U.S. citizen spouse.

The Director determined that the applicant had not signed the Form I-212 and denied it accordingly. *See Director's Decision* dated October 11, 2004.

The record of proceedings reveals that the CSC received a Form I-212 on October 11, 2002. On August 8, 2003, it was determined that the applicant's original signature was missing and the application was returned to the applicant with a letter stating:

“Please resubmit the enclosed Form I-212 with the original signature of the petitioner.”

In order to comply with this request, the applicant used whiteout to cover her signature, and her spouse, the petitioner, signed the Form I-212. The applicant resubmitted the Form I-212. This version was received by CSC on August 20, 2003.

On appeal the applicant states that she did sign the original Form I-212 and as evidence submits a photocopy of the Form I-212 that she initially forwarded to the CSC. The copy of the Form I-212 reveals that the applicant signed the Form I-212 and forwarded it to the CSC where it was stamped as received on October 11, 2002. As noted above, the Form I-212 was returned to the applicant erroneously instructing the *petitioner* to sign the Form I-212.

The AAO finds that the applicant followed the instructions forwarded to her, removed her signature and resubmitted the Form I-212 with her spouse's signature. The record of proceedings does not support the Director's finding that the applicant did not sign the original Form I-212. The Form I-212 clearly reflects that the applicant signed the application and used whiteout and had her husband sign it after it was returned to her with the incorrect instructions.

In view of the foregoing, the Director's decision will be withdrawn and the record will be remanded to him in order to adjudicate the Form I-212 pursuant to section 212(a)(9)(A)(iii) of the Act.

**ORDER:** The Director's decision is withdrawn. The matter is remanded to him for further action consistent with the foregoing discussion.