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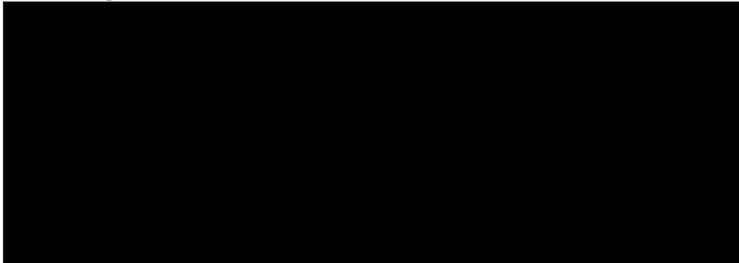
U.S. Department of Homeland Security
20 Mass. Ave., N.W., Rm. 3000
Washington, DC 20529



U.S. Citizenship
and Immigration
Services

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FILE:

Office: CALIFORNIA SERVICE CENTER

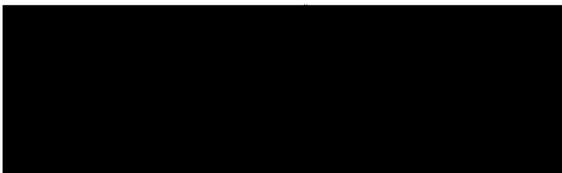
Date: **AUG 16 2006**

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:



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.

A handwritten signature in cursive script, appearing to read "Robert P. Wiemann".

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The application for permission to reapply for admission after 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 applicant is a native and a citizen of El Salvador who first entered the United States without inspection in 1992. After submitting an asylum application and then withdrawing the application, an Immigration Judge in Los Angeles, CA granted the applicant voluntary departure in 1997. The applicant did not comply with his voluntary departure and an order of deportation was issued. The applicant was deported from the United States on July 6, 1999. On June 22, 2000 the applicant properly filed an application for permission to reapply for admission (Form I-212) with the California Service Center. He then attended an immigrant visa interview at the U.S. Consulate where he was granted an immigrant visa to enter the United States, without a final decision on his Form I-212. On July 22, 2000 the applicant attempted to enter the United States with his immigrant visa and was paroled into the United States. He then filed an application for lawful permanent residence (Form I-485) to accompany his still undecided Form I-212. The applicant is 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 reside in the United States with his U.S. citizen wife.

The Director concluded that the applicant's Form I-212 must be denied because it was not submitted at the same time as his Form I-485 application as required by 8 C.F.R. § 212.2(e). The Director denied the applicant's Form I-212 accordingly. *See Director's Decision* dated April 13, 2004.

On appeal counsel asserts that the applicant's Form I-212 was denied in error because the application was filed prior to the applicant's immigrant visa interview at the U.S Consulate and the Consular Office was aware of the applicant's prior deportation order when he approved the applicant's immigrant visa. *Counsel's Brief*, dated April 26, 2004.¹

In addition to the regulations as 8 C.F.R § 212.2(e) which require the filing of the Form I-212 concurrent with the filing of the Form I-485, the AAO finds that after entering the United States, the applicant's Form I-212 was no longer under the jurisdiction of the California Service Center. Because the applicant is inside the United States he is required to file a Form I-212 with his local district office, the office which now has jurisdiction over his application.

The Adjudicator's Field Manual at Chapter 43.1(b) states in pertinent part:

Jurisdiction over an I-212 is determined by the location of the alien and by the reason for which the application is being filed. Form I-212 should be filed:

With the district director having jurisdiction over the alien's residence, *if the alien is in the U.S....*

or With the service center having jurisdiction over the place where the alien's deportation hearing was held, *if the alien is outside the U.S. and*

¹ The AAO notes that the immigrant visa issued by the U.S. Consulate in San Salvador, El Salvador, was revoked by that Consulate after determining that the visa had been issued in error.

applying for an immigrant visa ... (Emphasis Added).

When the applicant was applying for an immigrant visa abroad, his Form I-212 was correctly filed with the California Service Center. That application was never adjudicated and the immigrant visa was revoked. The applicant then entered the United States and applied for adjustment of status. Because the applicant was in the United States he was required to file a Form I-212 with the Los Angeles District Office in conjunction with his Form I-485. Therefore, as of July 22, 2000 the California Service Center ceased to have jurisdiction over the applicant's Form I-212 and had no authority to adjudicate the application.

Accordingly, the appeal will be dismissed.

ORDER: The appeal is dismissed.