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FILE:

Office: VERMONT SERVICE CENTER

Date: NOV 17 2006

IN RE:

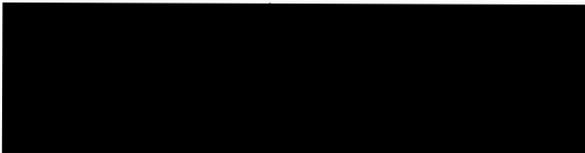
Applicant:



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:



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 (Form I-212) was denied by the Acting Director, Vermont Service Center, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be summarily dismissed.

The applicant is a native and a citizen of the People's Republic of China who entered the United States without a lawful admission or parole on or about June 4, 1994. On April 15, 1996, the applicant filed an Application for Asylum and for Withholding of Removal (Form I-589) with the Immigration and Naturalization Service (now Citizenship and Immigration Services (CIS)). On May 21, 1996, the applicant was interviewed for asylum status. His application was referred to the immigration court and an Order to Show Cause (OSC) for a hearing before an immigration judge was served on him on June 4, 1996. On September 17, 1996, an immigration judge found the applicant deportable pursuant to section 241(a)(1)(B) of the Immigration and Nationality Act (the Act) for having entered the United States without inspection and granted him voluntary departure until October 17, 1996, in lieu of deportation. The applicant filed an appeal with the Board of Immigration Appeals (BIA), which was dismissed on February 10, 1998, and he was permitted to depart from the United States voluntarily within 30 days of the date of the BIA's order. The applicant failed to surrender for removal or depart from the United States. The applicant's failure to depart the United States within 30 days of the date of the BIA's order changed the voluntary departure order to an order of deportation. On April 8, 1998, a Warrant of Removal/Deportation (Form I-205) was issued and on July 23, 1998, a Notice to Deportable Alien (Form I-166) was forwarded to the applicant requesting that he appear at the New York, District Office in order to be removed from the United States. The applicant failed to surrender for removal or depart from the United States. The applicant is inadmissible under section 212(a)(9)(A)(ii) of the Act, 8 U.S.C. § 1182(a)(9)(A)(ii). He 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 remain in 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 ones and denied the Form I-212 accordingly. *See Director's Decision* dated May 19, 2005.

On the Notice of Appeal to the AAO (Form I-290B), counsel writes:

"The Petitioner informed the undersigned and new counsel that the Service Center Director erred as matter of fact and law in adjudicating his I-212 application as well as in his discretionary authority. Since the undersigned counsel was retained to represent the Petitioner for this appeal two weeks ago and the request for the file of this case is currently in the process, a separate brief elaborating the reason for the appeal both as a matter of fact and law will be duly submitted once the complete record of this case is received by the undersigned counsel."

In addition, on the Form I-290B counsel states that he will be submitting a brief and/or evidence to the AAO within 60 days. On September 18, 2006, the AAO forwarded a fax to counsel informing him that this office had not received a brief or evidence related to this matter and unless counsel responded within five business days, the appeal may be summarily dismissed. Counsel has not responded to the AAO's fax of September 18, 2006. The appeal was filed on June 23, 2005, and to this date, approximately one and one half years later no documentation has been received by the AAO.

The regulation at 8 C.F.R. § 103.3(a)(1) states in pertinent part:

(v) Summary dismissal. An officer to whom an appeal is taken shall summarily dismiss any appeal when the party concerned fails to identify specifically any erroneous conclusion of law or statement of fact for the appeal....

In the instant case, counsel has failed to identify any erroneous conclusion of law or statement of fact for the appeal and, therefore, it will be summarily dismissed.

ORDER: The appeal is summarily dismissed.