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U.S. Citizenship
and Immigration
Services

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JAN 29 2007

FILE:



Office: VERMONT SERVICE CENTER

Date:

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 citizen of El Salvador who entered the United States without a lawful admission or parole on May 22, 1994. On the same date the Immigration and Naturalization Service (now Citizenship and Immigration Services (CIS)) apprehended the applicant. On May 24, 1994, an Order to Show Cause (OSC) for a hearing before an immigration judge was served on him. On December 13, 1994, the applicant filed a Request for Asylum in the United States (Form I-589) with the immigration court. On February 16, 1995, an immigration judge denied his request for asylum and withholding of deportation. On the same date the applicant was ordered deported by an immigration judge pursuant to section 241(a)(1)(B) of the Immigration and Nationality Act (the Act) for having entered the United States without inspection. The record reflects that on January 6, 2000, a Notice to Appear (NTA) for a removal hearing before an immigration judge was issued. On March 12, 2000, the applicant failed to appear for the removal hearing and he was subsequently ordered removed *in absentia* by an immigration judge pursuant to section 212(a)(6)(A)(i) of the Act, 8 U.S.C. § 1182(a)(6)(A)(i) for having been present in the United States without being admitted or paroled. On April 21, 2000, a Warrant of Removal/Deportation (Form I-205) was issued, and a Notice to Deportable Alien (Form I-166) was forwarded to the applicant requesting that he appear at the Baltimore, Maryland 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 applied for and received Temporary Protective Status (TPS) and was issued employment authorization cards. The applicant is inadmissible pursuant to 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 Acting Director determined that the unfavorable factors in the applicant's case outweighed the favorable factors, and denied the Form I-212 accordingly. *See Acting Director's Decision* dated November 30, 2005.

On the Notice of Appeal to the AAO (Form I-290B) counsel states: "Denial is an abuse of discretion." In addition, on the Form I-290B counsel states that he will be submitting a brief and/or evidence to the AAO within 30 days. On November 28, 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 responded to the AAO's fax on December 16, 2006. In his response, counsel states that he did not file a brief or evidence to support the appeal.

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.