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U.S. Citizenship  
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FILE:



Office: ROME, ITALY

Date: SEP 20 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)(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.

A handwritten signature in black ink, appearing to read "Robert P. Wiemann".

Robert P. Wiemann, Chief  
Administrative Appeals Office

**DISCUSSION:** The District Director, Rome, Italy, denied the Application for Permission to Reapply for Admission into the United States after Deportation or Removal (Form I-212) and it is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The applicant is a native and citizen of France who, on May 14, 2001, the applicant was admitted to the United States as a nonimmigrant visitor under the Visa Waiver Program (VWP). The applicant remained in the United States past his authorized stay, which expired on August 13, 2001. On October 30, 2001, the applicant married his spouse, [REDACTED]. On September 13, 2004, immigration officers apprehended the applicant after police stopped him for a traffic violation in Florida. On September 20, 2004, the applicant was ordered removed from the United States. On September 21, 2004, [REDACTED] filed a Petition for Alien Relative (Form I-130) on behalf of the applicant, which remains pending. On October 13, 2004, the applicant was removed from the United States and returned to Guadeloupe, an overseas department of France. On April 25, 2005, [REDACTED] filed a Petition for Alien Fiancé (Form I-129F) on behalf of the applicant, which was approved on June 23, 2005. The applicant is inadmissible under section 212(a)(9)(A)(ii) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(a)(9)(A)(ii) and 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 naturalized U.S. citizen spouse and U.S. citizen son.

The district director determined that no purpose would be served in adjudicating the application for permission to reapply for admission because the applicant is inadmissible pursuant to section 212(a)(9)(B)(i)(II) of the Act, 8 U.S.C. § 1182(a)(9)(B)(i)(II) and the applicant did not qualify for a waiver under section 212(a)(9)(B)(v) of the Act, 8 U.S.C. § 1182(a)(9)(B)(v). The district director denied the Form I-212 accordingly. *See District Director's Decision* dated August 9, 2006.

On appeal, [REDACTED] contests the district director's finding that to live in France would not be an extreme hardship for her. She states that she has no ties in France and that it is a foreign country to her. Ms. Florida reports that she is under constant stress and is experiencing deep depression. *See* [REDACTED] received September 29, 2006. In support of her contentions, [REDACTED] submits only the referenced letter. The entire record was reviewed in rendering a decision in this case.

The AAO has, in a separate decision, dismissed the applicant's appeal of the district director's denial of the Form I-601, Application for Waiver of Grounds of Inadmissibility, filed by the applicant in relation to his inadmissibility for unlawful presence under section 212(a)(9)(B)(i)(II) of the Act. When an inadmissible alien files both the Form I-601 and the Form I-212, the *Adjudicator's Field Manual*, provides the following guidance:

#### Chapter 43 Consent to Reapply After Deportation or Removal

##### 43.2 Adjudication Process:

(c) Of course, an alien might be applying for both consent to reapply and a waiver of inadmissibility, provided the particular ground(s) of inadmissibility applying to the alien are waivable. If the alien has filed both applications (Forms I-212 and I-601), adjudicate the waiver application first. If the Form I-601 waiver is approved, then consider the Form I-212 on its merits; if the

Form I-601 is denied (and the decision is final), deny the Form I-212 since its approval would serve no purpose.

In that the AAO has found the applicant to be ineligible for a waiver of inadmissibility under section 212(a)(9)(B)(v) of the Act, no purpose would be served in the favorable exercise of discretion in adjudicating the application to reapply for admission into the United States under section 212(a)(9)(A)(iii) of the Act. Accordingly, the appeal of the district director's denial of the Form I-212 will be dismissed.

**ORDER:** The appeal is dismissed.