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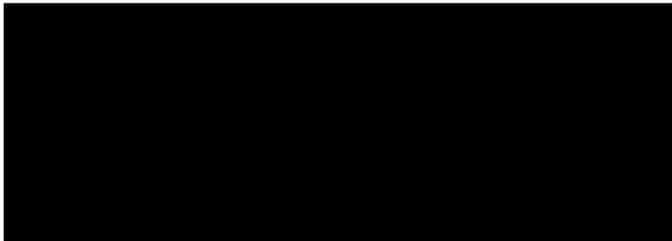
U.S. Department of Homeland Security
20 Mass. Ave., N.W., Rm. 3000
Washington, DC 20529



U.S. Citizenship
and Immigration
Services

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FILE:



Office: SEATTLE, WA

Date:

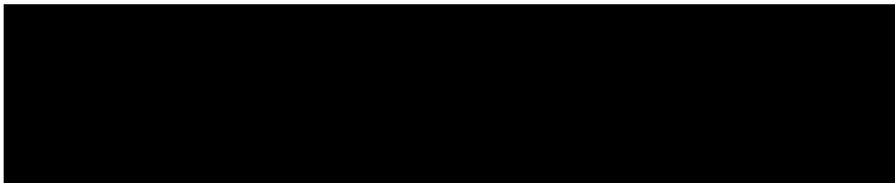
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IN RE:



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:



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 Acting District Director, Seattle, Washington, 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 Canada who, on October 11, 1997, applied for admission to the United States at the Blaine, Washington Port of Entry. Immigration officers apprehended the applicant after it was discovered she had approximately 18.9 pounds of marijuana hidden in the spare tire of the vehicle in which she had attempted to enter the United States. On October 11, 1997, the applicant was placed into proceedings and processed to local law enforcement for prosecution under the charge unlawful possession of marijuana with intent to distribute. On October 16, 1997, the immigration judge ordered the applicant removed from the United States pursuant to section 212(a)(2)(C) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182 (a)(2)(C), for being an illicit trafficker of a controlled substance. On October 16, 1997, the applicant was removed from the United States and returned to Canada. On May 21, 1998, the applicant pled guilty to and was convicted of unlawful possession of a controlled substance, marijuana in the amount greater than 40 grams with intent to deliver, in violation of Title 69, section 50.401(d) of the Revised Code of Washington (RCW). The applicant was sentenced to six days in jail, 12 months of community service and a monetary fine. On September 23, 2005, the applicant filed the Form I-212. The applicant is inadmissible pursuant to section 212(a)(9)(A)(ii) of the Act, 8 U.S.C. § 1182(a)(9)(A)(ii) and 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 attend employment-related meetings and seminars in the United States.

The acting district director determined that the unfavorable factors in the applicant's case outweighed the favorable factors and denied the Form I-212 accordingly. *See Acting District Director's Decision* dated May 10, 2006.

On appeal, counsel contends that the acting district director misunderstood evidence presented with the Form I-212 and that the voluminous, specific evidence provided was adequate to clearly show that the applicant qualifies for permission to reapply for admission. *See Counsel's Brief*, dated June 10, 2006. In support of his contentions, counsel submits only the referenced brief. The entire record was reviewed in rendering a decision in this case.

Section 212(a)(9) of the Act states in pertinent part:

(A) Certain aliens previously removed.-

- (i) Arriving aliens.- Any alien who has been ordered removed under section 235(b)(1) or at the end of proceedings under section 240 initiated upon the alien's arrival in the United States and who again seeks admission within five years of the date of such removal (or within 20 years in the case of a second or subsequent removal or at any time in the case of an alien convicted of an aggravated felony) is inadmissible.
- (ii) Other aliens.- Any alien not described in clause (i) who-

- (I) has been ordered removed under section 240 or any other provision of law or
- (II) departed the United States while an order of removal was outstanding

and who seeks admission within 10 years of the date of such alien's departure or removal (or within 20 years of such date in the case of a second or subsequent removal or at any time in the case of an alien convicted of an aggravated felony) is inadmissible.

- (iii) Exception.- Clauses (i) and (ii) shall not apply to an alien seeking admission within a period if, prior to the date of the alien's reembarkation at a place outside the United States or attempt to be admitted from foreign contiguous territory, the Attorney General [now Secretary, Homeland Security, "Secretary"] has consented to the alien's reapplying for admission.

The record establishes that the applicant was removed from the United States on October 16, 1997. However, as it has been more than ten years since the date of her removal and the applicant has remained outside the United States for that period, the applicant is no longer inadmissible to the United States under section 212(a)(9)(A)(ii) of the Act. Accordingly, the decision of the acting district director will be withdrawn and the appeal will be dismissed as the underlying application is moot.

ORDER: The decision of the acting district director is withdrawn. The appeal is dismissed as the underlying application is moot.