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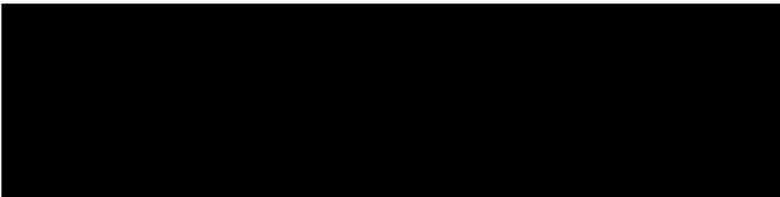
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U.S. Department of Homeland Security
20 Massachusetts Avenue, N.W., Rm. 3000
Washington, DC 20529



U.S. Citizenship
and Immigration
Services

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FILE:



Office: CALIFORNIA SERVICE CENTER

Date: JAN 30 2008

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) of the Immigration and
Nationality Act, 8 U.S.C. § 1182(a)(9)(A)

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.

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 as the application is moot.

On appeal, the applicant requested 180-days to submit a brief and/or evidence to the AAO. *Form I-290B*, filed December 1, 2006. The record contains no evidence that a brief or additional evidence was filed within 180-days. Therefore, the record must be considered complete.

The applicant is a native and citizen of Guatemala who entered the United States without inspection on May 19, 1992. On January 10, 1996, an immigration judge ordered the applicant deported *in absentia*. The applicant failed to depart the United States, and on April 23, 1996, a Warrant of Deportation (Form I-205) was issued against the applicant. In September 1997, the applicant voluntarily departed the United States. The applicant seeks permission to reapply for admission into the United States under section 212(a)(9)(A)(iii) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(a)(9)(A)(iii), in order to reside with her naturalized United States citizen husband and children.

The Director determined that the applicant is inadmissible pursuant to section 212(a)(9)(A)(ii) of the Act, 8 U.S.C. § 1182(a)(9)(A)(ii), for being ordered removed under section 240 or any other provision of law and that the unfavorable factors in the applicant's case outweighed the favorable factors. The Director denied the applicant's Application for Permission to Reapply for Admission After Deportation or Removal (Form I-212) accordingly. *Director's Decision*, dated November 2, 2006.

Section 212(a)(9). Aliens previously removed.-

(A) Certain alien previously removed.-

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(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 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 aliens 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 aliens' reembarkation at a place outside the United States or attempt to be admitted from foreign continuous territory, the Attorney General [now, Secretary, Department of Homeland Security] has consented to the aliens' reapplying for admission.

The applicant states the Director “erred in making his findings. [She] was never informed that [she] was deported in absentia.” *Form I-290B, supra*. The AAO notes that the immigration judge’s decision ordering the applicant deported *in absentia* was sent to the applicant at her last known address, and the record does not establish that a change of address was submitted by the applicant.

In response to a Request for Evidence, filed on October 12, 2006, the applicant submitted various documents establishing that she has continuously resided in Mexico since September 1997.

states the applicant has been his patient since September 1997. *Letter from Clinica Hospital De Urgencias Medicas*, dated September 25, 2006.

states the applicant is a Mexican citizen and has resided in Mexico since September 1997. *Letter from*, dated September 25, 2006. Additionally, the AAO notes

that the applicant’s son, was born on February 26, 1999, in Mexico; the applicant and were married on May 29, 2001, in Mexico; and the applicant’s oldest son, was born on April 23, 2002, in Mexico. Furthermore, the applicant submitted a medical document which establishes that on October 14, 1997, the applicant had x-rays taken in Oaxaca, Mexico, for a lumbar contusion. *See Letter from* dated October 14, 1997.

A review of the record reflects that the applicant is no longer inadmissible under section 212(a)(9)(A)(ii) of the Act, 8 U.S.C. § 1182(a)(9)(A)(ii). The applicant has been residing in Mexico since September 1997, which is more than the statutory 10 year period. The applicant no longer requires permission to reapply for admission.

ORDER: The appeal is dismissed. The application is moot as the applicant no longer requires permission to reapply for admission.