

identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy

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



U.S. Citizenship
and Immigration
Services

PUBLIC COPY

4



FILE:



Office: VERMONT SERVICE CENTER

Date: JUL 14 2008

IN RE:



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:



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 application for permission to reapply for admission after removal was denied by the Acting Director, Vermont Service Center, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed as the underlying application is moot.

The applicant is a native and a citizen of Bolivia who was admitted to the United States on or about August 25, 1994 with a visitor's visa, remained beyond the February 24, 1995 expiration date of her authorized stay and was granted withholding of removal to Bolivia under the Convention Against Torture on June 21, 2002. The applicant now 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 reside in the United States.

The acting district director determined that the applicant had been ordered removed from the United States on June 21, 2002 and had failed to establish that she merited a favorable exercise of discretion, and the Form I-212, Application for Permission to Reapply for Admission After Deportation or Removal, was denied accordingly. *Acting Director's Decision*, dated December 18, 2006.

On appeal, the applicant asserts that the director erred in holding that the applicant was ordered removed from the United States. *Form I-290B*, dated January 5, 2007.

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

- (A) Certain alien previously removed.-
 - (i) 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 record reflects that the applicant was granted withholding of removal to Bolivia under the Convention Against Torture on June 21, 2002. *Order of Immigration Judge*, at 14, dated June 21, 2002. The record does not reflect that the applicant has been ordered removed. As such, she is not required to file Form I-212 and the appeal will be dismissed as the underlying application is moot.

ORDER: The appeal is dismissed as the underlying application is moot.