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U.S. Department of Homeland Security
20 Mass, Rm. A3042, 425 I Street, N.W.
Washington, DC 20529

U.S. Citizenship and Immigration Services

[redacted]

FILE: [redacted] Office: VERMONT SERVICE CENTER Date:

IN RE: Applicant: [redacted] AUG 09 2004

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.

Robert P. Wiemann, Director
Administrative Appeals Office

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identifying data deleted to prevent clearly unwarranted invasion of personal privacy

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 The Director's will be withdrawn and the appeal will be dismissed as moot.

The applicant is a native and citizen of Ecuador who was present in the United States without a lawful admission or parole on January 6, 1993. On June 30, 1998, the applicant was found removable and was granted voluntary departure until July 6, 1998, in lieu of deportation. The applicant departed the United States on July 2, 1998. The record reflects that the applicant reentered the United States on April 15, 2000, without inspection and has not departed since that date. The Director found the applicant inadmissible pursuant to section 212(a)(9)(A)(ii) of the Act, 8 U.S.C. § 1182(a)(9)(A)(ii). The applicant 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.

The Director determined that the unfavorable factors in the applicant's case outweighed the favorable factors, and denied the application accordingly. *See Director's Decision* dated September 3, 2003.

On appeal, filed on October 16, 2003, the applicant states that he will need 60 days to file a brief. In the Notice of Appeal to the AAO (Form I-290B) the applicant states no reason for the appeal and writes "I need time". To this day, more that eight months later, no documentation has been received by the AAO.

A review of the documentation in the record of proceedings reveals that an Immigration Judge granted the applicant voluntary departure and the applicant departed the United States prior to the expiration of the voluntary departure order. Therefore the applicant is not inadmissible pursuant to section 212(a)(9)(A) of the Act and a Form I-212 application is not necessary. Accordingly, the application for permission to reapply for admission into the United States under section 212(a)(9)(A)(iii) of the Act is moot as the applicant is not inadmissible pursuant to section 212(a)(9)(A) of the Act. As such, the issue of whether the unfavorable factors in the applicant's case outweigh the favorable factors is moot and will not be addressed.

ORDER: The Director's decision is withdrawn and the appeal is dismissed as moot.