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U.S. Department of Homeland Security
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U.S. Citizenship
and Immigration
Services

H4

[redacted]

FILE: [redacted] Office: CHICAGO, IL Date: SEP 17 2008

IN RE: [redacted]

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:

[redacted]

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

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

The applicant is a native and citizen of Costa Rica who was ordered removed from the United States in absentia by an Immigration Judge on January 4, 1996 and was determined to be inadmissible pursuant to section 212(a)(6)(B) of the Immigration and Nationality Act (the Act). 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 reside in the United States.

The district director determined that applicant is statutorily inadmissible and no waiver is available for relief. The Form I-212 application was denied accordingly. *Decision of the District Director*, dated February 10, 2003.

On appeal, the applicant indicates that he will submit a brief to support his assertion that the Immigration and Naturalization Service [now Citizenship and Immigration Services] failed to apply the correct legal standard to the application. *Form I-290B*, dated March 15, 2003. The AAO notes that over one year has elapsed since the filing of the appeal and no additional documentation has been received into the record. The appeal, therefore, will be decided based on the record as it currently stands. The entire record was reviewed and considered in rendering a decision on the appeal.

Section 212(a) of the Act, 8 U.S.C. § 1182(a) states in pertinent part:

> (9) Aliens Previously Removed.-
>
> (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 5 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) [A]ny alien . . . who-
>
> (I) Has been ordered removed under section 240 or any other provision of law . . . 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 the Secretary of Homeland Security (Secretary)] has consented to the alien's reapplying for admission.

8 C.F.R. § 103.3(v) (2002) states in pertinent part:

> (v) Summary Dismissal. An officer to whom an appeal is taken shall summarily dismiss any appeal when the party concerned fails to identify specifically any erroneous conclusion of law or statement of fact for the appeal.

In discretionary matters, the applicant bears the full burden of proving his eligibility for discretionary relief. *See Matter of Ducret,* 15 I&N Dec. 620 (BIA 1976). The record fails to offer any additional documentation and the applicant fails to identify any error in the decision of the district director. The appeal will therefore be summarily dismissed.

ORDER: The appeal is summarily dismissed.