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

U.S. Citizenship and Immigration Services

[redacted]

FILE: [redacted] Office: MOSCOW, RUSSIA Date: SEP 21 2004

IN RE: Applicant: [redacted]

APPLICATION: Application for Permission to Reapply for Admission after Removal into the United States after Deportation 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 Form I-212, Application for Permission to Reapply for Admission into the United States after Deportation or Removal, was denied by the Officer in Charge, Moscow, Russia, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The applicant is a native of Kazakhstan who entered the United States on May 28, 2000, as the fiancée of a U.S. citizen pursuant to section 101(a)(15)(K)(i) of the of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(K)(i). The applicant failed to marry her U.S. citizen fiancée and on August 23, 2001, an Immigration Judge denied her application for voluntary departure and ordered the applicant removed from the United States. The applicant filed an appeal, which she withdrew on July 11, 2002, and she departed the United States on July 26, 2002. She is therefore 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).

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 March 19, 2004.

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

(A) Certain alien previously removed.-

. . . .

(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 has consented to the alien's reapplying for admission.

The applicant filed for an immigrant visa and was found inadmissible pursuant to section 212(a)(9)(B)(i)(II) of the Act, 8 U.S.C. § 1182(a)(9)(B)(i)(II), for having been unlawfully present in the United States for a period of one year or more. She submitted an Application for Waiver of Grounds of Inadmissibility (Form I-601) under section 212(a)(9)(B)(v) of the Act. The Officer in Charge, Moscow, Russia, denied the Form I-601 and an appeal was subsequently dismissed by the AAO.

On appeal, counsel states that the Officer in Charge simply stated that the "adverse factors outweigh the favorable factors" and did not set forth any factors, adverse or supportive. In addition counsel states that the applicant has never been arrested for any criminal act, she is a person of good moral character and her services are greatly needed in the United States.

As mentioned previously the applicant is inadmissible under section 212(a)(9)(B)(i)(II) of the Act and her appeal under section 212(a)(9)(B)(v) of the Act was dismissed by this office.

Matter of Martinez-Torres, 10 I&N Dec. 776 (reg. Comm. 1964) held that an application for permission to reapply for admission is denied, in the exercise of discretion, to an alien who is mandatorily inadmissible to the United States under another section of the Act, and no purpose would be served in granting the application.

Since the applicant's appeal for a waiver of inadmissibility under section 212(a)(9)(B)(v) of the Act has been dismissed no purpose would be served in adjudicating her application for permission to reapply for admission into the United States under section 212(a)(9)(A)(iii) of the Act. The applicant is not eligible for any relief under the Act and the appeal will be dismissed.

ORDER: The appeal is dismissed.