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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

H4

[redacted]

FILE: [redacted] Office: SEATTLE, WA Date: APR 0 8 2008

IN RE: Applicant: [redacted]

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:

[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, Chief
Administrative Appeals Office

**DISCUSSION**: The application for permission to reapply for admission after removal was denied by the Director, Field Operations, Seattle, Washington, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed as moot.

The applicant is a native and citizen of Canada who attempted to enter the United States on March 4, 2003, by presenting a B-2 nonimmigrant visa. After immigration officers questioned the applicant regarding the purpose of her visit to the United States, the officers determined that the applicant was attempting entry into the United States to commence in unauthorized employment. The applicant was expeditiously removed from the United States on March 4, 2003. The applicant is inadmissible to the United States under section 212(a)(9)(A) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(a)(9)(A). She 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 visit the United States.

On October 30, 2003, the applicant filed an Application for Permission to Reapply for Admission After Deportation or Removal (Form I-212). On July 25, 2005, the Acting Director, Nebraska Service Center, denied the applicant's Form I-212. The applicant failed to appeal that decision. On or about February 23, 2006, the applicant filed a second Form I-212. On November 9, 2006, the director denied the applicant's second Form I-212, finding her inadmissible under section 212(a)(9)(A)(i) of the Immigration and Nationality Act (the Act), for having been removed under section 235(b)(1), and section 212(a)(6)(C)(i) of the Act, for having misrepresented a material fact in order to obtain an immigration benefit. *Director's Decision*, dated November 9, 2006.

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

(A) Certain alien 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) 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.

*Section 212(a)(6)(C) of the Act provides, in pertinent part, that:*

(i) In general.-Any alien who, by fraud or willfully misrepresenting a material fact, seeks to procure (or has sought to procure or has procured) a visa, other documentation, or admission into the United States or other benefit provided under this Act is inadmissible.

....

(iii) Waiver authorized.-For provision authorizing waiver of clause (i), see subsection (i).

A review of the 1996 Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) amendments to the Act and prior statutes and case law regarding permission to reapply for admission reflects that Congress has, (1) increased the bar to admissibility and the waiting period from five to ten years in most instances and to 20 years in others, (2) has added a bar to admissibility for aliens who are unlawfully present in the United States, and (3) has imposed a permanent bar to admission for aliens who have been ordered removed and who subsequently enter or attempt to enter the United States without being lawfully admitted. It is concluded that Congress has placed a high priority on deterring aliens from overstaying their authorized period of stay and from being present in the United States without lawful admission or parole.

A review of the record reflects that the applicant is no longer inadmissible under section 212(a)(9)(A)(i) of the Act, 8 U.S.C. § 1182(a)(9)(A)(i). The applicant has been residing in Canada since March 4, 2003, the date the applicant was expeditiously removed from the United States, which is more than the statutory five-year period. The applicant no longer needs permission to reapply for admission after her removal

**ORDER:** The appeal is dismissed as moot as the applicant no longer needs permission to reapply for admission after her removal.