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U.S. Department of Homeland Security
U. S. Citizenship and Immigration Services
Office of Administrative Appeals, MS 2090
Washington, DC 20529-2090

U.S. Citizenship and Immigration Services

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[redacted]

FILE: [redacted] Office: WASHINGTON, DC Date: AUG 10 2009
RELATES)

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.

If you believe the law was inappropriately applied or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. Please refer to 8 C.F.R. § 103.5 for the specific requirements. All motions must be submitted to the office that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion, with a fee of $585. Any motion must be filed within 30 days of the decision that the motion seeks to reconsider, as required by 8 C.F.R. 103.5(a)(1)(i).

John F. Grissom
Acting Chief, Administrative Appeals Office

DISCUSSION: The Acting Field Office Director, Washington, DC, denied the Application for Permission to Reapply for Admission into the United States after Deportation or Removal (Form I-212) and it is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed and the application declared moot because the applicant is presently a lawful permanent resident of the United States.

The record reflects that the applicant is a native and citizen of El Salvador who, on March 24, 1982, was placed into immigration proceedings for having entered the United States without inspection on March 22, 1982. On May 11, 1987, the applicant married his lawful permanent resident spouse in Fairfax, Virginia. On December 22, 1987, the immigration judge denied the applicant applications for asylum and withholding of removal and granted him voluntary departure until a date determined by the District Director. On February 3, 1988, the district director informed the applicant that he had been granted voluntary departure until February 21, 1988. The applicant filed an appeal with the Board of Immigration Appeals (BIA). On April 27, 1990, the BIA dismissed the applicant's appeal and granted the applicant thirty days of voluntary departure. The applicant failed to surrender for removal or depart from the United States, thereby changing the voluntary departure to a final order of removal. On June 6, 1990, a warrant for the applicant's removal was issued. On December 4, 1992, the applicant departed the United States and returned to El Salvador.

On December 17, 1992, the applicant was admitted to the United States as a lawful permanent resident. On March 2, 2005, the applicant appeared at the Dulles International Airport. The applicant presented his lawful permanent resident card. Immigration officers at the port of entry determined that the applicant had failed to inform the U.S. Consulate of his prior removal at the time he sought his immigrant visa. The applicant was referred to deferred inspection for April 4, 2005. On April 4, 2005, the applicant was provided a Record of Arrival/Departure (Form I-94), reflecting temporary evidence of lawful permanent residence. On May 19, 2005, the applicant was placed into immigration proceedings. On May 18, 2006, the applicant filed a Form I-212, along with an Application for Waiver of Grounds of Inadmissibility (Form I-601) before the immigration court. The applicant subsequently filed a second Form I-212 with U.S. Citizenship and Immigration Services. The applicant's immigration proceedings have been scheduled for an individual hearing on November 17, 2009. The applicant seeks a waiver and the section 212(a)(9)(A)(iii) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(a)(9)(A)(iii), in order to reside in the United States with his lawful permanent resident spouse and two U.S. citizen children.

The acting field office director determined that the applicant was not eligible for a *nunc pro tunc* grant of permission to reapply for admission because the Form I-212 would not eliminate all grounds of inadmissibility. The acting field office director denied the Form I-212 accordingly.

On appeal, counsel contends that the applicant's positive factors outweigh his negative factors. In support of his contentions counsel submits the Form I-290B. The entire record was reviewed in rendering a decision in this case.

8 C.F.R. § 103.3(a)(v) 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.

Counsel, on the Form I-290B, contends that the applicant had no knowledge of his removal at the time he departed the United States, his misrepresentations were innocent and without intent to deceive, the applicant's positive factor's outweigh his negative factors, the applicant has applied for relief from removal and, if the applicant's Form I-212 is approved *nunc pro tunc* he will be able to seek relief from removal. In support of his contentions, counsel submits a copy of a brief in support of applications for relief from removal. The AAO notes that none of the arguments contained in the Form I-290B or brief relate to the acting field office director's grounds for denying the applicant's Form I-212. On appeal, counsel fails to provide any new information or identify a reason for the appeal which applies to the application in question.

Since, counsel failed to identify either on the Form I-290B or through submission of a brief or evidence any erroneous conclusion of law or statement of fact made by the acting field office director, the applicant's notice of appeal is summarily dismissed pursuant to 8 C.F.R. § 103.3(a)(v).

ORDER: The appeal is dismissed.