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

H4

[redacted]

FILE: [redacted] Office: ATHENS, GREECE Date: FEB 26 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 or reopen, as required by 8 C.F.R. § 103.5(a)(1)(i).

John F. Grissom, Acting Chief
Administrative Appeals Office

DISCUSSION: The Officer in Charge, Athens, Greece, 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 The appeal will be dismissed, the previous decision of the district director will be withdrawn and the application declared moot.

The applicant is a native and citizen of Jordan who, on December 20, 1999, appeared at the San Ysidro, California port of entry. The applicant presented a German passport bearing the name "[redacted]." The applicant was found to be inadmissible pursuant to sections 212(a)(6)(C)(i) and 212(a)(7)(A)(i)(I) of the Immigration and Nationality Act (the Act), 8 U.S.C. §§ 1182(a)(6)(C)(i) and 1182(a)(7)(A)(i)(I), for attempting to obtain admission to the United States by fraud and for being an immigrant without valid documentation. The applicant was placed into secondary inspection, at which time he indicated that he was an Israeli of Palestinian descent and he expressed a fear of returning to his home country. The applicant was scheduled for a credible fear interview. On January 12, 2000, the applicant was placed into immigration proceedings pursuant to credible fear interview procedures. On October 25, 2000, the immigration judge denied the applicant's asylum, withholding of removal and convention against torture applications, making a negative credibility finding against the applicant. The immigration judge then ordered the applicant removed from the United States. The applicant filed an appeal with the Board of Immigration Appeals (BIA). On March 25, 2003, the BIA dismissed the appeal. The applicant filed a petition for review with the Ninth Circuit Court of Appeals (Ninth Circuit). On November 24, 2004, the Ninth Circuit denied the applicant's petition for review. On February 24, 2005, the applicant married his U.S. citizen spouse, [redacted]. On March 7, 2005, [redacted] filed a Petition for Alien Relative (Form I-130) on behalf of the applicant. On March 14, 2005, a warrant of removal was issued against the applicant. On March 6, 2005, the applicant was removed from the United States and returned to Jordan. On July 27, 2007, the Form I-130 was approved. On January 4, 2007, the applicant filed the Form I-212 and an Application for Waiver of Grounds of Inadmissibility (Form I-601). The applicant seeks permission to reapply for admission to the United States under section 212(a)(9)(A)(iii) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(a)(9)(A)(iii).

The officer in charge determined that, while the applicant had established that [redacted] would suffer extreme hardship if she were to join the applicant in Jordan, he had not established that she would suffer extreme hardship if she remained in the United States and separated from the applicant. The officer in charge determined that the applicant did not warrant a favorable exercise of discretion and denied the Form I-212 accordingly. *See Officer in Charge's Decision* dated December 6, 2007.

On appeal, counsel contends that [redacted] is suffering extreme hardship in the United States due to her separation from the applicant and that the application should be granted. *See Counsel's Brief,* received February 4, 2008. In support of his contentions, counsel submits the referenced brief, letters from the applicant, [redacted], friends and family, a psychological report, medical documentation and financial documentation.

Section 212(a) of the Act states in pertinent part:

(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 five 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 who 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 on a alien 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 alien's reembarkation at a place outside the United States or attempt to be admitted from foreign contiguous territory, the Secretary has consented to the alien's reapplying for admission.

The record reflects that, on February 14, 2008, the officer in charge approved the Form I-601 and Form I-212. The record also reflects that the applicant was admitted to the United States as a conditional resident on August 29, 2008, under the A-number [redacted] As the applicant has already received permission to reapply for admission with regard to his removal, section 212(a)(9)(A) of the Act does not apply to him. The AAO therefore finds that the applicant is not required to apply for permission to reapply for admission to the United States. Since the applicant does not require permission to reapply for admission, the appeal will be dismissed, the decision of the director will be withdrawn and the application for permission to reapply for admission will be declared moot.

ORDER: The appeal is dismissed, the prior decision of the district director is withdrawn and the application for permission to reapply for admission is declared moot.