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: COLUMBUS, OH Date: AUG 0 2 2010

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:

Enclosed please find the decision of the Administrative Appeals Office in your case. All of the documents related to this matter have been returned to the office that originally decided your case. Please be advised that any further inquiry that you might have concerning your case must be made to that office.

If you believe the law was inappropriately applied by us in reaching our decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. The specific requirements for filing such a request can be found at 8 C.F.R. § 103.5. 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. Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires that any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you,

Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The Field Office Director, Columbus, Ohio, 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 applicant is a native and citizen of Ghana who, on April 8, 1998, appeared at John F. Kennedy International airport. The applicant presented a Ghanaian passport containing a U.S. nonimmigrant visa bearing the name [redacted]" The applicant was placed into secondary inspection. The applicant admitted that she was not the true owner of the document and she did not have valid documentation to enter the United States. The applicant stated that she was single, had never been arrested and would not experience any problems, harms or fears if she returned to Ghana. The applicant failed to provide her true identity to immigration officers. 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 enter the United States by fraud and for being an immigrant without valid documentation. On April 8, 1998, the applicant was expeditiously removed from the United States pursuant to section 235(b)(1) of the Act, 8 U.S.C. § 1225(b)(1) under the name "Yaa Aissatou."

On October 18, 2000, the applicant was admitted to the United States as an asylee.[1] On November 24, 2003, the applicant filed an Application to Register Permanent Residence or Adjust Status (Form I-485) as an asylee. On August 4, 2006, the Form I-485 was denied.

On August 13, 2006, the applicant filed a second Form I-485 based on a Petition for Alien Relative (Form I-130) filed on her behalf by her now naturalized U.S. citizen spouse. On January 22, 2007, the Form I-130 was approved. On February 21, 2007, the applicant filed an Application for a Waiver of Grounds of Inadmissibility (Form I-601). On March 2, 2007, the Form I-485 and the Form I-601 were denied. On March 2, 2007, the applicant was placed into immigration proceedings. On July 30, 2007, the applicant filed the Form I-212, indicating that she continued to reside in the United States. On March 26, 2008, the immigration judge administratively closed the immigration proceedings against the applicant. The applicant is inadmissible pursuant to section 212(a)(9)(A)(i) of the Act, 8 U.S.C. § 1182(a)(9)(A)(i). She 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 with her naturalized U.S. citizen spouse and three U.S. citizen children.

The field office director determined that the applicant is inadmissible pursuant to section 212(a)(9)(C)(i) of the Act, 8 U.S.C. § 1182(a)(9)(C)(i), and is not eligible to apply for permission to reapply for admission. The field office director denied the Form I-212 accordingly. *See Field Office Director's Decision,* dated August 27, 2009.

On appeal, counsel contends that the applicant is not inadmissible under sections 212(a)(9)(A) or 212(a)(9)(C) of the Act. *See Counsel's Brief,* undated. In support of his contentions, counsel submits the referenced brief and copies of case law. The entire record was reviewed in rendering a decision in this case.

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

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[1] The AAO notes that the applicant, in filing an Application for Immigrant Visa (Form DS-230), concealed her prior fraud and removal in order to obtain asylee status.

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

Section 212(i) of the Act provides:

> (1) The Attorney General [now the Secretary of Homeland Security (Secretary)] may, in the discretion of the Attorney General [Secretary], waive the application of clause (i) of subsection (a)(6)(C) in the case of an alien who is the spouse, son or daughter of a United States citizen or of an alien lawfully admitted for permanent residence, if it is established to the satisfaction of the Attorney General [Secretary] that the refusal of admission to the United States of such immigrant alien would result in extreme hardship to the citizen or lawfully resident spouse or parent of such an alien.

In a separate proceeding, the district director, Columbus, Ohio, found the applicant inadmissible pursuant to section 212(a)(6)(C)(i) of the Act, 8 U.S.C. § 1182(a)(6)(C)(i), for attempting to obtain admission, and obtaining immigration benefits and admission by fraud, and ineligible for a waiver pursuant to section 212(i) of the Act, 8 U.S.C. § 1182(i). *See District Director's Decision on Form I-601,* March 2, 2007. The applicant failed to timely file an appeal of the denial of the Form I-601.[2]

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.

In that the district director found the applicant to be ineligible for a waiver of inadmissibility under section 212(i) of the Act and the applicant failed to file a timely appeal, no purpose would be served in the favorable exercise of discretion in adjudicating the application to reapply for admission into the United States under section 212(a)(9)(A)(iii) of the Act. Accordingly, the appeal of the field office director's denial of the Form I-212 will be dismissed as a matter of discretion.

ORDER: The appeal is dismissed.

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[2] The applicant has filed only one Form I-290B. In order to seek an appeal of a denial of an application, the applicant must file a Form I-290B for each application from which he or she seeks an appeal. As such, the applicant has only filed one timely appeal.