



**U.S. Citizenship  
and Immigration  
Services**

(b)(6)

Date: **OCT 07 2013** Office: **BANGKOK, THAILAND**

FILE: [REDACTED]

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:

INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office (AAO) in your case. This is a non-precedent decision. The AAO does not announce new constructions of law nor establish agency policy through non-precedent decisions.

Thank you,

A handwritten signature in black ink that reads "Ron Rosenberg".

Ron Rosenberg  
Chief, Administrative Appeals Office

**DISCUSSION:** The application for permission to reapply for admission into the United States was denied by the District Director, Bangkok, Thailand. The applicant, through counsel, appealed the District Director's decision to the Administrative Appeals Office (AAO). On appeal, the AAO remanded the application for a determination on the applicant's inadmissibility under section 212(a)(6)(B) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(a)(6)(B). The District Director determined the applicant is no longer inadmissible under section 212(a)(6)(B) of the Act and certified the denial to the AAO. The appeal will be sustained.

The applicant is a native and citizen of Bangladesh who was found to be inadmissible to the United States under section 212(a)(9)(A)(ii) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(a)(9)(A)(ii), for having been ordered removed from the United States and seeking admission within the proscribed period since the date of removal. 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), in order to reside with his wife and children in the United States.

Section 212(a)(9) of the Act provides, in relevant part:

(A) Certain aliens 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

...

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 of an 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 Attorney General [now the Secretary of Homeland Security (Secretary)] has consented to the alien's reapplying for admission.

The record establishes the applicant entered the United States without inspection on June 17, 2000, and was placed in removal proceedings on September 7, 2000, upon presenting himself to U.S. immigration officials. On December 5, 2001, the Immigration Judge ordered the applicant removed *in absentia* from the United States and denied the applicant's subsequent motions to reopen his removal proceedings. The applicant filed an appeal to the Board of Immigration Appeals (the BIA), and the BIA dismissed the applicant's appeal on October 20, 2005. The applicant then filed an appeal with the U.S. Third Circuit Court of Appeals, which denied his petition for review on April 13, 2007. On June 10, 2008, the applicant was removed from the United States and has remained outside the United States to date. On July 5, 2010, U.S. Citizenship and Immigration Services received his Application for Permission to Reapply for Admission into the United States after Deportation or Removal (Form I-212). Accordingly, the applicant is inadmissible pursuant to section 212(a)(9)(A)(ii)(I) of the Act. On appeal, the applicant does not contest this finding; rather, he seeks permission to reapply for admission into the United States under section 212(a)(9)(A)(iii) of the Act.

A grant of permission to reapply for admission is a discretionary decision based on the weighing of negative and positive factors. The AAO has found that the applicant warrants a favorable exercise of discretion related to the adjudication of his Form I-601, Application for Waiver of Grounds of Inadmissibility. For the reasons stated in that finding, the AAO finds that the applicant's Form I-212 should also be granted as a matter of discretion.

In application proceedings, it is the applicant's burden to establish eligibility for the immigration benefit sought. Section 291 of the Act, 8 U.S.C. § 1361. Here, that burden has been met.

**ORDER:** The appeal is sustained.