U.S. Department of Homeland Security
U.S. Citizenship and Immigration Service
Office of Administrative Appeals
20 Massachusetts Ave., N.W., MS 2090
Washington, DC 20529-2090

(b)(6)

U.S. Citizenship and Immigration Services

[redacted]

DATE: NOV 10 2014 Office: NEBRASKA SERVICE CENTER 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)(iii) of the Immigration and Nationality Act, 8 U.S.C. § 1182(a)(9)(A)(iii)

ON BEHALF OF APPLICANT:

SELF-REPRESENTED

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. If you believe the AAO incorrectly applied current law or policy to your case or if you seek to present new facts for consideration, you may file a motion to reconsider or a motion to reopen, respectively. Any motion must be filed on a Notice of Appeal or Motion (Form I-290B) within 33 days of the date of this decision. **Please review the Form I-290B instructions at http://www.uscis.gov/forms for the latest information on fee, filing location, and other requirements.** *See also* 8 C.F.R. § 103.5. **Do not file a motion directly with the AAO.**

Thank you,

Ron Rosenberg
Chief, Administrative Appeals Office

DISCUSSION: The Director, Nebraska Service Center, 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 record reflects that the applicant ordered removed from the United States under section 240(a) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1229a(a) and subsequently departed from the United States on March 24, 2004. The applicant attempted to reenter the United States on September 14, 2004 using a refugee travel document that belonged to another person, and was apprehended. On October 5, 2005, the applicant was removed from the United States. He 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 reside in the United States with his U.S. citizen spouse and children.

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

> (A) Certain alien previously removed.-
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> (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.
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> (ii) Other aliens.- Any alien not described in clause (i) who-
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> (I) has been ordered removed under section 240 or any other provision of law, or
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> (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.
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> (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.

The applicant was found to be inadmissible to the United States pursuant to section 212(a)(3)(B) of the Act, 8 U.S.C. § 1182(a)(3)(B), for engaging in terrorist activities. The record indicates that on his asylum application and during his asylum interview in December 2000, the applicant stated that he joined a militia during the war in serving on a part-time basis from 1988 to 1992 and making more frequent trips to the region after losing his accountant job in 1992. He testified that he recruited soldiers to fight and he bought supplies, including guns and ammunition, for the militia. He further testified that he was entering the region in 1993 with a convoy carrying food, 40 rifles, ammunition, and recruits, and a gun battle occurred after they were attacked. He stated that he captured two injured assailants and held them for one week before delivering them to the police in Armenia. He was found ineligible for asylum for having committed and act which he knew, or should have known, afforded material support to an individual, organization, or government in conducting a terrorist activity as defined in section 212(a)(3)(B)(iii) of the Act. He was therefore found to be inadmissible under section 212(a)(3)(B)(i) of the Act.

On August 29, 2012, the applicant filed Form I-601, Application for Waiver of Grounds of Inadmissibility (Form I-601). The Director denied the Form I-601 as a matter of discretion due to his inadmissibility under section 212(a)(3)(B) of the Act. *See Decision of the Director*, dated February 19, 2014.

In a separate decision, we dismissed an appeal of the denial of the applicant's Form I-601. *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. As the applicant is inadmissible under section 212(a)(3)(B) of the Act, the appeal of the denial of the Form I-212 will be dismissed as a matter of discretion as its approval would not result in the applicant's admissibility to the United States.

ORDER: The appeal is dismissed.