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U.S. Citizenship and Immigration Services

PUBLIC COPY

[redacted]

HLI

FILE: [redacted] Office: PHILADELPHIA, PA Date: JAN 11 2008

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: Self-represented

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.

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The Acting District Director, Philadelphia, Pennsylvania, 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 The appeal will be dismissed, the decision of the acting district director will be withdrawn and the application declared moot.

The applicant is a native and citizen of Trinidad who, on January 4, 1988, was admitted to the United States as a conditional lawful permanent resident. On December 15, 1989, the applicant's conditions were removed and he became a lawful permanent resident. On July 10, 1992, the applicant was convicted of carrying a firearm without a license and was sentenced to 4 to 23 months in jail. On September 21, 1992, the applicant was placed into proceedings. On August 4, 1993, the immigration judge granted the applicant voluntary departure until October 4, 1993. The district director subsequently extended the applicant's voluntary departure until December 29, 1993. 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 January 12, 1994, the applicant left the United States and returned to Trinidad, where he has since resided. He seeks permission to reapply for admission into 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) in order to enter the United States and reside with his U.S. citizen spouse and daughter.

The district director determined that the unfavorable factors in the applicant's case outweighed the favorable factors and denied the Form I-212 accordingly. *See District Director's Decision* dated April 20, 2000.

On appeal, the applicant's spouse contends that the applicant has not been in trouble since returning to Trinidad. *See Applicant's Spouse's Brief,* dated June 7, 2000. In support of her contentions, the applicant's spouse submits the referenced brief and a police clearance letter from Trinidad for the applicant. The entire record was reviewed in rendering a decision in this case.

The AAO finds that the applicant is not inadmissible under section 212(a)(9)(A) of the Act and is not required to receive permission to reapply for admission.

Section 212(a)(9) of the Act states in pertinent part:

> (A) Certain aliens 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 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.
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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

(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 applicant is an alien who has been removed from the United States and would be inadmissible pursuant to section 212(a)(9)(A)(ii) of the Act, 8 U.S.C. § 1182(a)(9)(A)(ii) if he were seeking admission to the United States within 10 years of his removal. The applicant's removal occurred on January 12, 1994, more than ten years ago. Therefore, the applicant is no longer inadmissible pursuant to section 212(a)(9)(A)(ii) of the Act.

A clear reading of the law reveals that the applicant is no longer inadmissible. He, therefore, does not require permission to reapply for admission, so the appeal will be dismissed, the decision of the acting district director will be withdrawn and the permission to reapply for admission application will be declared moot.

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