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U.S. Department of Homeland Security
20 Mass. Ave., N.W., Rm. 3000
Washington, DC 20529



U.S. Citizenship
and Immigration
Services

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FILE:

Office: CHICAGO, IL

Date:

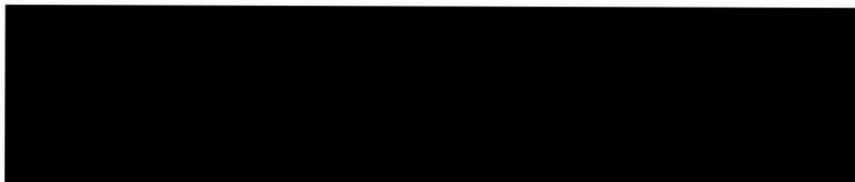
JUN 16 2008

IN RE:



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:



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.

A handwritten signature in black ink, appearing to read "Robert P. Wiemann".

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The District Director, Chicago, Illinois, denied the Application for Permission to Reapply for Admission into the United States after Deportation or Removal (Form I-212) and a subsequent appeal was dismissed by the Administrative Appeals Office (AAO). The AAO will reopen the matter. The AAO's previous decision will be affirmed and the application will be denied.

On January 18, 2007, the AAO dismissed the applicant's appeal because he did not warrant a favorable exercise of discretion. *See AAO's Decision*, dated January 18, 2007. The AAO's decision was in response to an appeal filed on behalf of the applicant on January 13, 2006. *See Form I-290B*, dated January 13, 2006. The Form I-290B was filed in response to a denial issued by the district director on December 14, 2005. *See Decision of District Director*, dated December 14, 2005. On March 15, 2006, the acting district director issued a second denial of the Form I-212 that was identical to the decision he had issued on December 14, 2005. At the time the AAO rendered its decision, the record did not contain a Form I-290B filed in response to the March 15, 2006, denial of the Form I-212. An appeal filed by the applicant in regard to the March 15, 2006, decision is now contained in the applicant's file. *See Form I-290B*, dated April 11, 2006. The AAO is therefore reopening the matter *sua sponte*.

The AAO finds that counsel fails to provide any additional evidence to support or an additional or new basis for the applicant's appeal of the March 15, 2006, denial of the Form I-212. Counsel simply provides a copy of the brief and supporting documentation provided with the appeal of the original denial of the Form I-212. As counsel has failed to provide any new assertions or evidence to support the appeal, there is no basis upon which the AAO could render a decision other than the one it has already issued. Therefore, the AAO incorporates by reference the discussion of the evidence, analysis and conclusions in its January 18, 2007, decision.

Section 291 of the Act, 8 U.S.C. § 1361, provides that the burden of proof is upon the applicant to establish he is eligible for the benefit sought. After a careful review of the record, it is concluded that the applicant has failed to establish that a favorable exercise of the Secretary's discretion is warranted. Accordingly, the AAO's previous decision will be affirmed and the application will be denied.

ORDER: The AAO's previous decision will be affirmed and the application will be denied.