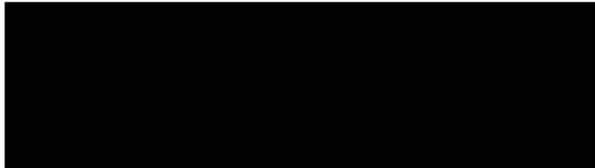




**U.S. Citizenship
and Immigration
Services**

H4



FILE:



Office: CHICAGO, IL

Date: **DEC 07 2009**

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:

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.

If you believe the law was inappropriately applied or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. Please refer to 8 C.F.R. § 103.5 for the specific requirements. 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. Any motion must be filed within 30 days of the decision that the motion seeks to reconsider, as required by 8 C.F.R. 103.5(a)(1)(i).

A handwritten signature in black ink, appearing to read "Perry Rhew".

Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The Field Office Director, Chicago, Illinois, 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 field office director found that the applicant improperly filed the Form I-212 and denied the Form I-212 accordingly. *Decision of the Field Office Director*, dated May 27, 2009.

8 C.F.R. § 103.2 states in pertinent part:

(a)(1) Every application, petition, appeal, motion, request, or other document submitted on any form prescribed by this chapter I, notwithstanding any other regulations to the contrary, must be filed with the location and executed in accordance with the instructions on the form, such instructions being hereby incorporated into the particular section of the regulations in this chapter I requiring its submission. The form must be filed with the appropriate filing fee required by § 103.7 . . . Filing fees and fingerprinting service fees are non-refundable and, except as otherwise provided in this chapter, must be paid when the application is filed . . .

8 C.F.R. 212.2 states in pertinent part:

(e) Applicant for adjustment of status. An applicant for adjustment of status under section 245 of the Act and Part 245 of this chapter must request permission to reapply for entry in conjunction with his or her application for adjustment of status. This request is made by filing Form I-212, Application for Permission to Reapply. If the application under section 245 of the Act has been initiated, renewed, or is pending in a proceeding before an immigration judge, the district director must refer the Form I-212 to the immigration judge for adjudication.

The record reflects that, on September 23, 2004, the applicant paid the filing fee of \$250.00 for a Form I-212. The applicant did file her Form I-212 simultaneously with her application for adjustment of status, on February 12, 2008, but that at that time the filing fee had increased to \$545.00. On appeal, counsel contends that, rather than rejecting the applicant's Form I-212 for being improperly filed, the field office director should have forwarded the Form I-212 to the immigration judge, since the applicant has renewed her application for adjustment of status before the court. The AAO finds counsel's contention to be unpersuasive since forwarding of the Form I-212 to the immigration judge would only occur if an applicant had properly filed the Form I-212.

As the applicant has not complied with the regulatory requirements for filing the Form I-212, the application in this matter was improperly filed. Accordingly, the appeal is dismissed.

ORDER: The appeal is dismissed.