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FILE:

Office: VERMONT SERVICE CENTER

FEB 05 2009

IN RE:



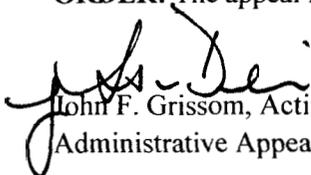
APPLICATION: Application for Permission to Reapply for Admission into the United States after Deportation or Removal under section 212(a)(9)(A)(iii) of the Immigration and Nationality Act, 8 U.S.C. § 1182(a)(9)(A)(iii)

ON BEHALF OF APPLICANT:



DISCUSSION: The application for permission to reapply for admission was denied by the Director, Vermont Service Center. The matter is now before the Administrative Appeals Office on appeal. On December 22, 2008, this office issued a Notice of Intent to Dismiss (NOID) the applicant's appeal. On December 29, 2008, counsel requested that the appeal on behalf of the applicant be withdrawn¹.

ORDER: The appeal is dismissed based on its withdrawal by the counsel.


John F. Grissom, Acting Chief
Administrative Appeals Office

¹ It appears that counsel believes that the applicant will no longer be inadmissible to the United States at the completion of his five-year bar under section 212(a)(9)(A) of the Act. However, the applicant is also inadmissible pursuant to section 212(a)(6)(C)(i) of the Act, 8 U.S.C. § 1182(a)(6)(C)(i), for attempting to obtain admission to the United States by willfully misrepresenting a material fact or by fraud on April 7, 2006. Inadmissibility under section 212(a)(6)(C)(i) of the Act is not subject to a time limit and, therefore, a *nonimmigrant* alien must file an Application for Advance Permission to Enter as Nonimmigrant (Form I-192) to apply for a waiver pursuant to section 212(d)(3) of the Act, 8 U.S.C. § 1182(d)(3), and an *immigrant* (including a fiancé) must file an Application for Waiver of Ground of Inadmissibility (Form I-601) to apply for a waiver of inadmissibility under section 212(i) of the Act.