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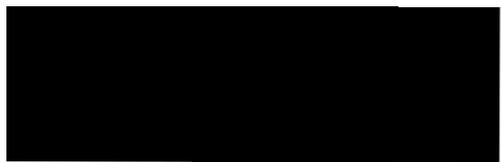
U.S. Department of Homeland Security
U. S. Citizenship and Immigration Services
Office of Administrative Appeals MS 2090
Washington, DC 20529-2090



U.S. Citizenship
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FILE: [REDACTED] Office: CHICAGO, IL
[REDACTED] RELATES)

Date: **SEP 08 2009**

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.

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 or reopen, as required by 8 C.F.R. § 103.5(a)(1)(i).

John F. Grissom
Acting 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 applicant appears to be represented; however the Form G-28, Notice of Entry of Appearance as Attorney or Representative in the record is not signed by the applicant. All representations will be considered but the decision will be furnished only to the applicant.

The applicant is a native and citizen of Cameroon who, on January 15, 2000, appeared at Dulles International Airport. The applicant presented her passport containing a U.S. nonimmigrant visa. The applicant stated that she was coming to the U.S. to attend her brother's wedding. The applicant was placed into secondary inspections. The applicant admitted that she had based her visa application on the premise that she was visiting the U.S. for her brother's wedding. The applicant admitted that she did not have a brother in the United States and had provided the name of her fiancé as her brother at the time she was interviewed for the visa. The applicant was found to be inadmissible pursuant to sections 212(a)(6)(C)(i) and 212(a)(7)(A)(i)(I) of the Immigration and Nationality Act (the Act), 8 U.S.C. §§ 1182(a)(6)(C)(i) and 1182(a)(7)(A)(i)(I), for obtaining a visa and attempting to enter the United States by fraud and for being an immigrant without valid documentation. On January 28, 2000, the applicant was expeditiously removed from the United States pursuant to section 235(b)(1) of the Act, 8 U.S.C. § 1225(b)(1).

On September 27, 2002, the applicant married her U.S. citizen spouse in Rockville, Maryland. On February 25, 2003, the applicant's U.S. citizen spouse filed a Petition for Alien Relative (Form I-130) on behalf of the applicant. On March 12, 2003, the applicant filed an Application to Register Permanent Residence or Adjust Status (Form I-485), based on the Form I-130. During an interview in connection with the Form I-485, the applicant admitted that, on March 22, 2002, she had reentered the United States after having been removed by presenting a French passport bearing the name '██████████'. On December 11, 2003, the applicant filed an Application for Waiver of Grounds of Inadmissibility (Form I-601). On January 12, 2004, the Form I-130 was approved. On January 22, 2004, the Form I-601 was denied. On January 22, 2004, the Form I-485 was denied because the applicant was found to be inadmissible pursuant to section 212(a)(6)(C)(i) of the Act, 8 U.S.C. § 1182(a)(6)(C)(i) and the applicant had failed to establish that extreme hardship would be suffered by a qualifying relative. The applicant filed an appeal of the denial of the Form I-601 with this office. On February 27, 2004, the applicant filed the Form I-212. On February 29, 2008, this office dismissed the applicant's appeal of the denial of the Form I-601, finding that the applicant had failed to establish that extreme hardship would be suffered by a qualifying relative. The applicant is inadmissible under section 212(a)(9)(A)(i) of the Act, 8 U.S.C. § 1182(a)(9)(A)(i) and 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 her U.S. citizen spouse and U.S. citizen child.

The field office director determined that the applicant did not warrant a favorable exercise of discretion and denied the Form I-212 accordingly. *See Field Office Director's Decision* dated March 10, 2009.

On appeal, counsel contends that the field office director erred as a matter of fact and law by failing to consider the applicant's U.S. citizen spouse's fear of returning to Cameroon based on persecution. *See Attachment to Form I-290B*, dated April 7, 2009. In support of her contentions, counsel submitted only the referenced Form I-290B and attachment. On August 11, 2009, counsel supplemented the record by providing letters of recommendation. Counsel, in her correspondence, dated August 5, 2009, refers to "an appeal brief" and "extensive evidence," which were purportedly submitted on May 6, 2009. The regulation at 8 C.F.R. § 103.3(a)(2)(viii) and the instructions to Form I-290B require the affected party to submit the brief or evidence directly to the AAO, not to the Chicago, Illinois Field Office or any other federal office. The record does not contain the brief and/or evidence to which counsel refers. Even if counsel were to submit evidence that a brief and/or evidence was filed with an office other than the AAO, the AAO would not consider the brief and/or evidence on appeal because counsel failed to follow the regulations or the instructions for the proper filing location and, as discussed above, counsel has not submitted sufficient documentation to establish that she is entitled to represent the applicant.¹ Accordingly the record is complete.

Section 212(a)(6)(C) of the Act provides, in pertinent part:

- (i) Any alien who, by fraud or willfully misrepresenting a material fact, seeks to procure (or has sought to procure or has procured) a visa, other documentation, or admission into the United States or other benefit provided under this Act is inadmissible.

....

- (iii) Waiver authorized. – For provision authorizing waiver of clause (i), see subsection (i).

Section 212(i) of the Act provides:

- (1) The Attorney General [now the Secretary of Homeland Security (Secretary)] may, in the discretion of the Attorney General [Secretary], waive the application of clause (i) of subsection (a)(6)(C) in the case of an alien who is the spouse, son or daughter of a United States citizen or of an alien lawfully admitted for permanent residence, if it is established to the satisfaction of the Attorney General [Secretary] that the refusal of admission to the United States of such immigrant alien would result in extreme hardship to the citizen or lawfully resident spouse or parent of such an alien.

In a separate proceeding, the interim district director, Baltimore, Maryland found the applicant inadmissible pursuant to section 212(a)(6)(C)(i) of the Act and ineligible for a waiver pursuant to section 212(i) of the Act. *See Interim District Director's Decision on Form I-601*, January 22, 2004. The AAO subsequently dismissed an appeal of the denial of the Form I-601.

¹ The AAO also notes that, even if counsel had submitted the documentation to which she refers, the decision rendered by the AAO would not be affected.

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.

In that the interim district director and the AAO have found the applicant to be ineligible for a waiver of inadmissibility under section 212(i) of the Act, no purpose would be served in the favorable exercise of discretion in adjudicating the application to reapply for admission into the United States under section 212(a)(9)(A)(iii) of the Act. Accordingly, the appeal of the field office director's denial of the Form I-212 will be dismissed as a matter of discretion.

ORDER: The appeal is dismissed.