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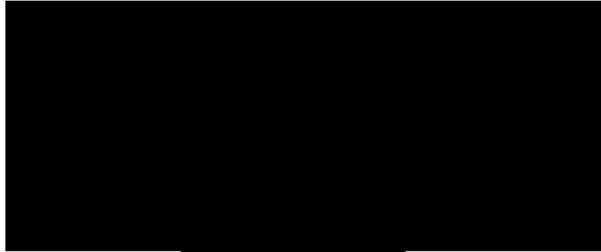
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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Office of Administrative Appeals MS 2090
Washington, DC 20529-2090



U.S. Citizenship
and Immigration
Services

HL4



FILE:



Office: ROME, ITALY
(LONDON, UK)

Date:

APR 02 2010

IN RE:

Applicant:



APPLICATION:

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

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.

Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The application for permission to reapply for admission after removal was denied by the District Director, Rome, Italy and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed as the underlying application is moot.

The record reflects that the applicant is a native and citizen of Iceland. On January 7, 2009, the applicant attempted to enter the United States under the Visa Waiver Pilot Program (VWPP), but was refused entry. On or about January 8, 2009, the applicant returned to Iceland. On February 12, 2009, the applicant's husband filed a Form I-130 on behalf of the applicant. On March 2, 2009, the applicant's husband filed a Petition for Alien Fiancé(e) (Form I-129F) on behalf of the applicant. On May 2, 2009, the Form I-130 and Form I-129F benefiting the applicant were approved. On September 17, 2009, the applicant filed an Application for Permission to Reapply for Admission into the United States after Deportation or Removal (Form I-212). On November 10, 2009, the District Director determined that the applicant was inadmissible to the United States under section 212(a)(9)(A) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(a)(9)(A), based on her January 8, 2009 removal from the United States. He denied the applicant's Form I-212 as a matter of discretion based on his November 9, 2009 denial of the applicant's Application for Waiver of Ground of Inadmissibility (Form I-601).

Section 212(a)(9). Aliens previously removed.-

(A) Certain alien previously removed.-

(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 5 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.

(ii) Other aliens.- Any alien not described in clause (i) who-

(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 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 of an aliens 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 aliens' reembarkation at a place outside

the United States or attempt to be admitted from foreign continuous territory, the Attorney General [now, Secretary, Department of Homeland Security] has consented to the aliens' reapplying for admission.

A review of the record and relevant databases finds that, on January 8, 2009, the applicant was refused entry into the United States under the VWPP. However, there is no documentation that establishes that the applicant was ordered removed from the United States under section 235(b)(1) of the Act or any other section of law. Therefore, it has not been established that the applicant is inadmissible to the United States under section 212(a)(9)(A) of the Act and she is not required to file a Form I-212 at this time. Accordingly, the appeal will be dismissed as the underlying application is moot.

If in the future it is determined that the applicant was, in fact, ordered removed from the United States, she may be required to file another Form I-212.

ORDER: The appeal is dismissed as the underlying application is moot.