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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

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H4

FILE: [REDACTED] Office: MEXICO CITY (PANAMA CITY, PANAMA) Date:

IN RE: Applicant: [REDACTED]

JUL 13 2010

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:

INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office in your case. All of the documents related to this matter have been returned to the office that originally decided your case. Please be advised that any further inquiry that you might have concerning your case must be made to that office.

If you believe the law was inappropriately applied by us in reaching our decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. The specific requirements for filing such a request can be found at 8 C.F.R. § 103.5. 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. Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires that any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you,

Perry Rhew
Chief, Administrative Appeals Office

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

The applicant, a native and citizen of Colombia, was ordered removed on November 7, 2002. *Order of the Immigration Judge*, dated November 7, 2002. The record indicates that the applicant departed the United States in December 2003. The applicant was thus found inadmissible to the United States under section 212(a)(9)(A)(ii) of the Act, 8 U.S.C. § 1182(a)(9)(A)(ii), Alien Previously Removed. He now 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 his U.S. citizen spouse.

The district director denied the applicant's Application for Permission to Reapply for Admission After Deportation or Removal (Form I-212). *Decision of the District Director*, dated September 18, 2008.

On May 28, 2010, the applicant's U.S. citizen spouse, the petitioner of the Petition for Alien Relative (Form I-130), filed on behalf of the applicant in May 2007 and subsequently approved in July 2007, sent a letter to the AAO advising said office that the applicant and his spouse had divorced in March 2010, and confirming that she no longer wished to sponsor the applicant for permanent residency. A copy of the Divorce Degree and corresponding recorded documentation, from Colombia, was provided.

Section 205.1 of Title 8 of the Code of Federal Regulations states, in pertinent part:

- (a) Reasons for automatic revocation. The approval of a petition...made under section 204 of the Act...is revoked as of the date of approval:
- (3) If any of the following circumstances occur...before the decision on his or her adjustment application becomes final:
 - (i) Immediate relative and family-sponsored petitions, other than Amerasian petitions. (A) Upon written notice of withdrawal filed by the petitioner...with any officer of the Service who is authorized to grant or deny petitions.... (D) Upon the legal termination of the marriage when a citizen or lawful permanent resident of the United States has petitioned to accord his or her spouse immediate relative or family-sponsored preference immigrant classification under 201(b) or section 203(a)(2) of the Act....

As the petitioner of the Form I-130 has provided written notice of the legal termination of marriage with the applicant and has requested the withdrawal of the I-130, there is no longer an underlying petition for alien relative pending at this time. The viability of the Form I-212 is dependent on an immigrant visa application that is, in turn, based on an approved Form I-130. In the absence of an

underlying approved Form I-130, the Form I-212 is moot. The appeal of the denial of the application for permission to reapply for admission after removal must therefore be dismissed as moot.

ORDER: The appeal is dismissed.