



U.S. Citizenship
and Immigration
Services

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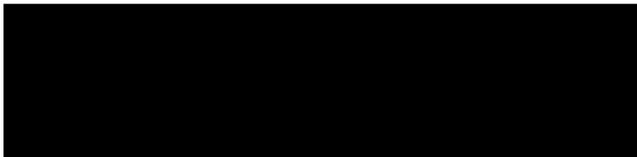
FILE: [REDACTED] Office: VERMONT SERVICE CENTER

Date: **MAY 28 2010**

IN RE: Applicant: [REDACTED]

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)

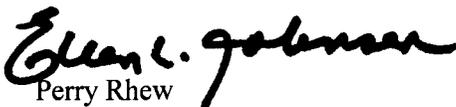
ON BEHALF OF APPLICANT:



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.

Thank you,



Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The application for permission to reapply for admission after removal was denied by the Director, Vermont Service Center, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed, the previous decision of the center director will be withdrawn and the application declared moot.

The record reflects that the applicant, a native of Poland and citizen of Canada, was found to be inadmissible to the United States pursuant to section 212(a)(9)(B)(i)(II) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(a)(9)(B)(i)(II), for having been unlawfully present in the United States for more than one year, and under section 212(a)(6)(C)(i) of the Act, 8 U.S.C. § 1182(a)(6)(C)(i), for fraud or willful misrepresentation. The applicant submitted an Application for Permission to Reapply for Admission Into the United States After Deportation or Removal (Form I-212), based on instructions provided to him by a consular officer in Montréal. *Attachment to Form I-212*, dated November 1, 2006.

The director determined that USCIS records did not show that the applicant had been excluded or removed from the United States. Nevertheless, the center director denied the applicant's Form I-212. *Center Director's Decision*, dated February 21, 2008.

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.

The AAO concurs with the center director that the applicant was never removed or excluded from the United States. As such, the applicant's appeal will be dismissed, the prior decision of the center director is withdrawn and the application for permission to reapply for admission after deportation or removal will be declared moot.

ORDER: The appeal is dismissed, the prior decision of the center director is withdrawn and the application for permission to reapply for admission after deportation or removal will be declared moot.