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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:

Office: DALLAS, TX  
RELATES)

Date: SEP 28 2010

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:

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 Field Office Director, Dallas, Texas, 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 summarily dismissed.

The record reflects that, on June 9, 2008, the field office director found that the applicant was inadmissible to the United States pursuant to section 212(a)(6)(E) of the Act, 8 U.S.C. § 1182(a)(6)(E), as an alien who has, at any time, knowingly encouraged, induced, assisted, abetted, or aided any other alien to enter or to try to enter the United States in violation of law. The field office director found that the applicant is statutorily ineligible for the exception set forth in section 212(a)(6)(E)(ii) of the Act or the section 212(d) waiver of inadmissibility for alien smuggling. The field office director denied the Form I-212 accordingly. *Decision of the Field Office Director*, dated June 9, 2008.<sup>1</sup>

8 C.F.R. § 103.3(a)(1)(v) states in pertinent part:

*Summary dismissal.* An officer to whom an appeal is taken shall summarily dismiss any appeal when the party concerned fails to identify specifically any erroneous conclusion of law or statement of fact for the appeal.

The record reflects that, on July 2, 2008, counsel filed a Notice of Appeal (Form I-290B). In support of the appeal, counsel submits only a letter.

In the letter, counsel contends that the applicant was unaware of the *in absentia* order against him since he did not receive the notice to appear in court; however the record reflects that the notice was sent to the address provided by the applicant to the court. Counsel feels that the appropriate relief for the applicant is a *nunc pro tunc* application for permission to reapply for admission made effective from the date of the applicant's adjustment; however, the record reflects that, despite being charged in removal proceedings as a temporary resident, the applicant became a permanent resident on December 1, 1990, prior to being placed into immigration proceedings and being ordered removed *in absentia*.<sup>2</sup> Additionally, since the applicant is statutorily inadmissible under section 212(a)(6)(E) of the Act no purpose would be served in the favorable adjudication of the Form I-212 because it will not waive the applicant's permanent ground of inadmissibility. Counsel failed to identify either on the Form I-290B or through submission of a brief or evidence any erroneous conclusion of law or statement of fact made by the field office director. The applicant's appeal will therefore be summarily dismissed pursuant to 8 C.F.R. § 103.3(a)(1)(v).

**ORDER:** The appeal is dismissed.

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<sup>1</sup> The AAO notes that, while the field office director correctly quotes section 212(d) of the Act as the waiver associated with inadmissibility under section 212(a)(6)(E) of the Act, the field office director later mistakenly cites to section 212(c) of the Act as the basis for a waiver for alien smuggling.

<sup>2</sup> The applicant only provided evidence that he was a temporary resident at the time he was apprehended, despite having been issued a permanent resident card. The AAO notes that the applicant was only able to obtain a renewed lawful permanent resident card because the removal order was listed under a different A-number. The AAO notes that the applicant had provided a different date of birth for each of the A-numbers associated with his case. The applicant's lawful permanent resident status was automatically taken from him at the time he was ordered removed.