

identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy

U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Administrative Appeals Office
20 Massachusetts Ave., N.W., MS 2090
Washington, DC 20529-2090
**U.S. Citizenship
and Immigration
Services**



PUBLIC COPY

H4

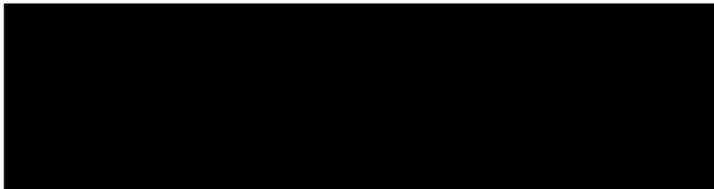


FILE: [REDACTED] Office: MOSCOW (RUSSIA) Date: JAN 05 2011

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.

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 \$630. 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 waiver application was denied by the Field Office Director, Moscow, Russia, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The record reflects that the applicant was admitted into the United States, as a B-2 nonimmigrant visitor, on September 29, 1999, with authorization to remain until March 28, 2000. The applicant applied for asylum on December 14, 1999, but was referred to the Immigration Court. On October 10, 2001, an Immigration Judge denied the asylum application and granted the applicant voluntary departure with an alternate order of removal if the applicant failed to depart within 30 days. On June 28, 2005, the applicant married a United States citizen. On August 16, 2005, the applicant departed the United States over three years after her period to voluntarily depart expired. On January 11, 2006, the applicant's United States citizen husband filed a Form I-130, Petition for Alien Relative on behalf of the applicant. The Form I-130 was approved on April 7, 2006. The applicant filed a Form I-601 on November 7, 2007. On November 26, 2007 the applicant applied for permission to reapply for admission into the United States under section 212(a)(9)(A) of the Act, 8 U.S.C. § 1182(a)(9)(A) in order to travel to the United States and reside with her U.S. citizen husband.

The applicant failed to voluntarily depart within the 30-day period granted by the Immigration Judge. The applicant, is therefore, inadmissible under section 212(a)(9)(A) of the Act, 8 U.S.C. § 1182(a)(9)(A).

The Field Office Director found that the applicant failed to establish that extreme hardship would be imposed on the applicant's husband and denied the Application for Waiver of Grounds of Inadmissibility (Form I-601) accordingly. AAO dismissed a subsequent appeal simultaneously with this decision.

The AAO notes that the field office director denied the applicant's Form I-212 Application for Permission to Reapply for Admission into the United States After Deportation or Removal (Form I-212) in a separate decision on June 9, 2008. *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. As the applicant is inadmissible under section 212(a)(9)(B)(II) of the Act for being unlawfully present in the United States for a period of more than one year, no purpose would be served in granting the applicant's Form I-212.

ORDER: The appeal is dismissed.