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

U.S. Citizenship and Immigration Services

[redacted]

#4

DATE: DEC 0 7 2012 Office: PANAMA CITY, PANAMA [redacted]

IN RE: [redacted]

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:

[redacted]

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 AAO inappropriately applied the law in reaching its decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen in accordance with the instructions on Form I-290B, Notice of Appeal or Motion, with a fee of $630. The specific requirements for filing such a motion can be found at 8 C.F.R. § 103.5. **Do not file any motion directly with the AAO.** Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires any motion to be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you,

Ron Rosenberg
Acting Chief, Administrative Appeals Office

DISCUSSION: The Field Office Director, Panama City, Panama, 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 dismissed.

The applicant is a native and a citizen of Colombia who 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 seeking admission within 10 years of her last departure. The director also found the applicant inadmissible pursuant to section 212(a)(9)(A)(ii) of the Act, 8 U.S.C. § 1182(a)(9)(A)(ii) for seeking admission within 10 years of her deportation. The applicant is the spouse of a U.S. citizen and the beneficiary of an approved Petition for Alien Relative. She 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 her spouse and child.

The record reflects that on June 30, 2011, the director denied the applicant's waiver application because she failed to establish that the bar to her admission would impose extreme hardship on a qualifying relative. The director also determined that because the applicant's waiver application was denied and she remained inadmissible pursuant to section 212(a)(9)(B)(i)(II) of the Act, no purpose would be served in adjudicating the application for permission to reapply for admission and denied the Form I-212 accordingly in the same decision. *See Field Office Director's Decision,* dated June 30, 2011.

On appeal, the applicant, through her counsel, submits new evidence and asserts that the evidence submitted supports finding extreme hardship to her qualifying relative. *See Form I-290B, Notice of Appeal or Motion*, dated July 26, 2011.

The evidence of record includes, but is not limited to: counsel's statement on Form I-290B; statements from the applicant and her spouse; psychological evaluations for the applicant, her spouse and their child; financial documents; country-conditions information for Colombia; copies of relationship and identification documents; and documents in Spanish.

8 C.F.R. § 103.2(b) states:

> (3) Translations. Any document containing foreign language submitted to USCIS shall be accompanied by a full English language translation which the translator has certified as complete and accurate, and by the translator's certification that he or she is competent to translate from the foreign language into English.

As such, the Spanish-language documents without English translations cannot be considered in analyzing this case. However, the rest of the record was reviewed and all relevant evidence was considered in reaching a decision on the appeal.

Section 212(a)(9) of the Act states in pertinent part:

(A) Certain aliens previously removed.-

. . . .

(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 who 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 alien 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 alien's reembarkation at a place outside the United States or attempt to be admitted from foreign contiguous territory, the Secretary has consented to the alien's reapplying for admission.

The record reflects that the applicant last entered the United States on July 2000 with a B-1/B-2 nonimmigrant visa, which authorized her to remain in the United States for six months. The applicant applied for asylum on February 5, 2001. An immigration judge denied the applicant's asylum application on October 24, 2001 and ordered her removed. On January 2, 2003, the Board of Immigration Appeals summarily dismissed the applicant's appeal. On March 16, 2008, the applicant filed Form I-485, Application to Register Permanent Residence or Adjust Status. On October 17, 2008, the applicant was deported to Colombia. The applicant is, therefore, inadmissible pursuant to section 212(a)(9)(A)(ii) of the Act and requires permission to reapply for admission into the United States under section 212(a)(9)(A)(iii) of the Act. Counsel does not contest the applicant's inadmissibility.

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.

The AAO notes that it has dismissed the applicant's appeal of the Form I-601 denial in a separate decision. Therefore, the applicant remains inadmissible pursuant to section 212(a)(9)(B)(i)(II) of the Act, and no purpose would be served in adjudicating the application to reapply for admission into the United States under section 212(a)(9)(A)(iii) of the Act. Accordingly, the appeal will be dismissed.

ORDER: The appeal is dismissed.