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Date: **JUN 13 2012**

Office: LONDON, UNITED KINGDOM

FILE: 

IN RE: Applicant: 

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:

SELF REPRESENTED

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 with the field office or service center that originally decided your case by filing a 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,

Perry Rhew

Chief, Administrative Appeals Office

DISCUSSION: The Field Office Director, London, United Kingdom, 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 of Iran and citizen of Sweden who was expeditiously removed in November 2003 as a result of failing to have a valid immigrant visa to enter the United States. *Notice to Alien Ordered Removed/Departure Verification*, dated October 11, 2003. The applicant is inadmissible under section 212(a)(9)(A)(i) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(a)(9)(A)(i). 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 US Citizen fiancée.

On June 15, 2010, the applicant filed Form I-601, Application for Waiver of Ground of Inadmissibility, and Form I-212, Application for Permission to Reapply for Admission After Deportation or Removal. The field office director concluded that the applicant failed to establish that extreme hardship would be imposed on a qualifying relative and denied the Form I-601 accordingly. *See Decision of the Field Office Director*, dated July 20, 2009. In a separate decision, the field office director determined that, as the Form I-601 had been denied, the Form I-212 was denied as a matter of discretion. *See Field Office Director's Decision*, dated July 20, 2009.

Section 212(a)(9)(A) of the Act provides, in pertinent part:

- (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.
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 - (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 record indicates that on May 11, 2010, the applicant's fiancée forwarded a letter to USCIS, stating that her engagement to the applicant has been dissolved, and requesting that the case be closed. The letter included a statement and signature from the petitioner attesting to her wish to

close the case. Accordingly, the Form I-129F, Petition for Alien Fiancé(e), for applicant is withdrawn. This withdrawal cannot be retracted. 8 C.F.R. § 103.2(b)(6).

The ability of the applicant to apply for a fiancé visa under section 101(a)(5)(k) of the Act, and admission to the United States as a fiancé would be based on an approved Form I-129F. In the absence of an approved Form I-129F, no application for admission is currently possible, and no purpose would be served in considering his application for permission to reapply for admission at this time. Accordingly, the appeal of the field office director's denial of the Form I-212 is dismissed as a matter of discretion.

ORDER: The appeal is dismissed.