

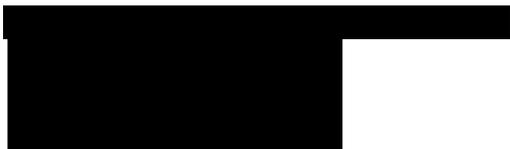
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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Office of Administrative Appeals
20 Massachusetts Ave. NW MS 2090
Washington, DC 20529-2090



**U.S. Citizenship
and Immigration
Services**

PUBLIC COPY



H24

DATE: **MAY 31 2012**

OFFICE: DALLAS, TEXAS

File: [REDACTED]

IN RE:

Applicant: [REDACTED]

APPLICATION: Application for Permission to Reapply for Admission into the United States after Prior Immigration Violations under section 212(a)(9)(C) of the Immigration and Nationality Act, 8 U.S.C. § 1182(a)(9)(C)

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.

Thank you,

A handwritten signature in black ink, appearing to read "Perry Rhew".

Perry Rhew

Chief, Administrative Appeals Office

DISCUSSION: The District 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 dismissed as the application is no longer necessary.

The record reflects that the applicant is a native and citizen of [REDACTED] who was removed from the United States on [REDACTED] for a period of ten (10) years, and 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 U.S. citizen spouse.

The District Director found that the applicant was inadmissible under section 212(a)(9)(C) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(a)(9)(C). The District Director further noted that the applicant was ineligible for a grant of the Form I-212, Application for Permission to Reapply for Admission into the United States after Deportation or Removal because the record failed to establish that the applicant had departed the United States following the order of removal and remained outside the United States for at least ten years. The applicant's Form I-212 was denied accordingly. *Decision of the District Director*, dated [REDACTED].

The record does not support the District Director's finding that the applicant is inadmissible under section 212(a)(9)(C) of the Act. Although the applicant was removed from the United States in June 2004, as correctly noted by the District Director, the record does not establish that the applicant subsequently entered or attempted to enter the United States without being admitted. As such, the AAO finds that the District Director erred in finding the applicant inadmissible under section 212(a)(9)(C) of the Act.

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

Aliens previously removed.-

(A) Certain aliens 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.

On [REDACTED] the applicant was granted voluntary departure in lieu of removal on or before [REDACTED]. When the applicant failed to depart by the required date, the grant of voluntary departure was converted to a removal order. The applicant was removed from the United States in [REDACTED]. As such, she is inadmissible under section 212(a)(9)(A) of the Act and must request permission to reapply for admission under section 212(a)(9)(A)(iii) of the Act.

Subsequent to filing the above-referenced appeal, the record establishes that in October 2010, the applicant submitted a second Form I-212. The Form I-212 was denied by the Field Office Director, San Bernardino, California, on [REDACTED]. On appeal, the AAO found that the applicant's Form I-212 should be granted. Therefore, the instant I-212 application is moot.

ORDER: The appeal is dismissed as the instant application is no longer necessary.