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



U.S. Citizenship
and Immigration
Services



H4

Date: SEP 11 2012

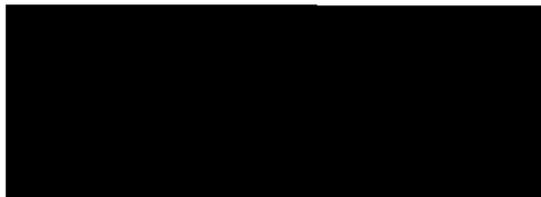
Office: KINGSTON, JAMAICA

FILE: [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:



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 cursive script that reads "Michael Shumway".

for Perry Rhew,
Chief, Administrative Appeals Office

DISCUSSION: The Field Office Director, Kingston, Jamaica, 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 of India and a citizen of Belize who was ordered removed from the United States on November 24, 1998 under section 237(a)(2)(A)(ii) as an alien who has been convicted of two crimes involving moral turpitude, not arising out of a single scheme of criminal misconduct. The applicant departed the United States in May or June of 2000 while his appeal from a removal order was still pending.

The applicant was found inadmissible pursuant to section 212(a)(9)(A)(ii) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(a)(9)(A)(ii). He is seeking 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 U.S. citizen spouse and daughter.

In a decision dated May 11, 2010, the field office director determined that the applicant had been convicted of an aggravated felony under section 101(a)(43)(R) of the Act, and as an alien convicted of an aggravated felony, he requires permission to reapply for admission. The field office director then found that because the applicant did not establish that he warranted a waiver of his inadmissibility under section 212(a)(2)(A)(i)(I) of the Act or section 212(a)(9)(B)(i)(II) of the Act, his permission to reapply for admission must be denied.

On appeal, counsel asserts that the applicant no longer requires permission to reapply for admission because he has been residing outside the United States for over ten years and he was not convicted of an aggravated felony.

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

(A) Certain aliens previously removed.-

...

- (i) 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.

The record reflects that on February 26, 1998, the applicant was convicted of thirteen counts of trafficking in counterfeit goods in violation of 18 U.S.C. § 2320 & 2. The applicant was sentenced to one year probation for these crimes. On November 24, 1998 the applicant was ordered removed by an immigration judge under section 237(a)(2)(A)(ii) of the Act, as an alien who has been convicted of two crimes involving moral turpitude not arising out of a single scheme of criminal misconduct. In May or June 2000, the applicant departed the United States.

The AAO finds that the applicant has not been convicted of an aggravated felony because his term of imprisonment was less than one year. Section 101(a)(43)(R) of the Act defines as an aggravated felony an offense relating to commercial bribery, counterfeiting, forgery, or trafficking in vehicles the identification numbers of which have been altered for which the term of imprisonment is at least one year. In addition, it has now been ten years since the applicant's removal. Thus, the AAO finds that the applicant is no longer inadmissible pursuant to section 212(a)(9)(A)(ii) of the Act and no longer requires permission to reapply for admission into the United States under section 212(a)(9)(A)(iii) of the Act. Accordingly, the appeal will be dismissed as moot -- permission to reapply for admission is no longer necessary.

ORDER: As the applicant is no longer inadmissible under section 212(a)(9)(A)(ii) of the Act, permission to reapply for admission is not required, and the appeal is dismissed.