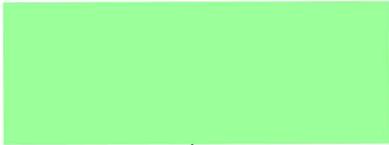




U.S. Citizenship  
and Immigration  
Services

(b)(6)



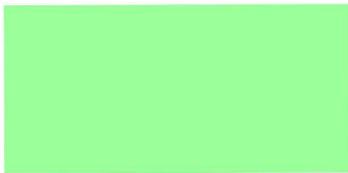
Date: **JAN 14 2013** Office: FRANKFURT, GERMANY

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)(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.

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 Application for Permission to Reapply for Admission after Deportation or Removal (Form I-212) was denied by the Field Office Director, Frankfurt, Germany, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The applicant was born of Eritrean parents in Ethiopia and she is a citizen of the Netherlands who was found inadmissible to the United States under section 212(a)(9)(A)(ii)(I) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(a)(9)(A)(ii)(I), after being removed from the United States. She 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 her U.S. citizen spouse.

The Field Office Director determined that the applicant is inadmissible to the United States and after denying the applicant's Form I-601, Application for Waiver of Grounds of Inadmissibility, she denied the Form I-212 accordingly. *Decision of the Field Office Director*, dated April 6, 2011.

On appeal, the applicant, through counsel, asserts that the Field Office Director erred in failing to consider the evidence in the aggregate and in refusing to give proper weight to the evidence presented. *Form I-290B, Notice of Appeal or Motion*, filed May 2, 2011. Counsel submits new evidence of hardship on appeal.

The record includes, but is not limited to, counsel's appeal brief, statements from the applicant and her husband, letters of support, medical and psychological documents for the applicant and her husband, financial documents, household and utility bills, phone records, photographs, country-conditions documents on Ethiopia, and documents pertaining to the applicant's removal proceeding. The entire record was reviewed and considered in arriving at a decision on the appeal.

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

(A) Certain alien 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 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.

The record of proceeding reveals that on September 1, 2006, the applicant was removed from the United States. As such, the applicant is inadmissible under section 212(a)(9)(A)(ii)(I) of the Act for being removed from the United States.

The AAO has, in a separate decision, dismissed the applicant's appeal of the denial of the Form I-601, which the applicant filed in relation to her inadmissibility for unlawful presence under section 212(a)(9)(B)(i)(II) of the Act and misrepresentation under section 212(a)(6)(C)(i) of the Act.

*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.

In that the AAO has determined that the applicant is not eligible for a waiver of inadmissibility under sections 212(a)(9)(B)(v) and 212(i) of the Act and has dismissed her appeal of the Form I-601 denial, no purpose would be served in considering her application for permission to reapply for admission. Accordingly, the appeal of the Field Office Director's denial of the Form I-212 is dismissed.

**ORDER:** The appeal is dismissed.