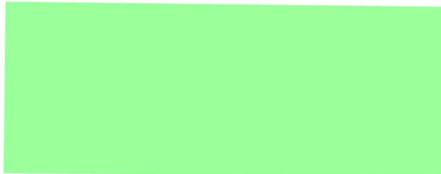


(b)(6)

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**



Date: **DEC 05 2014**

Office: NEBRASKA SERVICE CENTER

FILE: [Redacted]

IN RE: APPLICANT: [Redacted]

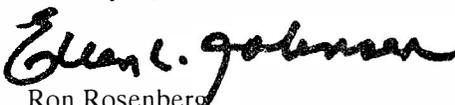
APPLICATION: Application for Permission to Reapply for Admission into the United States after Deportation or Removal under section 212(a)(9)(A)(iii) of the Immigration and Nationality Act, 8 U.S.C. § 1182(a)(9)(A)(iii)

ON BEHALF OF APPLICANT:  
[Redacted]

INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office (AAO) in your case.

This is a non-precedent decision. The AAO does not announce new constructions of law nor establish agency policy through non-precedent decisions. If you believe the AAO incorrectly applied current law or policy to your case or if you seek to present new facts for consideration, you may file a motion to reconsider or a motion to reopen, respectively. Any motion must be filed on a Notice of Appeal or Motion (Form I-290B) within 33 days of the date of this decision. **Please review the Form I-290B instructions at <http://www.uscis.gov/forms> for the latest information on fee, filing location, and other requirements. See also 8 C.F.R. § 103.5. Do not file a motion directly with the AAO.**

Thank you,  
  
Ron Rosenberg  
Chief, Administrative Appeals Office

**DISCUSSION:** The Director of the Nebraska Service Center 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 record reflects that the applicant is a native and citizen of Argentina who was ordered excluded from the United States by an immigration judge on December 15, 1987, and who was removed from the country on November 13, 2006. The applicant is 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 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 U.S. citizen spouse and children.

The Service Center Director determined that because the applicant was also inadmissible under sections 212(a)(2)(A)(i)(I) and 212(a)(9)(B)(v) of the Act, the Form I-212 was also denied as a matter of discretion. *See Service Center Director's Decision*, dated November 4, 2013.

On appeal counsel submits the same brief submitted for the appeal of the applicant's I-601 decision.

The record contains, but is not limited to: statements from the applicant's spouse and children; letters from family, friends, and community members; financial and educational records; documentation from a psychologist; records of criminal and removal proceedings; articles on country conditions; evidence of birth, marriage, residence, and citizenship; other petitions and applications; and photographs. The entire record was reviewed and considered in rendering a decision on the appeal.

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

(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 five 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 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.

As discussed in our decision on the I-601 appeal, the record reflects that the applicant attempted to procure admission into the United States on May 5, 1985. He was taken into custody of immigration officials and placed in exclusion proceedings that day. In the applicant's December 15, 1987, exclusion order, wherein an immigration judge found that the applicant was an intending immigrant without an immigrant visa, the judge noted that he had escaped from custody following initiation of his exclusion proceedings. The applicant's subsequent appeal was dismissed by the Board of Immigration Appeals on June 9, 1992. After the applicant's 2006 conviction, he was removed from the United States on November 13, 2006.

As the applicant was ordered excluded from the United States under former section 212(a)(20) of the Act, and his last departure occurred less than 10 years ago, we affirm that he remains 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.

The Service Center Director denied the applicant's Form I-601 Application for a Waiver of Grounds of Inadmissibility (Form I-601), and a subsequent appeal of that decision was dismissed. The applicant remains inadmissible under sections 212(a)(2)(A)(i)(I) and 212(a)(9)(B)(i)(II) of the Act, therefore, the appeal of the applicant's Form I-212 is dismissed as a matter of discretion.

In application proceedings, it is the applicant's burden to establish eligibility for the immigration benefit sought. Section 291 of the Act, 8 U.S.C. § 1361. Here, that burden has not been met.

**ORDER:** The appeal is dismissed.