



U.S. Citizenship
and Immigration
Services

(b)(6)

[REDACTED]

Date: **JAN 15 2014**

Office: NEBRASKA SERVICE CENTER [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) of the Immigration and Nationality Act, 8 U.S.C. § 1182(a)(9)(A).

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,

Maria Yeh

A-
Ron Rosenberg
Chief, Administrative Appeals Office

DISCUSSION: The application for permission to reapply for admission after removal was denied by the Director, Nebraska Service Center, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The applicant is a native and citizen of Nigeria who was found to be inadmissible to the United States under section 212(a)(9)(A)(ii) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(a)(9)(A)(ii). 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 daughter and lawful permanent resident mother.

The director noted that the applicant's Form I-601, Application for Waiver of Grounds of Inadmissibility, was denied and thus the applicant's Form I-212 would not be approved as a matter of discretion. The applicant's Form I-212 was denied accordingly. *Decision of the Director*, dated January 9, 2013.

In support of the appeal counsel for the applicant submits the Form I-290B, Notice of Appeal, evidence of the applicant's mother's lawful permanent resident status in the United States and medical documentation pertaining to the applicant's mother. On the Form I-290B, counsel further noted that a brief and/or additional evidence would be submitted to the AAO within 90 days. *See Form I-290B, Notice of Appeal*, dated February 6, 2013. As of today, no brief and/or additional evidence in support of the instant appeal has been received. The record is thus considered complete and was reviewed in its entirety in rendering this decision.

Section 212(a)(9). Aliens previously removed.-

(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.
- (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 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.

As the record establishes, the applicant was ordered deported to Nigeria on March 7, 1994. A subsequent appeal was dismissed by the Board of Immigration Appeals in 2000. The applicant did not depart the United States until 2011. The AAO concurs with the director that the applicant is inadmissible under section 212(a)(9)(A)(ii) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(a)(9)(A)(ii). *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. The record establishes that the applicant is inadmissible under section 212(a)(6)(C)(i) of the Act, 8 U.S.C. § 1182(a)(6)(C)(i), for having attempted to procure immigration benefits by fraud or willful misrepresentation, under section 212(a)(2)(A)(i)(I) of the Act, 8 U.S.C. § 1182(a)(2)(A)(i)(I), for having been convicted of a crime involving moral turpitude and under section 212(a)(9)(B)(i)(II) of the Act, 8 U.S.C. § 1182(a)(9)(B)(i)(II), for having been unlawfully present in the United States for more than one year, and her waiver application has been denied.¹ Consequently, no purpose would be served in considering her 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.

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. The waiver application is denied.

¹ The applicant's appeal of the Form I-601 denial has been dismissed in a separate decision.