

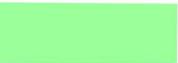
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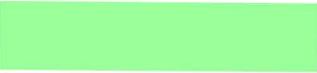
U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Office of Administrative Appeals
20 Massachusetts Avenue, N.W., MS 2090
Washington, DC 20529-2090



U.S. Citizenship
and Immigration
Services



DATE: **MAR 10 2014** OFFICE: NEBRASKA SERVICE CENTER FILE: 

IN RE: 

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:

SELF-REPRESENTED

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.

Thank you,

A handwritten signature in black ink, appearing to read "Ron Rosenberg".

Ron Rosenberg
Chief, Administrative Appeals Office

DISCUSSION: The Director, Nebraska Service Center denied the Application for Permission to Reapply for Admission into the United States after Deportation or Removal (Form I-212) and the matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed as unnecessary.

The applicant is a native and citizen of Haiti who sought admission to the United States on May 16, 2005 with a fraudulent passport and visa. After expressing a fear of returning to Haiti, she was placed into removal proceedings and filed a Form I-589, Application for Asylum and for Withholding of Removal. She was ordered removed by an immigration judge on June 13, 2006 and the Board of Immigration Appeals (BIA) affirmed the immigration judge's decision on September 12, 2006. The applicant departed from the United States on February 4, 2008.

The Director concluded that the applicant's grounds of inadmissibility for which she filed a Form I-601 are negative factors that warrant a denial of her Form I-212 as a matter of discretion. The Director denied the applicant's Form I-212 application accordingly. See *Decision of the Director*, dated May 10, 2013.

On appeal, the applicant asserts that her daughter is suffering from her absence and that her spouse is acting as the sole parent for their child. The applicant requests to be reunified with her family members.

In support of the Form I-212 application appeal, the applicant submitted affidavits and letters from her spouse, medical documentation concerning the applicant's spouse and child, identity documents, a letter of support, and a letter from the applicant's spouse's employer. The entire record was reviewed and considered in rendering this decision.

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.

The record reflects that the applicant was ordered removed to Haiti by an immigration judge on June 13, 2006. A subsequent appeal of this decision was dismissed by the BIA on September 12, 2006. The applicant did not depart the United States until February 4, 2008.

The applicant filed a Form I-212, Application for Permission to Reapply for Admission into the United States after Deportation or Removal, under section 212(a)(9)(A)(iii). The applicant was placed in removal proceedings as an arriving alien after attempting to procure admission at a port of entry on May 16, 2005. As such, the applicant was inadmissible pursuant to section 212(a)(9)(A)(i) of the Act for seeking admission to the United States within five years subsequent to her self-removal on February 4, 2008. As five years have passed since the applicant's departure from the United States, she is no longer inadmissible under section 212(a)(9)(A)(i) of the Act, and her application for permission to reapply for admission under section 212(a)(9)(A)(iii) is unnecessary.¹

The appeal will therefore be dismissed as unnecessary.

ORDER: The appeal is dismissed as unnecessary.

¹ It is noted that the applicant is also inadmissible to the United States 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 seeking readmission within ten years of her last departure from the United States and section 212(a)(6)(C)(i) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(a)(6)(C)(i), for attempting to procure an immigration benefit by fraud or willful misrepresentation.