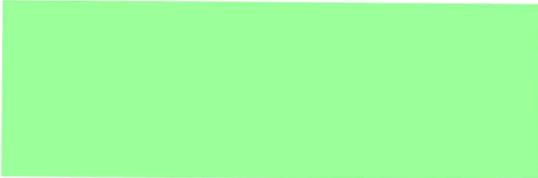
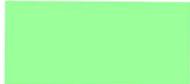
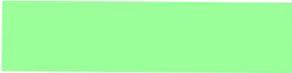




(b)(6)



Date: **MAY 14 2014** Office: U.S. CUSTOMS AND BORDER PROTECTION FILE:   
ADMISSIBILITY REVIEW OFFICE

IN RE: Applicant: 

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

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. 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 application for permission to reapply for admission after removal was denied by the Director, Admissibility Review Office, and 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 Canada who was ordered expeditiously removed in July 2006. The applicant subsequently re-entered the United States without being admitted. In December 2006, the applicant was removed from the United States. The applicant subsequently re-entered the United States without being admitted in December 2007. He was ordered removed pursuant to a reinstatement order in December 2007. In July 2010, the applicant re-entered the United States without being admitted. He was removed in July 2010. Pursuant to the applicant's Form I-212, Application for Permission to Reapply for Admission into the United States After Deportation or Removal, his last departure from the United States was in or around January 2011. The director found the applicant to be inadmissible under sections 212(a)(9)(A)(i) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(a)(9)(A)(i), as an alien previously removed who seeks admission within 20 years in case of a second or subsequent removal. In addition, the director found the applicant inadmissible under section 212(a)(9)(C)(i)(II) of the Act, 8 U.S.C. § 1182(a)(9)(C)(i)(II), as a result of the applicant's removals and subsequent entries to the United States without being admitted. The applicant now seeks permission to reapply for admission into the United States under sections 212(a)(9)(A)(iii) of the Act, 8 U.S.C. § 1182(a)(9)(A)(iii), and 212(a)(9)(C)(ii) of the Act, 8 U.S.C. § 1182(a)(9)(C)(ii), in order to temporarily visit the United States with his daughter.

The director concluded that the applicant did not meet the requirements for consent to reapply because ten years had not elapsed since the date of the applicant's last departure. The applicant's Form I-212 was denied accordingly. *Decision of the Director*, dated August 26, 2013.

In support of the appeal, the applicant submits a letter with referenced attachments. 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.

....  
(C) Aliens unlawfully present after previous immigration violations.-

(i) In general.-Any alien who-

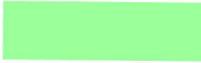
(I) has been unlawfully present in the United States for an aggregate period of more than 1 year, or

(II) has been ordered removed under section 235(b)(1), section 240, or any other provision of law,

and who enters or attempts to reenter the United States without being admitted is inadmissible.

(ii) Exception.- Clause (i) shall not apply to an alien seeking admission more than 10 years after the date of the alien's last departure from the United States if, prior to the alien's reembarkation at a place outside the United States or attempt to be readmitted from a foreign contiguous territory, the Secretary has consented to the alien's reapplying for admission.

The record clearly establishes that the applicant is inadmissible under section 212(a)(9)(C)(i)(II) as a result of the applicant's removal on four separate occasions and subsequent multiple entries to the United States without being admitted. An alien who is inadmissible under section 212(a)(9)(C) of the Act may not apply for consent to reapply for admission unless the alien has been outside the United States for more than ten years since the date of the alien's last departure from the United



States. *See Matter of Torres-Garcia*, 23 I&N Dec. 866 (BIA 2006). *See Matter of Torres-Garcia*, 23 I&N Dec. 866 (BIA 2006); *Matter of Briones*, 24 I&N Dec. 355 (BIA 2007); and *Matter of Diaz and Lopez*, 25 I&N Dec. 188 (BIA 2010). Thus, to avoid inadmissibility under section 212(a)(9)(C) of the Act, it must be the case that the applicant's last departure was at least ten years ago, the applicant has remained outside the United States *and* USCIS has consented to the applicant's reapplying for admission. In the present matter, the applicant's last departure from the United States occurred in or around January 2011, less than ten years ago. The applicant is currently statutorily ineligible to apply for permission to reapply for admission.

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.