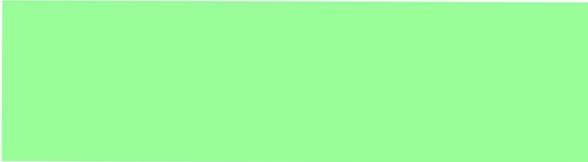




U.S. Citizenship
and Immigration
Services

(b)(6)



Date: **JAN 27 2015** Office: PHOENIX, AZ

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:

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 Field Office Director, Phoenix, Arizona, 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 Nicaragua who was removed from the United States on August 31, 2000, pursuant to an order of removal under section 237(a)(2)(A) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1227(a)(2)(A). 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 parents.

The Field Office Director determined that, due to the applicant's 1994 conviction in California for robbery, he was inadmissible under section 212(a)(2)(A)(i)(I) of the Act. *See Decision of Field Office Director*, August 22, 2014. The Field Office Director found that, given this inadmissibility, no purpose would be served in granting the applicant's I-212 application, and the application was accordingly denied. *Id.*

On appeal, the applicant claims that inadmissibility under section 212(a)(2)(A)(i)(I) of the Act can be waived, and therefore, denying his I-212 application is a denial of his due process rights. The applicant indicates he is undergoing state-side processing for the approved Petition for Alien Relative (I-130 petition), filed by his U.S. citizen father.

The applicant is correct in that inadmissibility under section 212(a)(2)(A)(i)(I) of the Act can be waived pursuant to section 212(h) of the Act, which requires an approved Application for Waiver of Grounds of Inadmissibility (Form I-601). However, as the applicant resides outside the United States and is undergoing consular processing, he must follow U.S. Department of State procedures with regards to any applications that are required and where they are to be filed. The instructions to the Form I-212 specifically state that the Form I-212 should only be filed after a consular officer has found the applicant inadmissible under section 212(a)(9)(A) of the Act. The instructions also state that if the applicant also requires a Form I-601, both forms should be filed after the consular interview. The instructions can be found at <http://www.uscis.gov/sites/default/files/files/form/i-212instr.pdf>.

The applicant was removed from the United States in 2000 and, according to the record he has remained outside the United States since his removal. The record further reflects that the I-130 petition, filed by the applicant's U.S. citizen father on his behalf, has been forwarded to the National Visa Center at the U.S. Department of State for consular processing. Pursuant to a March 25, 2014, letter from the National Visa Center submitted with the appeal, certain documents and fees were to be submitted to the National Visa Center to continue processing of the applicant's visa. The portion of the letter submitted does not indicate what documents and fees were missing. Once these documents are submitted, the consulate or embassy with jurisdiction over the applicant's residence will inform the applicant about additional required steps to obtain a visa. More information can be found at the Department of State's website, at <http://travel.state.gov>.

As the applicant has not yet undergone consular processing, his I-212 application was not correctly filed with the Phoenix Office. Therefore, the appeal of the denial of the application must be dismissed.

ORDER: The appeal is dismissed.