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U. S. Department of Homeland Security  
U. S. Citizenship and Immigration Services  
Office of Administrative Appeals (AAO)  
20 Massachusetts Ave., N.W., MS2090  
Washington, DC 20529-2090



**U.S. Citizenship  
and Immigration  
Services**

*H4*

[REDACTED]

FILE: [REDACTED]

Office: ACCRA, GHANA

Date: FEB 28 2011

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 in your case. All of the documents related to this matter have been returned to the office that originally decided your case. Please be advised that any further inquiry that you might have concerning your case must be made to that office.

If you believe the law was inappropriately applied by us in reaching our decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. The specific requirements for filing such a request can be found at 8 C.F.R. § 103.5. All motions must be submitted to the office that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion, with a fee of \$630. Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires that any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you,  
  
Perry Rhew  
Chief, Administrative Appeals Office

**DISCUSSION:** The Application for Permission to Reapply for Admission After Deportation or Removal (Form I-212) was denied by the Field Office Director, Accra, Ghana and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The applicant is a native and citizen of Ghana who was found to be inadmissible to the United States pursuant to section 212(a)(6)(A)(i) of the Act, 8 U.S.C. § 1182(a)(6)(A)(i). She 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 remain in the United States and reside with her U.S. citizen spouse and children.

The Field Office Director determined that the applicant was inadmissible under section 212(a)(6)(C)(i) of the Act, 8 U.S.C. § 1182(a)(6)(A)(i) for having procured admission through the willful misrepresentation of a material fact 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 seeking readmission within ten years of her last departure from the United States. The Field Office Director found that the applicant failed to overcome the grounds of inadmissibility under section 212(a)(6)(C)(i) and section 212(a)(9)(B)(i)(II) of the Act and thus denied the Form I-212 as a matter of discretion, as its approval would serve no purpose. *Decision of the Field Office Director*, dated June 18, 2008. The Field Office Director also found the applicant was ineligible for relief pursuant to section 241(a)(5) of the Act for illegally entering the United States after having departed the United State under an order of removal. *Id.*

On appeal, counsel asserts that the Field Office Director erred in not adjudicating the Form I-212 on its merits as the Form I-601 waiver application is on appeal. Counsel further asserts the applicant is not barred from relief under section 241(a)(5) of the Act because there was never a reinstatement of a prior removal order. *Form I-290B, Notice of Appeal or Motion.*

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

(A) Certain aliens previously removed.-

. . .

(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 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 aliens 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 Attorney General [now Secretary, Homeland Security, "Secretary"] has consented to the alien's reapplying for admission.

The AAO notes that even if the applicant had departed the United States under an order of removal, the prior removal order was never reinstated pursuant to section 241(a)(5) of the Act, and the Field Office Director erred in determining that the applicant was barred under section 241(a)(5) of the Act from any relief under the Act. The AAO further notes that the applicant was found to be inadmissible under sections 212(a)(6)(C)(i) and 212(a)(9)(B)(i)(II) of the Act, and her Form I-601, Application for Waiver of Grounds of Inadmissibility, has been denied and the appeal has been dismissed. *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. As the applicant is inadmissible under sections 212(a)(6)(C)(i) and 212(a)(9)(B)(i)(II) of the Act, no purpose would be served in granting the applicant's Form I-212 application, and the appeal will be dismissed.

**ORDER:** The appeal is dismissed.