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U.S. Department of Homeland Security
Bureau of Citizenship and Immigration Services

ADMINISTRATIVE APPEALS OFFICE
425 Eye Street N.W.
BCIS, AAO, 20 Mass, 3/F
Washington, D.C. 20536

[redacted]

JUN 10 2003

FILE: [redacted] Office: Vermont Service Center Date:

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)(iii) of the Immigration and Nationality Act, 8 U.S.C. § 1182(a)(9)(A)(iii)

ON BEHALF OF APPLICANT: Self-represented

INSTRUCTIONS:

This is the decision in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

If you believe the law was inappropriately applied or the analysis used in reaching the decision was inconsistent with the information provided or with precedent decisions, you may file a motion to reconsider. Such a motion must state the reasons for reconsideration and be supported by any pertinent precedent decisions. Any motion to reconsider must be filed within 30 days of the decision that the motion seeks to reconsider, as required under 8 C.F.R. § 103.5(a)(1)(i).

If you have new or additional information that you wish to have considered, you may file a motion to reopen. Such a motion must state the new facts to be proved at the reopened proceeding and be supported by affidavits or other documentary evidence. Any motion to reopen must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires may be excused in the discretion of the Bureau of Citizenship and Immigration Services (Bureau) where it is demonstrated that the delay was reasonable and beyond the control of the applicant or petitioner. *Id.*

Any motion must be filed with the office that originally decided your case along with a fee of $110 as required under 8 C.F.R. § 103.7.

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, Vermont Service Center, and is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The applicant is a native and citizen of Ecuador who was present in the United States without a lawful admission or parole on April 9, 1999. On April 12, 1999, he was served with a Notice to Appear charging him with being inadmissible to the United States under section 212(a)(6)(A)(i) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(a)(6)(A)(i). The applicant stated under oath on April 12, 1999, that he purchased a fraudulent social security card and "green card" from a man on a Los Angeles street corner for $150.00. On November 3, 1999, an immigration judge granted the applicant until March 2, 2000, to depart the United States voluntarily in lieu of removal. He failed to depart by that date. Therefore he is inadmissible under section 212(a)(9)(A)(ii) of the Act, 8 U.S.C. § 1182(a)(9)(A)(ii).

The applicant is the beneficiary of an approved Immigrant Petition for Alien Worker. The applicant 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).

The director determined that the unfavorable factors outweighed the favorable ones and denied the application accordingly.

On appeal, the applicant states that he came to this country to find a job and get some money to support his family, and requests assistance.

Section 212(a)(9)(A) of the Act provides, in part, that:

> (i) 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.
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> (ii) Any alien not described in clause (i) who-
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> > (I) has been ordered removed under section 240 of the Act 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) 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 the Secretary of Homeland Security] has consented to the alien's reapplying for admission.

Section 212(a)(6)(A) of the Act, 8 U.S.C. § 1182(a)(6)(A), provides that:

> (i) An alien who is present in the United States without being admitted or paroled, or who arrives in the United States at any time or place other than as designated by the Attorney General [now Secretary of Homeland Security], is inadmissible.

Aliens who entered the United States without inspection on or after April 1, 1997, who **have not departed** and who have an application pending adjudication on or after April 1, 1997, are subject to the provisions of section 212(a)(6)(A) of the Act. Except as otherwise required by law, this ground of inadmissibility applies at the time of any other administrative determination regarding admissibility, including but not limited to the issuance of a visa, inspection of an alien at a port of entry, disposition of an application for admission by an inspector or an immigration judge, or adjudication of an application for adjustment of status. There is an exception for certain battered aliens.

The alien in the matter was present in the United States without a lawful admission or parole on April 9, 1999, he has not departed since that unlawful entry, and he has an application pending adjudication on or after April 1, 1997. Therefore, he is subject to the provisions of section 212(a)(6)(A) of the Act, and there is no relief for such ground of inadmissibility. The applicant is statutorily ineligible for relief, and the appeal will be dismissed.

ORDER: The appeal is dismissed.