



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

JUL 14 2006

David P. Berry, Esq.
Ronald Y. Wada, Esq.
BERRY, APPELMAN & LEIDEN LLP
353 San Francisco Street Suite 1350
San Francisco CA 94111

Dear Counsel:

Thank you for your August 23, 2005, letter concerning the effect of an alien's return to the United States as a parolee on the running of the alien's inadmissibility period under section 212(a)(9)(B) of the Immigration and Nationality Act (Act).

The section 212(a)(9)(B) inadmissibility period begins to run with the initial departure from the United States that triggers the three-year bar and continues to run even if the alien subsequently returns to the United States pursuant to a grant of parole under section 212(d)(5) of the Act. Thus, if the alien triggered the three-year inadmissibility period by leaving the United States on September 1, 2005, and there were no intervening periods of unlawful re-entry or unauthorized presence in the United States, the alien would no longer be inadmissible on or after September 1, 2008, even if the alien had been in the United States, under a grant of parole, during the inadmissibility period.

We have consulted with the Department of State Visa Office about this issue and the Visa Office concurs with this interpretation.

Please note that this interpretation will not aid an alien who returns to or remains in the United States unlawfully. Any alien already subject to a section 212(a)(9) bar who subsequently enters the United States unlawfully, or who enters lawfully (such as a parolee or temporary nonimmigrant under section 212(d)(3)) and remains beyond such authorization, may trigger a new, or extend an existing 212(a)(9) inadmissibility bar upon departure.

Sincerely,

A handwritten signature in blue ink that reads "Robert Divine".

Robert Divine
Chief Counsel