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U.S. Department of Justice  
Immigration and Naturalization Service

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OFFICE OF ADMINISTRATIVE APPEALS  
425 Eye Street N.W.  
ULLB, 3rd Floor  
Washington, D.C. 20536



FILE: 

Office: Chicago

Date:

OCT 29 2002

IN RE: Applicant: 

APPLICATION:

Application for Waiver of the Foreign Residence Requirement  
under Section 212(e) of the Immigration and Nationality Act, 8  
U.S.C. § 1182(e)

IN BEHALF OF APPLICANT: 

PUBLIC COPY

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 Service 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.

FOR THE ASSOCIATE COMMISSIONER,  
EXAMINATIONS

Robert P. Wiemann, Director  
Administrative Appeals Office

**DISCUSSION:** The application was denied by the District Director, Chicago, Illinois, and a subsequent appeal was dismissed by the Associate Commissioner for Examinations. The matter is before the Associate Commissioner on a motion to reopen. The motion will be dismissed, and the order dismissing the appeal will be affirmed.

The applicant is a native and citizen of Egypt who is subject to the two-year foreign residence requirement of section 212(e) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(e). The applicant was admitted to the United States as a nonimmigrant exchange visitor on August 17, 1980, and has received continuous extensions of temporary stay. The applicant married a United States citizen, [REDACTED] on December 16, 1997. She seeks the above waiver after stating that her departure from the United States would impose exceptional hardship on her U.S. citizen spouse.

The director determined that the record failed to establish that the applicant's departure from the United States would impose exceptional hardship upon her spouse and denied the application accordingly.

On motion, counsel requests an additional 30 days in which to submit a brief. More than 30 days have elapsed since the Associate Commissioner issued a decision on January 29, 2002, and no additional documentation has been entered into the record. Therefore, a decision will be rendered based on the present record.

8 C.F.R. § 103.5(a)(2) provides that a motion to reopen must state the new facts to be proved at the reopened proceeding and be supported by affidavits or other documentary evidence.

8 C.F.R. § 103.5(a)(3) provides that a motion to reconsider must state the reasons for reconsideration; and be supported by any pertinent precedent decisions.

8 C.F.R. § 103.5(a)(4) provides that a motion which does not meet applicable requirements shall be dismissed.

In this proceeding, it is the applicant alone who bears the full burden of proving his or her eligibility. Section 291 of the Act, 8 U.S.C. § 1361. The present motion does not meet applicable requirements, therefore it will be dismissed. The decision dismissing the appeal will be affirmed.

**ORDER:** The motion is dismissed. The order of January 29, 2002, dismissing the appeal is affirmed.