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U.S. Department of Justice
Immigration and Naturalization Service

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



FILE: [Redacted] Office: Vermont Service Center

Date:

MAY 11 2001

IN RE: Applicant: [Redacted]

APPLICATION: Application for Permission to Reapply for Admission into the United States after Deportation or Removal under § 212(a)(9)(A)(iii) of the Immigration and Nationality Act, 8 U.S.C. 1182(a)(9)(A)(iii)

IN BEHALF OF APPLICANT: Self-represented

Public Copy

INSTRUCTIONS:

This is the decision in your case. All documents have been returned to the office which 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 which 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 which originally decided your case along with a fee of \$110 as required under 8 C.F.R. 103.7.

Identification data deleted to prevent clearly unwarranted invasion of personal privacy.

FOR THE ASSOCIATE COMMISSIONER,
EXAMINATIONS

Robert P. Wiemann, Acting Director
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, Vermont Service Center, 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 Guatemala who was present in the United States without a lawful admission or parole on February 25, 1993. An Order to Show Cause was issued against him on February 27, 1993. On August 4, 1993, the applicant was ordered deported from the United States *in absentia* and a Warrant of Removal/Deportation was issued against him on September 2, 1997. Therefore he is inadmissible under § 212(a)(9)(A)(ii) of the Immigration and Nationality Act (the Act), 8 U.S.C. 1182(a)(9)(A)(ii). The applicant filed the present application on March 24, 2000, received the director's adverse decision dated September 5, 2000 and married his fiancée (a NACARA beneficiary) on October 6, 2000, while in removal proceedings. The applicant seeks permission to reapply for admission into the United States under § 212(a)(9)(A)(iii) of the Act, 8 U.S.C. 1182(a)(9)(A)(iii), to remain in the United States with his wife and child that was due in January 2001.

The director determined that the unfavorable factors outweighed the favorable ones and denied the application accordingly. The Associate Commissioner affirmed that decision on appeal.

On motion, the applicant raises the same issues that he raised on appeal.

8 C.F.R. 103.5(a)(iv)(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)(iv)(3) provides that a motion to reconsider must state the reasons for reconsideration; and be supported by any pertinent precedent decisions to establish that the decision was based on an incorrect application of law or Service policy.

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

The applicant has failed to raise new issues on motion or to state reasons for reconsideration supported by precedent decisions. Therefore, the motion will be dismissed.

ORDER: The motion is dismissed. The order of December 13, 2000, dismissing the appeal is affirmed.