



U.S. Department of Justice

Immigration and Naturalization Service

identification...  
prevent clearly defined  
invasion of personal privacy

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

HA



FILED [REDACTED] Office: Vermont Service Center

Date: 11 APR 2002

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)

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.

FOR THE ASSOCIATE COMMISSIONER,  
EXAMINATIONS

Robert P. Wiemann, 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 July 4, 1996, along with her younger sister. On August 6, 1999, an immigration judge ordered the applicant along with her parents and younger sister removed from the United States *in absentia*. The applicant failed to depart. Therefore, she is inadmissible under section 212(a)(9)(A)(ii) of the Act, 8 U.S.C. 1182(a)(9)(A)(ii). 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), to remain in the United States with her parents and sister.

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 states that she is a child, has not committed any crime, has been in the United States for four years, has attended school in the United States, and it would be an extreme hardship for her and her family to go back to Guatemala.

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.

The issues in this matter were thoroughly discussed by the director and the Associate Commissioner in prior decisions. Further, the applicant is a child who is subject to the custody and control of her parents who have also been ordered removed from the United States. See Matter of Winkens, 15 I&N Dec. 451 (BIA 1975); Matter of Zamora, 17 I&N Dec. 395 (BIA 1980). Since no new issues have been presented for consideration, the motion will be dismissed.

**ORDER:** The motion is dismissed. The order of December 11, 2001, dismissing the appeal is affirmed.