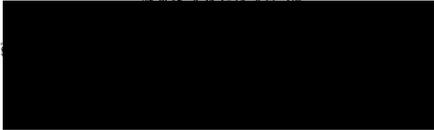


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U.S. Department of Homeland Security  
Citizenship and Immigration Services

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

PUBLIC COPY



DEC 09 2003

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

ON BEHALF OF APPLICANT:



Identifying data deleted to  
prevent disclosure of unclassified  
information and to prevent  
invasion of personal privacy.

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 Citizenship and Immigration Services (CIS) 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 a subsequent appeal was dismissed by the Administrative Appeals Office (AAO). The matter is now before the AAO on a motion to reopen/reconsider. The motion will be dismissed, and the previous January 29, 2003, AAO order dismissing the appeal will be affirmed.

The applicant is a native and citizen of Sierra Leone who was admitted to the United States (U.S.) on August 28, 1992, as a nonimmigrant visitor with authorization to remain until February 27, 1993. The applicant remained in the U.S. longer than authorized without applying for or obtaining an extension of temporary stay. On November 18, 1994, an immigration judge denied the applicant's request for asylum and withholding of deportation, and granted her until September 1, 1995, to depart from the United States voluntarily, in lieu of deportation. The applicant failed to depart the United States. She is therefore inadmissible under section 212(a)(9)(A)(ii) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(a)(9)(A)(ii).

The applicant married a U.S. citizen on July 14, 1995 and she is the beneficiary of an approved Petition for Alien Relative. She 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 in the applicant's case outweighed the favorable factors and denied the application accordingly. The AAO affirmed the director's decision on appeal.

8 C.F.R. § 103.5(a) states in pertinent part:

(a) Motions to reopen or reconsider

. . . .

(2) Requirements for motion to reopen. A motion to reopen must state the new facts to be proved in the reopened proceeding and be supported by affidavits or other documentary evidence.

. . . .

(3) Requirements for motion to reconsider. 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. A motion to reconsider a decision on an application or petition must, when filed,



also establish that the decision was incorrect based on the evidence of record at the time of the initial decision.

(4) Processing motions in proceedings before the Service. A motion that does not meet applicable requirements shall be dismissed  
. . . .

On motion, counsel indicates that the AAO erred in not taking into account the present country conditions in Sierra Leone. Counsel asserts that conditions in Sierra Leone are "chaotic and deadly in that an ongoing civil war has created thousands of refugees and the enactment of TPS or Temporary Protected Status by the U.S. Government for individuals from that country." Counsel asserts further that "[t]his U.S. Government determination [of TPS] is indicative of present conditions in Sierra Leone and the inherent risk of anyone presently returning there." Counsel additionally reasserts on motion, that the applicant is the beneficiary of an approved petition for alien relative (Form I-130), that she has no criminal record, and that she is a law-abiding person of good moral character.

The AAO finds counsel's assertions regarding the current country conditions in Sierra Leone to be unconvincing. The AAO notes that counsel presented no evidence or documentation to support his assertions. Moreover, although it is correct that the Attorney General (now, Secretary, Homeland Security, "Secretary") extended the Temporary Protected Status Program (TPS) designation for Sierra Leone for a period of 12 months (from November 2, 2002 through November 2, 2003), a review of the explanation for the extension reflects that the designation was extended because the Attorney General was unable to determine, prior to the sixty-day period prescribed by statute, whether conditions for TPS designation continued to be met in Sierra Leone:

If the Attorney General [Secretary] does not make the required determination prior to the sixty-day deadline, the TPS designation is automatically extended for an additional period of six months.

As an exercise of discretion, the Attorney General [Secretary] has decided to extend TPS for twelve months, rather than the automatic period of six months, in order to allow a sufficient period of time to monitor further developments in Sierra Leone.

See 10/20/02, Department of Justice Attorney General Announcement on Extension of TPS for Nationals of Sierra Leone, [www.immigration.gov/graphics/publicaffairs/newsrels/TPSSierra.pdf](http://www.immigration.gov/graphics/publicaffairs/newsrels/TPSSierra.pdf)

The AAO notes that after monitoring developments in Sierra Leone, the Secretary announced in the September 3, 2003, Federal

Register, Volume 68, No. 170, that the Secretary, Homeland Security had determined "Sierra Leone no longer meets the conditions for designation of TPS."

Moreover, the Department of State's, Bureau of Consular Affairs, Consular Information Sheet on Sierra Leone, dated July 7, 2003, states in part, that:

Security in Sierra Leone has improved significantly in the past year. The nationwide state of emergency and curfew have been lifted. In January 2002, disarmament by the Revolutionary United Front (RUF) and Civil Defense Force (CDF) was declared complete. Government forces have deployed around the country, including into areas previously held by the RUF, and the behavior of both the police and army has improved markedly following extensive international training efforts. However, government forces do not yet exercise complete authority. A large contingent of peacekeepers of the United Nations Mission in Sierra Leone (UNAMSIL) assists the government in providing security. Peaceful, successful, nationwide elections were held in May 2002.

Based on the above information, the AAO finds counsel's assertion that there continues to be an on-going war in Sierra Leone and that present conditions in Sierra Leone are chaotic and deadly, to be unpersuasive.

Moreover, the AAO finds that the issues reasserted by counsel pertaining to the applicant's approved Form I-130, her lack of a criminal record and her moral character were thoroughly discussed by the AAO in its previous decision, dated January 23, 2003, and that no legal or factual error has been identified or established on motion regarding these issues.

The AAO finds that counsel failed to identify any erroneous conclusion of law or statement of fact in his motion. The motion will therefore be dismissed.

**ORDER:** The appeal is dismissed and the previous AAO decision, dated January 29, 2003, will be affirmed.