

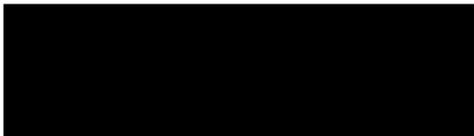


U.S. Department of Justice

Immigration and Naturalization Service

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OFFICE OF ADMINISTRATIVE APPEALS  
400 Eye Street N.W.  
U.S. I.N.S., 3rd Floor  
Washington, D.C. 20536

**PUBLIC COPY**



FILE [REDACTED] Office: Vermont Service Center

Date: JAN 02 2003

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

**Identifying data deleted to prevent clearly unwarranted 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 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 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 Mexico who was present in the United States without a lawful admission or parole on January 11, 1988. In February 1997, the applicant filed an application for asylum. She failed to appear for her scheduled interview on April 3, 1997 and a Notice to Appear was issued on October 9, 1997. On February 4, 1998, an immigration judge ordered the applicant removed from the United States *in absentia*. 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 failed to surrender for removal or to depart. 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), to provide for her two minor children.

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 again states that she has been in the United States for more than 14 years, is a person of good moral character, has two U.S. citizen children and came here for a better life. The applicant also submits four affidavits attesting to her character, two of which are from the same individuals who submitted affidavits on appeal.

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 their prior decisions. Since no new issues have been presented for consideration, the motion will be dismissed.

**ORDER:** The motion is dismissed. The order of August 2, 2002, dismissing the appeal is affirmed.