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

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

H/4



JUL 02 2003

FILE:  Office: Copenhagen Date:

IN RE: Applicant: 

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)

ON BEHALF OF APPLICANT:



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 Bureau of Citizenship and Immigration Services (Bureau) 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 Assistant Officer in Charge, Copenhagen, Denmark, and a subsequent appeal was dismissed by the Administrative Appeals Office (AAO). The matter is before the AAO on a motion to reopen. The motion will be dismissed, and the order dismissing the appeal will be affirmed.

The applicant is a native of Iran and naturalized citizen of Sweden who was admitted to the United States under the Visa Waiver Pilot Program (VWPP) on March 15, 1996. She remained beyond June 14, 1996, the maximum time allowed, and overstayed her authorized period of admission by two years and nine months. The applicant was found to be removable under section 237(a)(1)(B) of the Act, 8 U.S.C. § 1227(a)(1)(B), and she was removed from the United States on March 30, 1999. 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 married her fourth spouse, a U.S. citizen, in Sweden in June 1999, 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), on Form I-212.

The applicant is also inadmissible under section 212(a)(9)(B)(I)(II) of the Act, 8 U.S.C. § 1182(a)(9)(B)(I)(II), for having been unlawfully present in the United States for one year or more. Only after being granted permission to reapply for admission can the applicant apply for a waiver of this ground of inadmissibility under section 212(a)(9)(B)(v) of the Act, 8 U.S.C. § 1182(a)(9)(B)(v), on Form I-601.

The assistant officer in charge determined that the unfavorable factors outweighed the favorable ones and denied the application accordingly. The AAO affirmed that decision on appeal.

On motion, counsel revisits the issues raised and discussed on appeal and fails to provide any evidence to support specific assertions regarding the applicant's U.S. citizen mother's health. In a virtually identical brief counsel again discusses the difficulties that the applicant's U.S. citizen spouse would face and the hardship he would endure if he attempted to relocate in Sweden and states that these factors have contributed to his depression and related psychiatric treatment.

Pursuant to 8 C.F.R. § 103.5(a)(2), 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.

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

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



The issues in this matter were thoroughly discussed by the director and the AAO 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 February 28, 2003, dismissing the appeal is affirmed.