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

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



FILE:

Office: Vermont Service Center

Date: **MAR 17 2003**

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: Self-represented

PUBLIC COPY

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 Director, Vermont Service Center, and a subsequent appeal was dismissed by the Administrative Appeals Office (AAO). The matter is before the AAO on a second motion to reopen. The motion will be dismissed, and the order dismissing the appeal will be reaffirmed.

The petitioner is a native and citizen of Guatemala who was present in the United States without a lawful admission or parole on February 26, 1999. Therefore, he is inadmissible under section 212(a)(6)(A)(i) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(a)(6)(A)(i). A Notice to Appear was served on him on March 6, 1999. On November 7, 2000, an immigration judge ordered the applicant removed from the United States *in absentia*. Therefore, he is inadmissible under section 212(a)(9)(A)(ii) of the Act, 8 U.S.C. § 212(a)(9)(A)(ii). The applicant seeks permission to reapply for admission under section 212(a)(9)(A)(iii), 8 U.S.C. § 1182(a)(9)(A)(iii).

The director determined that the unfavorable factors outweighed the favorable ones and denied the application accordingly. That decision was affirmed on appeal and again on first motion.

On second motion, the applicant states that his only arguments are the ones previously presented.

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 which does not meet applicable requirements shall be dismissed.

The applicant's arguments have already been thoroughly discussed in prior decisions. Since no new issues have been presented, the second motion will be dismissed.

Further, the applicant is inadmissible under section 212(a)(6)(A)(i) of the Act and there is no relief for such ground of inadmissibility.

ORDER: The second motion is dismissed. The order of March 19, 2002, dismissing the appeal is reaffirmed.