

**identifying data deleted to  
prevent clearly unwarranted  
invasion of personal privacy**

U.S. Department of Homeland Security  
20 Mass. Ave., N.W., Rm. A3042  
Washington, DC 20529



U.S. Citizenship  
and Immigration  
Services

*Hy*

**PUBLIC COPY**



FILE:



Office: VERMONT SERVICE CENTER

Date: **MAY 11**

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

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office 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.

Robert P. Wiemann, Chief  
Administrative Appeals Office

**DISCUSSION:** The Application for Permission to Reapply for Admission into the United States after Deportation or Removal (Form I-212) was denied by the Director, Vermont Service Center on June 29, 2001. The Administrative Appeals Office (AAO) dismissed an appeal on January 7, 2002. The AAO's order was affirmed on September 4, 2003, subsequent to a motion to reopen and reconsider. The matter is now before the AAO on a second motion to reconsider. The motion will be dismissed and the AAO decision dated, January 7, 2002, will be affirmed.

The applicant is a native and a citizen of Guatemala who was present in the United States without a lawful admission or parole on January 26, 1996. On March 30, 1998, the applicant filed an Application for Asylum and for Withholding of Removal (Form I-589) with the Immigration and Naturalization Service (now Citizenship and Immigration Services (CIS)). On June 1, 1998, the applicant was interviewed for asylum status. His application was referred to the immigration court and a Notice to Appear (NTA) for a hearing before an immigration judge was issued on June 9, 1998. On December 22, 1998, the applicant failed to appear for a removal hearing and he was subsequently ordered removed in absentia by an immigration judge, pursuant to section 212(a)(6)(A)(i) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(a)(6)(A)(i) for having been present in the United States without being admitted or paroled. The applicant failed to surrender for removal or depart from the United States and is therefore inadmissible pursuant to section 212(a)(9)(A)(ii) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(a)(9)(A)(ii). He 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) in order to remain in the United States.

The Director determined that the unfavorable factors in the applicant's case outweighed the favorable factors and denied the Form I-212 accordingly. See *Director's Decision* dated June 29, 2001. The decision was affirmed by the AAO on appeal. See *AAO Decision*, dated January 7, 2002. The applicant filed a motion to reopen and reconsider on January 31, 2002. After careful review of the case, the AAO dismissed the motion to reopen and reconsider and affirmed the prior AAO decision, dated January 7, 2002. See *AAO Decision*, dated September 4, 2003.

In the present motion to reconsider, the applicant submits a letter with almost identical statements to those presented with his first motion to reconsider. The applicant states that he did not receive an NTA and that he found out about his deportation order after he called the public telephone number. In addition, the applicant states that he is a person of good moral character, he never intended to disregard any immigration laws and he wants to legalize his status in the United States. The applicant submits several affidavits from friends regarding his good moral character.

The regulation at 8 C.F.R. § 103.5 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 at 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.

The AAO finds that in the motion to reconsider no new information or evidence is submitted and the applicant did not identify any legal error or misapplication of law in the previous AAO decision.

The issues in this matter were thoroughly discussed by the Director and the AAO in their prior decisions. In the motion to reconsider the applicant failed to provide any new evidence or set forth any new facts to be proved. Since no new issues have been presented for consideration, the motion will be dismissed.

**ORDER:** The motion is dismissed. The order of January 7, 2002, dismissing the appeal is affirmed.