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U.S. Department of Homeland Security
20 Mass, Rm. A3042, 425 I Street, N.W.
Washington, DC 20536

U.S. Citizenship and Immigration Services

[redacted]

FILE: [redacted] Office: CHICAGO, ILLINOIS Date: MAR 1 0 2004

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)

ON BEHALF OF APPLICANT:

[redacted]

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, Director
Administrative Appeals Office

DISCUSSION: The application for permission to reapply for admission after removal was denied by the District Director, Chicago, Illinois and a subsequent appeal was dismissed by the Administrative Appeals Office (AAO). The matter is before the AAO on a motion to reopen.[1] The motion will be dismissed, and the order dismissing the appeal will be affirmed.

The applicant is a native and citizen of Honduras who was present in the United States without a lawful admission or parole on May 7, 1990. On January 17, 1991, an Immigration Judge ordered the applicant deported in absentia and therefore he is inadmissible to the United States 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 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 to reside with his U.S. citizen spouse.

The district director determined that the unfavorable factors outweigh the favorable ones and denied the application according. See *District Director's Decision* dated March 6, 2000. On April 22, 2003 the AAO affirmed that decision on appeal.

On motion, counsel asserts that the Immigration and Naturalization service (now, Citizenship and Immigration Service (CIS)) erred in its decision. Counsel states that the applicant and his spouse have been married for nearly ten years, they own property together, file joint tax returns and enjoy a close relationship. Counsel also states that the applicant's spouse is experiencing emotional problems due to the applicant's uncertain immigration status. Counsel then refers to a May 12, 2003 note in which a physician states that the applicant's spouse appeared at her clinic on December 11, 2002 and May 12, 2003 with complaints of headaches and stress and was referred to behavioral health. The record is devoid of any reference to any diagnosis or recommendation for 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 April 22, 2003, dismissing the appeal is affirmed.

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[1] Counsel submitted a new Form I-290B indicating she was filing an appeal. However, as the AAO has already dismissed the appeal this will be considered a motion to reopen.