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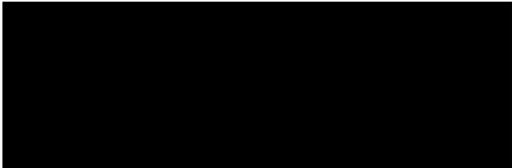
U.S. Department of Homeland Security
U. S. Citizenship and Immigration Services
Office of Administrative Appeals, MS 2090
Washington, DC 20529-2090



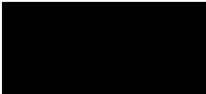
**U.S. Citizenship
and Immigration
Services**

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FILE:



Office: CALIFORNIA SERVICE CENTER

Date: FEB 24 2010

(RELATES)

IN RE:



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)

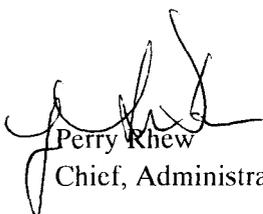
ON BEHALF OF APPLICANT:



INSTRUCTIONS:

This is the decision 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.

If you believe the law was inappropriately applied or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. Please refer to 8 C.F.R. § 103.5 for the specific requirements. All motions must be submitted to the office that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion, with a fee of \$585. Any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen, as required by 8 C.F.R. § 103.5(a)(1)(i).


Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The Director, California Service Center denied the Application for Permission to Reapply for Admission into the United States after Deportation or Removal (Form I-212) and the Administrative Appeals Office (AAO) dismissed the subsequent appeal. The matter is now before the AAO on a motion to reopen. The motion will be dismissed. The order dismissing the appeal will be affirmed.

The director determined that the applicant is inadmissible pursuant to section 212(a)(9)(C)(i) of the Act, 8 U.S.C. § 1182(a)(9)(C)(i), for illegally reentering the United States after having accrued more than one year of unlawful presence. The director determined that the applicant was ineligible to apply for permission to reapply for admission because she had not remained outside the United States for the required ten years and denied the Form I-212 accordingly. *See Director's Decision*, dated April 7, 2006. On April 27, 2009, the AAO dismissed the applicants appeal because the applicant did not warrant a favorable exercise of discretion. *Decision of AAO*, dated April 27, 2009.

In her motion to reopen, counsel contends that the AAO's rational of denying the applicant's Form I-212 for "multiple" immigration violations is without merit and strains reason. Counsel contends that the decision is arbitrary and capricious and an abuse of discretion. Counsel states that the applicant has filed a motion to reopen immigration proceedings which is pending before the Ninth Circuit. *See Form I-290B*, dated May 26, 2009. In support of her contentions, counsel submits only the referenced Form I-290B. On the Form I-290B, dated May 27, 2009, counsel states that "additional evidence will be filed forthwith.

An affected party has 30 days from the date of an adverse decision to file a motion to reopen or reconsider. 8 C.F.R. § 103.5(a)(1)(i). If the adverse decision was served by mail, an additional three days are added to the proscribed period. 8 C.F.R. § 103.5a(b). Any motion that does not meet applicable requirements shall be dismissed. 8 C.F.R. § 103.5(a)(4).

The petitioner's motion does not meet applicable requirements. Although the regulation at 8 C.F.R. § 103.3(a)(2)(vii) states that a petitioner may be permitted additional time to submit a brief or additional evidence to the AAO in connection with an appeal, no such provision applies to a motion to reopen or reconsider. The additional evidence must comprise the motion. *See* 8 C.F.R §§ 103.5(a)(2) and (3). Accordingly, the motion must be dismissed for failing to meet applicable requirements.

ORDER: The motion is dismissed. The order dismissing the appeal will be affirmed.