



U.S. Citizenship
and Immigration
Services

Administrative Appeals Office
San Diego, CA
June 22, 2012
PUBLIC COPY

[Redacted]

tt4

Date: JUN 22 2012

Office: SAN DIEGO, CA

FILE: [Redacted]

IN RE: [Redacted]

APPLICATION: Application for Permission to Reapply for Admission into the United States after Deportation or Removal under Section 212(a)(9)(A) of the Immigration and Nationality Act, 8 U.S.C. § 1182(a)(9)(A).

ON BEHALF OF APPLICANT:

[Redacted]

INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office in your case. All of the documents related to this matter have been returned to the office that originally decided your case. Please be advised that any further inquiry that you might have concerning your case must be made to that office.

If you believe the AAO inappropriately applied the law in reaching its decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen with the field office or service center that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion, with a fee of \$630. The specific requirements for filing such a motion can be found at 8 C.F.R. § 103.5. **Do not file any motion directly with the AAO.** Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires any motion to be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you,

for Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The District Director, San Diego, California denied the Application for Permission to Reapply for Admission (Form I-212) and the Administrative Appeals Office (AAO) dismissed the applicant's subsequent appeal, motion to reconsider, and a second motion to reconsider. The matter is now before the AAO on a third motion to reopen and reconsider. The motion to reopen and reconsider will be dismissed.

The applicant is a native and citizen of Mexico who attempted to enter the United States on March 23, 1996 using a photo-substituted passport. On March 28, 1996, the applicant was removed from the United States. The applicant was found inadmissible under section 212(a)(9)(A)(ii) of the Act, 8 U.S.C. § 1182(a)(9)(A)(ii). She now 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 travel to the United States and reside with her U.S. citizen spouse and children.

In the AAO's most recent decision, dated December 7, 2011, we found that the applicant was inadmissible under section 212(a)(2)(A)(i)(ii) of the Act for having been convicted of a crime related to a controlled substance and section 212(a)(2)(C) of the Act for being involved in the illicit trafficking of a controlled substance, for which there is no waiver. Consequently, the appeal was dismissed.

A motion to reopen must state the new facts to be proved in the reopened proceeding and be supported by affidavits or other documentary evidence. 8 C.F.R. § 103.5(a)(2). 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. 8 C.F.R. § 103.5(a)(3). The regulation at 8 C.F.R. § 103.5(a)(1)(iii) lists the filing requirements for motions to reopen and motions to reconsider. Section 8 C.F.R. § 103.5(a)(1)(iii)(C) requires that motions be "[a]ccompanied by a statement about whether or not the validity of the unfavorable decision has been or is the subject of any judicial proceeding." In this matter, the motion does not contain the statement required by this regulation. Although the applicant submitted a Notice of Appeal or Motion (Form I-290B) on January 4, 2011, the Form I-290B does not state any reasons for the motion. In addition, no brief or additional evidence was submitted. A motion that does not meet applicable requirements shall be dismissed. 8 C.F.R. § 103.5(a)(4).

Therefore, because the instant motion did not meet the applicable filing requirements listed in 8 C.F.R. § 103.5(a)(1), (2), or (3), it must be dismissed.

ORDER: The motion will be dismissed, the proceedings will not be reopened or reconsidered, and the previous decisions of the AAO will not be disturbed.