

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

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ADMINISTRATIVE APPEALS OFFICE
425 Eye Street N.W.
BCIS, AAO, 20 Mass, 3/F
Washington, D.C. 20536

FILE: [REDACTED]

Office: FRESNO, CA

Date: **AUG 25 2003**

IN RE: Applicant: [REDACTED]

APPLICATION: Application for Waiver of Grounds of Inadmissibility

ON BEHALF OF APPLICANT: Self-represented

INSTRUCTIONS:

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

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 waiver application was denied by the District Director, San Francisco, California. A subsequent appeal was dismissed by the Administrative Appeals Office (AAO). The matter is now before the AAO on a motion to reconsider. The motion will be dismissed and the previous decisions of the District Director and the AAO will be affirmed.

The record reflects that the applicant is a native and citizen of the Philippines who was admitted to the United States in September 1991, as the nonimmigrant fiancée of [REDACTED]. The applicant failed to marry Mr. [REDACTED] within 90 days of her admission, and she failed to depart the United States (U.S.). The record reflects that the applicant married a different U.S. citizen, [REDACTED] in January 1997, and that they have a U.S. citizen child together. A copy of an approval form provided by the applicant in her initial appeal and resubmitted in her motion to reconsider, indicates that the applicant is the beneficiary of an approved Petition for Alien Relative (Form I-130) filed by Mr. [REDACTED]. The applicant seeks to waive the fact that she did not marry the U.S. citizen petitioner, [REDACTED] within 90 days and that she did not depart the United States.

In the present motion to reconsider the applicant reasserts that she is married to a U.S. citizen and that she is the beneficiary of an approved form I-130. The applicant also reasserts that she has medical problems and that she and her family would suffer hardship if she were required to leave the United States. In addition, the applicant asserts that she is pregnant with a second child. The applicant did not identify any legal errors in the prior AAO or district director decisions, and aside from the information about her pregnancy, no new information or evidence was submitted.

8 C.F.R. § 103.5(a) 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 in the reopened proceeding and be supported by affidavits or other documentary evidence.
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 - (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 applicant failed to establish any error in the AAO or district director's determination that she is ineligible for adjustment of status pursuant to 8 C.F.R. § 245.1(c). Moreover, the issues raised in her motion to reconsider have been thoroughly addressed in the prior AAO and district director decisions.

Because the applicant failed to identify any erroneous conclusion of law or statement of fact in her appeal, the motion will be dismissed.

ORDER: The appeal is dismissed and the previous decisions of the District Director and the AAO will be affirmed.