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U.S. Department of Homeland Security
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Washington, DC 20529



U.S. Citizenship
and Immigration
Services

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FILE:

Office: LOS ANGELES, CALIFORNIA

Date: MAY 11 2005

IN RE:

Applicant:

APPLICATION: Application for Waiver of Grounds of Inadmissibility under § 212(i) of the
Immigration and Nationality Act, 8 U.S.C. § 1182(i)

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.

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The waiver application was denied by the District Director, Los Angeles, California and is now before the Administrative Appeals Office (AAO) on appeal. The matter will be remanded to the director to treat the appeal as a motion.

The applicant is a native and citizen of Korea who filed an I-485 Adjustment of Status application based on his marriage to a U.S. lawful permanent resident (LPR). The applicant was found to be inadmissible pursuant to § 212(a)(6)(C)(i) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(a)(6)(C)(i), for having procured entry into the United States in 1986 through fraud or misrepresentation. He seeks a waiver of inadmissibility under § 212(i) of the Act, 8 U.S.C. § 1182(i) in order to remain in the United States.

In an amended decision dated October 17, 2003, the district director denied the Application for Waiver of Grounds of Excludability (Form I-601) based on the applicant's failure to establish that his wife would experience extreme hardship due to his inadmissibility. Citizenship and Immigration Services (CIS) received counsel's amended motion to reconsider on November 12, 2003.

Though filed on an I-290B, Notice of Appeal to the Administrative Appeals Unit, the AAO notes that counsel specifically requested that the filing be accepted as a Motion to Reconsider. In addition, the AAO notes that on November 13, 2003, after receipt of the motion, the District Director sent a request for further documentation. There is no indication that a decision was rendered after that request.

Based on the above, the matter will be remanded to the district director to treat as a motion.

ORDER: The application is remanded to the district director for treatment as a motion and entry of a new decision.