



U.S. Citizenship
and Immigration
Services

identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy

H2

[Redacted]

FILE:

[Redacted]

Office: CHICAGO, ILLINOIS

Date: JUN 25 2007

[consolidated therein]

IN RE:

[Redacted]

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

ON BEHALF OF APPLICANT:

[Redacted]

PHOTOCOPY

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, Chief
Administrative Appeals Office

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

The record reflects that the applicant is a native and citizen of Japan who was found to be inadmissible to the United States pursuant to section 212(a)(6)(C)(i) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(a)(6)(C)(i), for attempting to enter the United States by claiming United States citizenship. The record indicates that the applicant is married to a United States citizen and she is the beneficiary of an approved Petition for Alien Relative (Form I-130). The applicant seeks a waiver of inadmissibility pursuant to section 212(i) of the Act, 8 U.S.C. § 1182(i), in order to reside in the United States with her United States citizen husband and children.

The District Director found that the applicant failed to establish that extreme hardship would be imposed on the applicant's husband and denied the Application for Waiver of Grounds of Excludability (Form I-601) accordingly. *Decision of the District Director*, dated January 26, 2001. On June 10, 2005, the AAO affirmed the District Director's decision on appeal. *Decision of the AAO*, dated June 10, 2005.

In the present motion to reopen and reconsider, the applicant, through counsel, reasserts that the applicant's husband and children¹ would suffer racial discrimination in Japan because of their mixed Japanese-African American heritage. Additionally, counsel provides evidence that the applicant, her husband, and stepson have suffered various medical conditions since the applicant's appeal. *Motion to Reopen and Reconsider*, page 2, dated July 8, 2005. As noted in the initial AAO decision, hardship the applicant herself or her children/stepchildren experiences upon removal is irrelevant for a section 212(i) waiver. *Decision of the AAO*, page 3, *supra*. The applicant's husband states he underwent an "endoscopy to alleviate chronic gastritis" on February 17, 2005. *Affidavit of [REDACTED]*, dated July 6, 2005. The AAO notes that it has not been established that the applicant's husband's medical condition has not been corrected. Additionally, the record does not contain an updated medical report on the applicant's husband's medical condition, and the only medical report on the applicant's husband is dated February 17, 2005.

The issues raised by counsel in the motion to reopen and reconsider were all brought up in the initial appeal, and those issues were addressed by the AAO. The AAO notes that in the initial decision dismissing the appeal, the AAO found "that the cumulative effect of the applicant's husband's suffering, should he choose to relocate to Japan, could go beyond that which is normally expected due to cultural and language differences." *Decision of the AAO*, page 3, *supra*. Therefore, the AAO found that the applicant's husband would suffer extreme hardship should he join the applicant in Japan. Counsel did not identify any legal errors in the prior AAO or District Director decisions, or provide any information on any hardship the applicant's husband would experience if he remained in the United States, and aside from the birth of the applicant's daughter and her husband's medical condition, no new information or evidence was submitted in the motion to reopen and reconsider.

¹ The applicant gave birth to her daughter, [REDACTED] on June 20, 2005.

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.

.....

(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 issues raised in counsel's motion to reopen and reconsider were thoroughly addressed in the prior AAO decision, and counsel failed to establish any legal error in the AAO or the District Director decisions.

Because counsel failed to identify any erroneous conclusion of law or statement of fact in his brief, the motion will be dismissed.

ORDER: The motion is dismissed and the previous decisions of the District Director and the AAO are affirmed. The waiver application is denied.