



U.S. Citizenship  
and Immigration  
Services

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invasion of personal privacy**

*H2*

[REDACTED]

FILE:

Office: LOS ANGELES (SANTA ANA), CA Date: **OCT 22 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]

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*

Robert P. Wiemann, Chief  
Administrative Appeals Office

**DISCUSSION:** The waiver application was denied by the District Director, Los Angeles, California. 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 application will be denied.

The record reflects that the applicant is a native and citizen of the Philippines 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 entering the United States using a passport under a different name. The record indicates that the applicant is married to a naturalized United States citizen and he 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 his United States citizen spouse and children.

The District Director found that the applicant failed to establish that extreme hardship would be imposed on the applicant's spouse and denied the Application for Waiver of Grounds of Excludability (Form I-601) accordingly. *District Director Decision*, dated June 17, 2004. On November 21, 2005, the AAO affirmed the District Director's decision on appeal. *Decision of the AAO*, dated November 21, 2005.

In the present motion to reopen and reconsider, the applicant, through counsel, reasserts that the applicant's wife will suffer extreme hardship if she joins the applicant in the Philippines or stays in the United States without the applicant. *Motion to Reconsider/Reopen*, pages 2-3, dated December 19, 2005. Additionally, counsel states the applicant's wife has been diagnosed with cancer. *Id.* at 4. [REDACTED] states the applicant's wife "is undergoing treatment for thyroid cancer. This will require her to undergo tests, surgery, and treatment for an undetermined amount of time." *Letter from [REDACTED]*, dated December 12, 2005. The AAO finds that the applicant's wife has been diagnosed with thyroid cancer; however, [REDACTED] did not indicate exactly what assistance is needed and/or given by the applicant. Additionally, the AAO notes that there was no documentation submitted establishing that the applicant's wife could not receive treatment for her medical condition in the Philippines. Further, there is no indication that the applicant's wife has to remain in the United States to receive her medical treatments. The AAO notes that it has not been established that the applicant's wife's medical condition has not improved. Additionally, the record does not contain an updated medical report on the applicant's wife's medical condition, and the only medical document on the applicant's wife is dated December 12, 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. Counsel did not identify any legal errors in the prior AAO or District Director decisions, and aside from the applicant's wife medical condition, no new information or evidence was submitted in the motion to reopen and reconsider. The AAO recognizes that the applicant's naturalized United States citizen wife will endure hardship as a result of separation from the applicant; however, as noted above, there was no documentation submitted establishing that the applicant's wife has to remain in the United States to receive her medical treatments. Additionally, the AAO notes that the applicant's wife is a native of the Philippines, who spent her formative years in the Philippines, and she has family who resides in the Philippines.

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 application is denied.