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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

[REDACTED]

AUG 25 2003

FILE: [REDACTED] Office: PHOENIX, AZ Date:
IN RE: Applicant: [REDACTED]
APPLICATION: Application for Waiver of Grounds of Inadmissibility

ON BEHALF OF APPLICANT:

[REDACTED]

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

INSTRUCTIONS:

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, Phoenix, Arizona. 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 Belgium who was found to be inadmissible to the United States (U.S.) under section 212(a)(2)(A)(i)(I) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(a)(2)(A)(i)(I), for having been convicted of a crime involving moral turpitude. The applicant is married to a citizen of the United States and is the father of a United States citizen child. He is the beneficiary of an approved petition for alien relative and seeks a waiver of inadmissibility pursuant to section 212(h) of the Act, 8 U.S.C. § 1182(h), in order to remain in the United States with his wife and child.

The district director concluded that the applicant failed to establish that extreme hardship would be imposed upon a qualifying relative and denied the application accordingly. The AAO affirmed the district director's decision on appeal.

In the present motion to reconsider counsel asserts that the applicant's wife and child would accompany the applicant to Belgium if he were deported and that as a result, they would suffer emotional and financial hardship. Counsel reasserts that the applicant's earning capacity in Belgium would be less than it is in the U.S. and that his wife (Mrs. [REDACTED]) would be unable to work in Belgium because she does not speak the language. Counsel also reasserts that Mrs. [REDACTED] and her daughter would lose the close family support they have in the United States. In addition, counsel reasserts that Mrs. [REDACTED] and especially the applicant's daughter would face discrimination based on their economic and racial background.

Counsel brought up all of the above issues in her initial appeal, and the issues were addressed by the AAO in its October 31, 2002 decision. Counsel did not identify any legal errors in the prior AAO or district director decisions in her motion to reconsider, and aside from the clear statement that Mrs. [REDACTED] and her daughter would move to Belgium if the waiver application were denied, 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.

. . . .

(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 reconsider were addressed in the prior AAO decision, and counsel failed to establish any error in the AAO or district director's decisions. Because counsel failed to identify any erroneous conclusion of law or statement of fact in her motion, the motion will be dismissed.

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