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U.S. Department of Homeland Security
20 Mass. Ave., N.W., Rm. A3042
Washington, DC 20529

U.S. Citizenship and Immigration Services

[redacted]

H2

FILE: [redacted] Office: LOS ANGELES, CALIFORNIA Date: APR 01 2005

IN RE: Applicant: [redacted]

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:

[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, Director
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 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 Mexico who was found to be inadmissible to the United States (U.S.) under § 212(a)(6)(C)(i) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(a)(6)(C)(i), for having attempted to procure admission into the United States by fraud or willful misrepresentation in 1983. The applicant is married to a lawful permanent resident (LPR) of the United States and is the beneficiary of an approved petition for alien relative. The district director concluded that the applicant had 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. The applicant seeks a waiver of inadmissibility pursuant to § 212(i) of the Act, 8 U.S.C. § 1182(i), in order to remain in the United States with her spouse.

In the present motion to reopen, counsel reiterates previously made assertions. For example, counsel contends that the applicant's husband has been living in the United States for many years, and that relocating to his native Mexico to accompany the applicant would cause him extreme hardship. Counsel also repeats the contention that a separation from the applicant would cause her husband extreme emotional hardship. Counsel submits affidavits executed by the applicant, her husband, and children, in which all the parties raise concerns previously dealt with.

All of the above issues were brought up by applicant's previous counsel in the original waiver application and on appeal, and the issues were addressed by the AAO. Counsel did not identify any legal errors in the prior AAO or district director decisions, and no new information or evidence was submitted in the motion to reopen.

8 C.F.R. § 103.5(a) states in pertinent part:

> (a) Motions to reopen or reconsider
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> . . . .
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> (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 thoroughly 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 state new facts or to identify any erroneous conclusion of law or statement of fact, the motion will be dismissed. The burden of proof in this proceeding rests solely with the applicant. Section 291 of the Act, 8 U.S.C. § 1361. The applicant has not sustained that burden.

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