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U.S. Citizenship
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[redacted]

JAN 31 2005

FILE: [redacted] Office: MIAMI, FLORIDA Date:

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, Miami, Florida. 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 applicant is a native and citizen of the Philippines who was found to be inadmissible to the United States 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 a benefit under the Act by fraud or willful misrepresentation, in that he married a citizen of the United States while still married to an individual in the Philippines and failed to reveal his marital status until the date of his adjustment interview. 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 his second U.S. citizen spouse.

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

On motion to reopen, the applicant reiterates that he did not attempt to mislead the interviewer at the time of his adjustment status. He also notes that he later divorced his first U.S. citizen spouse and married a second U.S. citizen on January 23, 2002. The applicant writes that he submitted another adjustment of status package based on his most recent marriage on February 8, 2002.

The above-mentioned issue regarding the applicant's claimed lack of intent to mislead was brought up on appeal and was also addressed by the AAO. The applicant has not identified any legal errors in the prior AAO or district director decisions, and aside from the statement that the applicant has married a new spouse and filed a new application to adjust status, 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 issue raised on motion to reopen was addressed in the prior AAO decision, and the applicant has failed to establish any error in the AAO or district director's decisions. The motion, thus, does not meet the requirements of either a motion to reopen or to reconsider and will be dismissed accordingly.

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