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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Office of Administrative Appeals MS 2090
Washington, DC 20529-2090



U.S. Citizenship
and Immigration
Services

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FILE:



Office: PORT-AU-PRINCE, HAITI

Date:

NOV 04 2009

IN RE:

Applicant:



APPLICATION: Application for Waiver of Grounds of Inadmissibility under Section 212(a)(9)(B)(v) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(a)(9)(B)(v)

ON BEHALF OF APPLICANT: SELF-REPRESENTED

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.

If you believe the law was inappropriately applied or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. Please refer to 8 C.F.R. § 103.5 for the specific requirements. All motions must be submitted to the office that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion, with a fee of \$585. Any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen, as required by 8 C.F.R. § 103.5(a)(1)(i).

Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The waiver application was denied by the Officer in Charge (OIC), Port-au-Prince, Haiti, and is now before the Administrative Appeals Office (AAO) on appeal. The applicant filed a motion to reopen and reconsider; however, the OIC forwarded the matter to the AAO as an appeal. The matter will be remanded to the OIC to issue a decision on the motion to reopen and reconsider.

On or about July 9, 2007, the OIC, Port-au-Prince, Haiti, forwarded to the AAO a motion to reopen and reconsider the denial of the applicant's Form I-601 waiver of inadmissibility. In a letter dated July 9, 2007, the OIC indicated that USCIS had received the applicant's appeal and was forwarding the application to the AAO as an appeal; however, the AAO notes that the applicant's husband indicated that he was filing a combined motion to reopen and reconsider, not an appeal.

Pursuant to the regulation at 8 C.F.R. § 103.5(a)(1)(ii), the official having jurisdiction over a motion to reopen and reconsider is the official who made the last decision in the proceeding, in this case the OIC. The AAO has no jurisdiction over the applicant's waiver application and will therefore return the matter to the originating office for further action.

ORDER: The matter will be remanded to the OIC to issue a decision on the motion to reopen and reconsider.