



**U.S. Citizenship
and Immigration
Services**

U.S. Citizenship and Immigration Services
Administrative Appeals Office
20 Massachusetts Ave., N.W., MS 2090
Washington, DC 20529-2090
PUBLIC COPY

H2

[Redacted]

Date: **JUN 15 2012** Office: PHOENIX, ARIZONA FILE: [Redacted]

IN RE: Applicant: [Redacted]

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

ON BEHALF OF APPLICANT:
[Redacted]

INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office in your case. All of the documents related to this matter have been returned to the office that originally decided your case. Please be advised that any further inquiry that you might have concerning your case must be made to that office.

If you believe the AAO inappropriately applied the law in reaching its decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen with the field office or service center that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion, with a fee of \$630. The specific requirements for filing such a motion can be found at 8 C.F.R. § 103.5. **Do not file any motion directly with the AAO.** Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires any motion to be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you,

Perry Rhew
Chief, 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 reopen and reconsider. The motion will be dismissed.

The applicant is a native and citizen of the Philippines who entered the United States on July 31, 1985, on a J-1 nonimmigrant visa. On April 8, 2003, the applicant pled guilty to grand theft, was sentenced to five years of probation, and was ordered to make restitution in the amount of \$232,000. On September 7, 2006, the applicant filed an Application for Waiver of Grounds of Inadmissibility (Form I-601). On November 13, 2006, the District Director denied the applicant's Form I-601, finding the applicant had been convicted of a crime involving moral turpitude and had failed to demonstrate extreme hardship to her qualifying relative. On December 14, 2006, the applicant, through counsel, filed an appeal of the District Director's decision with the AAO. On March 25, 2010, the AAO dismissed the applicant's appeal. On or about April 26, 2010, the applicant, through counsel, filed a motion to reopen and reconsider the AAO's decision.

The regulation at 8 C.F.R. §§ 103.5(a)(1)(iii) lists the filing requirements for motions to reopen and motions to reconsider. Section 103.5(a)(1)(iii)(C) requires that motions be "[a]ccompanied by a statement about whether or not the validity of the unfavorable decision has been or is the subject of any judicial proceeding." In this matter, the motion does not contain the statement required by 8 C.F.R. § 103.5(a)(1)(iii)(C). The regulation at 8 C.F.R. § 103.5(a)(4) states that a motion which does not meet applicable requirements must be dismissed. Therefore, because the instant motion did not meet the applicable filing requirements listed in 8 C.F.R. § 103.5(a)(1)(iii)(C), it must be dismissed for this reason.

Accordingly, the motion will be dismissed, the proceedings will not be reopened or reconsidered, and the previous decisions of the District Director and the AAO will not be disturbed.

ORDER: The motion is dismissed.