U.S. Department of Homeland Security
Administrative Appeals Office
20 Massachusetts Ave., N.W. MS 2090
Washington, DC 20529-2090

U.S. Citizenship and Immigration Services

identifying data deleted to prevent clearly unwarranted invasion of personal privacy

PUBLIC COPY

H6

DATE: JUN 19 2012 OFFICE: MEXICO CITY (CIUDAD JUAREZ)

IN RE:

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

ON BEHALF OF APPLICANT:

SELF-REPRESENTED

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 Form I-601, Application for Waiver of Inadmissibility (Form I-601) was denied by the District Director, Mexico City (Ciudad Juarez) on November 15, 2006. The matter was appealed to the Administrative Appeals Office (AAO) on March 7, 2009, and the AAO dismissed the appeal on January 22, 2010. The matter is now before the AAO on a motion to reconsider. The motion will be dismissed.

The applicant is a native and citizen of Mexico who was found to be inadmissible under section 212(a)(6)(C)(i) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(a)(6)(C)(i), for seeking to procure admission into the United States by fraud or willfully misrepresenting a material fact, and section 212(a)(9)(B)(i)(II) of the Act, 8 U.S.C. § 1182(a)(9)(B)(i)(II), for having been unlawfully present in the United States for more than one year and seeking readmission within ten years of her departure from the United States. The applicant seeks waivers of inadmissibility pursuant to sections 212(i) and 212(a)(9)(B)(v) of the Act, 8 U.S.C. §§ 1182(i) and 1182(a)(9)(B)(v), so that she may live in the United States with her U.S. citizen spouse.

The applicant was also found to be inadmissible under section 212(a)(9)(C)(i)(II) of the Act, 8 U.S.C. §1182(a)(9)(C)(i)(II), for having been ordered removed from the United States, and reentering the country without admission.

On November 15, 2006, the director determined the applicant had failed to establish that her U.S. citizen spouse would experience extreme hardship if she were denied admission into the United States and denied the waiver application accordingly. In a decision dated January 22, 2010, the AAO determined that, pursuant to section 212(a)(9)(C)(iii) of the Act, the applicant was statutorily ineligible to apply for permission to reapply for admission until she had been outside of the United States for ten years. Because less than ten years had passed since the date of the applicant's last departure in October 2005, the AAO found no purpose would be served in adjudicating the applicant's Form I-601 waiver application. The appeal was dismissed accordingly.

In the present motion to reconsider, the applicant's spouse indicates that attorneys and other individuals made many mistakes in the applicant's case and that she qualified for adjustment of status. He asserts further that she did not reside unlawfully in the United States between 1997 and 2001, she has resided in Mexico for many years, and she has been penalized for her immigration violations.

The regulations state in pertinent part at 8 C.F.R. § 103.5(a):

> (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) [A] motion that does not meet applicable requirements shall be dismissed.

The AAO finds the applicant has failed to state or establish that the January 22, 2010, AAO decision was based on an incorrect application of law or Service policy. The motion to reconsider the AAO decision shall therefore be dismissed.

The AAO notes further that the regulation at 8 C.F.R. §103.5(a)(1)(iii)(C) requires that motions to reopen and motions to reconsider 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." The present motion to reconsider 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 also be dismissed for this reason.

ORDER: The motion to reconsider is dismissed.