



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

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Date: **JUN 21 2012** Office: MEXICO CITY, MEXICO FILE:   
(CIUDAD JUAREZ, MEXICO)

IN RE: Applicant:

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

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 in accordance with the instructions on 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, Mexico City, Mexico. 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 Guatemala who entered the United States in October 1990 without inspection. An immigration judge granted the applicant voluntary departure, allowing him to depart the United States by June 2, 1997. The applicant failed to timely depart, and on August 13, 2003, he was removed from the United States. On November 29, 2007, the District Director denied the applicant's Form I-601 Application for Waiver of Grounds of Inadmissibility and Form I-212 Application for Permission to Reapply for Admission after Deportation or Removal, finding the applicant unlawfully present in the United States for more than one year and seeking readmission within ten years of his last departure from the United States, and that he failed to demonstrate extreme hardship to his qualifying relative. On December 31, 2007, the applicant, through counsel, filed an appeal of the District Director's decision with the AAO. On April 14, 2010, the AAO dismissed the applicant's appeal. On or about May 14, 2010, the applicant's mother, who filed the I-130 Petition for Alien Relative on his behalf, filed a motion to reopen and reconsider the AAO's decision.

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. 8 C.F.R. § 103.5(a)(2). 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. 8 C.F.R. § 103.5(a)(3).

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 decision of the District Director and the AAO will not be disturbed.

**ORDER:** The motion is dismissed.