



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

**Non-Precedent Decision of the
Administrative Appeals Office**

MATTER OF J-M-S-M-

DATE: JUNE 19, 2019

MOTION ON ADMINISTRATIVE APPEALS OFFICE DECISION

APPLICATION: FORM I-601, APPLICATION FOR WAIVER OF GROUNDS OF INADMISSIBILITY

The Applicant has applied to adjust status to that of a lawful permanent resident and seeks a waiver 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).

The Director of the Denver, Colorado Field Office denied the waiver, concluding that the record did not establish the Applicant's qualifying relatives would experience extreme hardship as a result of his continued inadmissibility. On appeal, we affirmed the Director's decision. The Applicant then filed a motion to reopen and reconsider, which we denied as untimely filed. In a second motion to reopen and reconsider, the Applicant submits additional hardship evidence. He does not address our previous finding denying both motions as untimely filed.

A motion to reconsider is based on the incorrect application of law or policy. 8 C.F.R. § 103.5(a)(3). A motion to reconsider must also establish that the decision was incorrect based on the evidence of record at the time of the initial decision. *Id.* Any motion to reconsider an action by the Service filed by an applicant must be filed within 30 days of the decision that the motion seeks to reconsider. 8 C.F.R. § 103.5(a)(1)(i).

A motion to reopen must state new facts and be supported by affidavits or other documentary evidence. 8 C.F.R. § 103.5(a)(2). Any motion to reopen a proceeding before the Service filed by an applicant, must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires, may be excused in the discretion of the Service where it is demonstrated that the delay was reasonable and was beyond the control of the applicant. 8 C.F.R. § 103.5(a)(1)(i).

The only issue before us on this second motion is whether we incorrectly denied the previous motions to reopen and reconsider as untimely filed. Here, although the Applicant submits letters and medical records to show that his spouse would experience extreme hardship in the event of his continued inadmissibility, he does not assert or provide evidence to show his previous filing was incorrectly rejected as untimely. Specifically, the Applicant does not indicate that the denial was based on an incorrect application of law or policy, nor does he state new facts to show that our

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previous decision was incorrect. He also does not assert or demonstrate that the delay was reasonable and beyond his control.

Thus, we affirm our previous conclusion that the Applicant's first motion to reopen and reconsider was untimely filed and he did not demonstrate that the delay was reasonable and beyond his control.

ORDER: The motion to reconsider is denied.

FURTHER ORDER: The motion to reopen is denied.

Cite as *Matter of J-M-S-M-*, ID# 4336492 (AAO June 19, 2019)