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U.S. Citizenship
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[redacted]

FILE: [redacted] Office: MIAMI, FLORIDA Date: APR 1 6 2004

IN RE: Applicant: [redacted]

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

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.

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The waiver application was denied by the Acting District Director Miami, Florida. A subsequent appeal was dismissed by the Administrative Appeals Office (AAO) on July 18, 2002. The AAO affirmed its prior decision on a motion to reconsider. The matter is now before the AAO on a second motion to reopen. The motion will be dismissed and the order dismissing the appeal will be affirmed.

The record reflects that the applicant is a native and citizen of Haiti. She was found to be inadmissible to the United States pursuant to section 212(a)(6)(C)(i) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(a)(6)(C)(i), for having sought to procure admission to the United States by fraud or willful misrepresentation of a material fact. On July 2, 2001, the applicant married a Lawful Permanent Resident (LPR). She seeks the above waiver of inadmissibility in order to remain in the United States with her spouse and adjust her status to that of a lawful permanent resident under the Haitian Refugee Immigrant Fairness Act of 1998, Public Law 105-277 (HRIFA).

The acting district director concluded that the applicant had failed to establish that extreme hardship would be imposed on a qualifying relative and the application was denied accordingly. *See Acting District Director Decision* dated October 24, 2001. The decision was affirmed by the AAO on appeal. *See* AAO Decision, dated July 18, 2002

On first motion the applicant submitted a physician's report that indicated that the applicant's LPR spouse (Mr. [redacted] was under the physician's care for severe hypertension and on a strict regimen of medications and a low sodium diet. The physician's letter stated that Mr. [redacted] had been a very poor compliant in the treatment plan and that the applicant's presence may help Mr. [redacted] compliance with the diet and medication to avoid a severe emergency. The physician's statement failed to indicate why her presence was not helping him avoid the problems he was currently experiencing. After careful review of the case, the AAO affirmed the prior AAO decision, dated July 18, 2002. *See* AAO Decision, dated January 8, 2003.

On second motion to reopen, the applicant asserts that her spouse would suffer extreme hardship if she was removed from the United States. The applicant asserts that she is submitting new facts and evidence of the extreme hardship her husband would suffer. The applicant submits a new affidavit from her husband as well as the same physician's letter she had previously submitted with the first motion.

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

> (a) Motions to reopen or reconsider. . .
>
> (2) Requirements for motion to reopen. A motion to reopen must state the new facts to be proved at the reopened proceeding and be supported by affidavits or other documentary evidence.
>
> . . . .
>
> (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) Processing motions in proceedings before the Service. A motion that does not meet applicable requirements shall be dismissed.

The AAO finds that the applicant's motion to reconsider does not provide new facts or evidence regarding the hardship Mr would suffer if she were removed from the United States. No new information or evidence was submitted and the applicant did not identify any legal error or misapplication of law in the previous AAO decisions. The AAO finds further that the Mr affidavit provides no new facts or evidence regarding the hardship he would suffer if his wife were removed from the United States.

The issues in this matter were thoroughly discussed by the acting district director and the AAO in their prior decisions. In the motion to reconsider the applicant failed to provide any new evidence or set forth any new facts to be proved. Since no new issues have been presented for consideration, the motion will be dismissed.

ORDER: The motion is dismissed. The order of January 8, 2003, dismissing the appeal is affirmed.