**U.S. Department of Homeland Security**
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U.S. Citizenship and Immigration Services

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FILE: [redacted] Office: MIAMI, FLORIDA Date: MAY 18 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:

[redacted]

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 District Director, Miami, Florida, on April 6, 2001. An appeal was dismissed by the Administrative Appeals Office (AAO) on December 19, 2001. The AAO order was affirmed on July 18, 2002, subsequent to a motion to reopen and reconsider. The matter is now before the AAO on a second motion to reconsider. The motion will be dismissed and the AAO decision dated, December 19, 2001, will be affirmed.

The record reflects that the applicant is a native and citizen of the Dominican Republic. 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 procured admission into the United States by fraud and willful misrepresentation of a material fact. The applicant is the beneficiary of an approved Petition for Alien Relative based on her March 29, 1995, marriage to a U.S. citizen. She seeks a waiver of inadmissibility pursuant to section 212(i) of the Act, 8 U.S.C. § 1182(i) in order to remain in the United States and reside with her U.S. citizen spouse.

The 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 District Director Decision* dated April 6, 2001. The decision was affirmed by the AAO on appeal. *See AAO Decision,* dated December 19, 2001. In a subsequent motion to reopen and reconsider, counsel asserted that there has never been any proof that the applicant ever committed fraud upon the Service and that the applicant's qualifying relative would suffer extreme hardship if the waiver application was denied. After careful review of the case, the AAO affirmed the prior AAO decision, dated December 19, 2001. *See AAO Decision,* dated July 18, 2002.

In the present motion to reconsider counsel submits the same documentation submitted with the first motion to reconsider.

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 in the motion to reconsider no new information or evidence is submitted and the applicant did not identify any legal error or misapplication of law in the previous AAO decision.

The issues in this matter were thoroughly discussed by the 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 December 19, 2001, dismissing the appeal is affirmed.