



U.S. Citizenship  
and Immigration  
Services

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FILE: [REDACTED] Office: NEWARK, NEW JERSEY Date: JUN 21 2005

IN RE: Applicant: [REDACTED]

APPLICATION: Application for Waiver of Grounds of Inadmissibility under § 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*

Robert P. Wiemann, Director  
Administrative Appeals Office

**DISCUSSION:** The waiver application was denied by the District Director, Newark, New Jersey. A subsequent appeal was dismissed by the Administrative Appeals Office (AAO). The matter is now before the AAO on a motion to reconsider. The motion will be dismissed and the previous decisions of the District Director and the AAO will be affirmed.

The record reflects that the applicant is a native and citizen of Guyana who was found to be inadmissible to the United States § 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 entry into the United States by fraud or willful misrepresentation. The applicant is married to a U.S. citizen and is the father of a U.S. citizen child. He is the beneficiary of an approved petition for alien relative and seeks a waiver of inadmissibility pursuant to § 212(i) of the Act, 8 U.S.C. § 1182(i), in order to remain in the United States and adjust his status to that of a lawful permanent resident.

The district director concluded that the applicant had failed to establish that extreme hardship would be imposed upon a qualifying relative and denied the application accordingly. The AAO affirmed the district director's decision on appeal. On motion, counsel reasserts that the applicant's wife and child would suffer emotional and financial hardship if the applicant were removed. Counsel contends that the AAO erroneously failed to find extreme hardship; however, counsel does not identify any specific legal errors in the prior decisions of the AAO or district director. The above issues were previously brought up by counsel, and were addressed by the AAO.

On motion, the only new document submitted consists of a report of a home visit conducted by [REDACTED] CSW. Ms. [REDACTED] expresses the opinion that the applicant's wife would suffer extreme and exceptional hardship in the event of a separation from the applicant. Ms. [REDACTED] report, however, does not appear to be based on any new circumstances or facts not previously present and previously considered by the district director and AAO.

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 in 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 issues raised in counsel's motion were thoroughly addressed in the prior AAO decision, and counsel failed to establish any error in the AAO or district director's decisions. Moreover, although the social worker's report is a new document, it is not based on new or changed facts. Because counsel failed to identify any erroneous conclusion of law or statement of fact, and did not describe any new facts to be proven, the motion will be denied.

**ORDER:** The motion is denied and the previous decisions of the District Director and the AAO will be affirmed.