

identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy

U.S. Department of Homeland Security
20 Massachusetts Ave. N.W., Rm. 3000
Washington, DC 20529



U.S. Citizenship
and Immigration
Services

PUBLIC COPY

H2

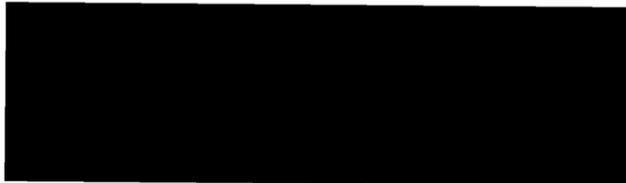


FILE: [REDACTED] Office: CALIFORNIA SERVICE CENTER Date: JUL 28 2008

IN RE: Applicant: [REDACTED]

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

ON BEHALF OF APPLICANT:



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.

A handwritten signature in black ink, appearing to read "Robert P. Wiemann".

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The waiver application was denied by the Director, California Service Center, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be summarily dismissed.

The applicant is a native and citizen of Canada. The record indicates that the applicant was convicted of multiple crimes involving moral turpitude in August 1980. The applicant was thus found inadmissible to the United States under section 212(a)(2)(A)(i)(I) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(a)(2)(A)(i)(I). The applicant sought a waiver of inadmissibility pursuant to section 212(h) of the Act, 8 U.S.C. § 1182(h), in order to remain in the United States with his U.S. citizen spouse.

The director concluded that the applicant had failed to establish that extreme hardship would be imposed on a qualifying relative and denied the Application for Waiver of Grounds of Excludability (Form I-601) accordingly. *Decision of the Director*, dated March 24, 2006

Counsel for the applicant submitted the Form I-290B, Notice of Appeal to the Administrative Appeals Unit (Form I-290B) on April 20, 2006. On the Form I-290B, counsel for the applicant requested 90 days to submit a brief and/or evidence to the AAO. On July 1, 2008, the AAO sent a fax to counsel, stating that to date, the AAO had no record that any further evidence or brief was ever received, and requesting that counsel submit a copy of the brief and/or evidence to the AAO, along with evidence that it was originally filed with the AAO within the 90 day period requested, within five business days. On July 9, 2008, counsel for the applicant sent a fax to the AAO, stating that no brief or evidence in support of the appeal had been filed. As such, the record is now considered complete.

An officer to whom an appeal is taken shall summarily dismiss any appeal when the party concerned fails to identify specifically any erroneous conclusion of law or statement of fact for the appeal. 8 C.F.R. § 103.3(a)(1)(v).

The applicant has failed to specifically identify any erroneous conclusion of law or statement of fact for the appeal. The only statement made to support extreme hardship to a qualifying relative is counsel's statements on the Form I-290B. As stated by counsel:

The District Director abused his discretion in denying the form I-601 waiver. Furthermore, subsequent to the filing of the I-601 waiver, petitioner's American Citizen spouse is suffering from terminal cancer and the deportation of the beneficiary who is her sole support, would be extraordinary extreme hardship to her....

Form I-290B, dated April 20, 2006.

Without documentary evidence to support the claim, the assertions of counsel will not satisfy the petitioner's burden of proof. The unsupported assertions of counsel do not constitute evidence. *Matter of Obaighena*, 19 I&N Dec. 533, 534 (BIA 1988); *Matter of Laureano*, 19 I&N Dec. 1 (BIA 1983); *Matter of Ramirez-Sanchez*, 17 I&N Dec. 503, 506 (BIA 1980). As no additional evidence is presented on appeal to overcome the decision of the director, the appeal will be summarily dismissed in accordance with 8 C.F.R. § 103.3(a)(1)(v).

In proceedings for application for waiver of grounds of inadmissibility under § 212(h), the burden of proving eligibility remains entirely with the applicant. Section 291 of the Act, 8 U.S.C. § 1361. Here, the applicant has not met that burden.

ORDER: The appeal is summarily dismissed.