

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

ADMINISTRATIVE APPEALS OFFICE
425 Eye Street N.W.
BCIS, AAO, 20 Mass, 3/F
Washington, D.C. 20536

PUBLIC COPY

AUG 29 2003

FILE: [REDACTED] Office: LONDON, U.K.

Date:

IN RE: Applicant: [REDACTED]

APPLICATION:

Application for Waiver of Grounds of Inadmissibility under section 212(a)(9)(B) of the Immigration and Nationality Act, 8 U.S.C. § 1182(a)(9)(B).

ON BEHALF OF APPLICANT:
SELF-REPRESENTED

INSTRUCTIONS:

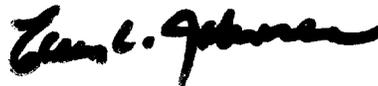
**identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy**

This is the decision 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.

If you believe the law was inappropriately applied or the analysis used in reaching the decision was inconsistent with the information provided or with precedent decisions, you may file a motion to reconsider. Such a motion must state the reasons for reconsideration and be supported by any pertinent precedent decisions. Any motion to reconsider must be filed within 30 days of the decision that the motion seeks to reconsider, as required under 8 C.F.R. § 103.5(a)(1)(i).

If you have new or additional information that you wish to have considered, you may file a motion to reopen. Such a motion must state the new facts to be proved at the reopened proceeding and be supported by affidavits or other documentary evidence. Any motion to reopen 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 Bureau of Citizenship and Immigration Services (Bureau) where it is demonstrated that the delay was reasonable and beyond the control of the applicant or petitioner. *Id.*

Any motion must be filed with the office that originally decided your case along with a fee of \$110 as required under 8 C.F.R. § 103.7.



Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The waiver application was denied by the Officer in Charge, London, United Kingdom. A subsequent appeal was dismissed by the Administrative Appeals Office (AAO). The matter is now before the AAO on a motion to reopen. The motion will be dismissed and the previous order dismissing the appeal will be affirmed.

The record reflects that the applicant is a native and citizen of the United Kingdom. The applicant was found to be inadmissible to the United States pursuant to section 212(a)(9)(B)(i)(II) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(a)(9)(B)(i)(II), for having been unlawfully present in the United States for a period of more than 1 year. The applicant married a U.S. citizen in the United Kingdom (U.K.) on November 25, 2000, and she is the beneficiary of an approved petition for alien relative. The applicant seeks to reopen the above waiver in order to reside in the United States with her U.S. citizen husband.

The OIC found that the applicant had failed to establish that extreme hardship would be imposed on her husband. The application was denied accordingly on March 21, 2002.

On appeal, the applicant stated that her husband would suffer extreme hardship if her waiver application was not granted. The applicant asserted that her husband (Mr. [REDACTED]) has severe medical problems, and that he had two strokes and suffers from hypertension and diabetes. The applicant additionally asserted that [REDACTED] eyesight was deteriorating and that he was declared legally disabled. The applicant asserted that her husband needed her to assist him with his day-to-day activities, and that he was unable to travel or move to the U.K. for medical reasons and because he wanted to be near his U.S. citizen children.

In a decision dated January 15, 2003, the AAO affirmed the OIC decision that the applicant had failed to establish the existence of hardship to her husband, on the basis that Mr. [REDACTED] was fully aware of the applicant's inadmissibility to the United States when he married her in the U.K., and that [REDACTED] failed to establish or provide evidence that the applicant had lived with him or cared for him in the past, or that he had been unable to manage without the applicant's care since her departure from the U.S. in 1998.

In the current motion to reopen, filed February 19, 2003, the applicant, through her husband, asserts that the OIC and AAO did not properly analyze the hardship that [REDACTED] would face if the applicant were not allowed to return to the United States. In his motion, the applicant's husband reasserts that he has severe medical problems and that he needs his wife's daily care and assistance. [REDACTED] additionally asserts that he is unable to move to the U.K.

because he cannot obtain medical insurance or care there.

_____ submitted a letter from his doctor stating that he has had two strokes, that he is legally blind and that he suffers from diabetes, hypertension and speech difficulty. The doctor's letter additionally states that _____ "would benefit from having [a] family member to assist in his daily care. Air travel by the patient is not advised. Living in cold and fluctuating climate is also not advised." See Letter by _____ M.D., dated January 27, 2003. _____ also submitted his own sworn affidavit restating that he is unable to obtain medical insurance in the U.K., that the cold climate in the U.K. would be detrimental to his health and that he will suffer extreme hardship if his wife is not allowed to reside in the United States.

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 applicant failed to establish any legal error in the AAO or district director's decisions, and aside from _____ statement that he would be unable to obtain medical insurance in the U.K., the issues raised in the applicant's motion to reopen were already addressed in the prior decisions. Furthermore, the record contains no evidence to

corroborate the claim that [REDACTED] is unable to obtain medical insurance in the United Kingdom.

[REDACTED] hardship claim in the present motion fails to provide material new evidence or information and will therefore be dismissed.

ORDER: The motion is dismissed. The order of January 15, 2003, dismissing the appeal is affirmed.