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U.S. Department of Homeland Security
U. S. Citizenship and Immigration Services
Office of Administrative Appeals MS 2090
Washington, DC 20529-2090



U.S. Citizenship
and Immigration
Services

PUBLIC COPY

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[Redacted]

FILE: [Redacted]

Office: CALIFORNIA SERVICE CENTER

Date:

JUL 23 2010

IN RE: Applicant:

[Redacted]

APPLICATION:

Application for Waiver of the Foreign Residence Requirement of Section 212(e) of the Immigration and Nationality Act, 8 U.S.C. § 1182(e).

ON BEHALF OF APPLICANT:

[Redacted]

INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office in your case. All of the documents related to this matter have been returned to the office that originally decided your case. Please be advised that any further inquiry that you might have concerning your case must be made to that office.

If you believe the law was inappropriately applied by us in reaching our decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. The specific requirements for filing such a request can be found at 8 C.F.R. § 103.5. All motions must be submitted to the office that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion, with a fee of \$585. Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires that any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you,

Perry Rhew
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, a native and citizen of Ecuador, obtained J-1 nonimmigrant exchange status in September 2006. The applicant is subject to the foreign residence requirement under section 212(e) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(e) based on the Exchange Visitors Skills List. The applicant presently seeks a waiver of his two-year foreign residence requirement, based on the claim that his U.S. citizen spouse would suffer exceptional hardship if she moved to Ecuador temporarily with the applicant and in the alternative, if she remained in the United States while the applicant fulfilled the foreign residence requirement in Ecuador.

The director determined that the applicant failed to establish that a qualifying relative would experience exceptional hardship if the applicant fulfilled his two-year foreign residence requirement in Ecuador. *Director's Decision*, dated May 2, 2010. The application was denied accordingly.

Counsel for the applicant filed the Form I-290B, Notice of Appeal to the Administrative Appeals Office (Form I-290B) on June 2, 2010. On the Form I-290B, counsel for the applicant indicated that a separate brief and/or evidence would be submitted to the AAO within 30 days and noted that the applicant's U.S. citizen spouse "will suffer extreme hardship. The Service failed to consider in the effect in toto as well as the extreme difficulty inherent in her going to Ecuador...." *See Form I-290B*, dated June 1, 2010. Counsel and/or the applicant failed to specifically identify any erroneous conclusion of law or statement of fact and/or provide additional documentation in support of extreme hardship to the applicant's U.S. citizen spouse. As of today, no brief and/or additional evidence has been submitted by counsel and/or the applicant. As such, the record is 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).

Counsel and/or the applicant have failed to specifically identify any erroneous conclusion of law or statement of fact for the appeal. 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).

The burden of proving eligibility for a waiver under section 212(e) of the Act rests with the applicant. *See* section 291 of the Act, 8 U.S.C. § 1361. The AAO finds that in the present case, the applicant has not met his burden. Accordingly, the appeal will be summarily dismissed.

ORDER: The appeal is summarily dismissed.