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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Administrative Appeals Office (AAO)
20 Massachusetts Ave., N.W., MS 2090
Washington, DC 20529-2090
**U.S. Citizenship
and Immigration
Services**

Date: **AUG 22 2013**

Office: CHICAGO, IL

FILE: [REDACTED]

IN RE:

Applicant: [REDACTED]

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

ON BEHALF OF APPLICANT:

SELF-REPRESENTED

INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office (AAO) in your case.

This is a non-precedent decision. The AAO does not announce new constructions of law nor establish agency policy through non-precedent decisions. If you believe the AAO incorrectly applied current law or policy to your case or if you seek to present new facts for consideration, you may file a motion to reconsider or a motion to reopen, respectively. Any motion must be filed on a Notice of Appeal or Motion (Form I-290B) within 33 days of the date of this decision. **Please review the Form I-290B instructions at <http://www.uscis.gov/forms> for the latest information on fee, filing location, and other requirements. See also 8 C.F.R. § 103.5. Do not file a motion directly with the AAO.**

Thank you,

Handwritten signature of Ron Rosenberg in black ink.

Ron Rosenberg
Chief, Administrative Appeals Office

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DISCUSSION: The waiver application was denied by the Acting Field Office Director, Chicago, Illinois. The Administrative Appeals Office (AAO) dismissed a subsequent appeal. The matter is now before the AAO on motion. The motion will be dismissed and the underlying application remains denied.

The record reflects that the applicant is a native and citizen of China who was found to be inadmissible pursuant to section 212(a)(6)(C)(i) of the Act for willful misrepresentation of a material fact in order to procure an immigration benefit. The applicant is married to a lawful permanent resident and seeks a waiver of inadmissibility pursuant to section 212(i) of the Act in order to reside with her husband and children in the United States.

The acting field office director found that the applicant failed to establish extreme hardship to a qualifying relative and denied the application accordingly. The AAO dismissed the appeal, also finding that there was insufficient evidence in the record to show extreme hardship to a qualifying relative.

On motion, in response to the question asking for the basis for the motion, the Form I-290B states, in its entirety, "The Acting Chief of the Administrative Appeals Office applied an incorrect legal standard, assumed facts not in the record and made factual conclusions beyond the authority to do so." The applicant checked the box stating that a brief and/or additional evidence would be submitted to the AAO within thirty days. *Notice of Appeal or Motion (Form I-290B)*, dated January 9, 2013. However, to date, the AAO has not received a brief or any additional documentation with respect to this motion.

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. 8 C.F.R. § 103.5(a)(2). 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. 8 C.F.R. § 103.5(a)(3). A motion that does not meet applicable requirements shall be dismissed. 8 C.F.R. § 103.5(a)(4).

Here, the applicant's filing does not meet the requirements of a motion. The applicant has not stated any new facts to be proved in the reopened proceedings and the AAO has not received any new evidence with respect to this matter. Therefore, the motion does not meet the requirements of a motion to reopen. In addition, the motion does not meet the requirements of a motion to reconsider. The applicant does not cite any pertinent precedent decisions to establish that the decision was based on an incorrect application of law or Service policy at the time of the decision. In addition, the applicant does not specify what legal standard the AAO purportedly applied incorrectly and does not articulate which facts the AAO purportedly assumed.

The motion does not meet the applicable requirements of a motion. Accordingly, the motion will be dismissed.

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NON-PRECEDENT DECISION

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In application proceedings, it is the applicant's burden to establish eligibility for the immigration benefit sought. Section 291 of the Act, 8 U.S.C. § 1361. Here, that burden has not been met

ORDER: The motion is dismissed and the underlying application remains denied.