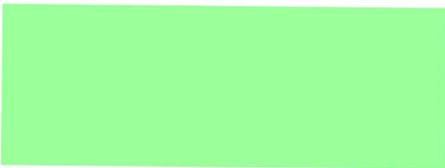


(b)(6)

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



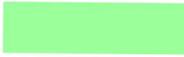
U.S. Citizenship
and Immigration
Services



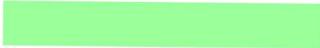
DATE: DEC 08 2014

OFFICE: NEWARK

FILE:



IN RE:



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

ON BEHALF OF APPLICANT:



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,


Ron Rosenberg
Chief, Administrative Appeals Office

DISCUSSION: The Field Office Director, Newark, New Jersey denied the waiver application and a subsequent appeal was dismissed by the Administrative Appeals Office (AAO). The AAO dismissed the applicant's subsequent motion to reconsider. This matter is now before the AAO on a motion to reopen and reconsider. The motion will be dismissed.

The applicant is a native and citizen of the United Kingdom who was found to be inadmissible to the United States under section 212(a)(6)(C)(i) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(a)(6)(C)(i), for procuring entry to the United States by fraud or willful misrepresentation. The applicant was also found to be inadmissible to the United States under section 212(a)(2)(A)(i)(I) of the Act, 8 U.S.C. § 1182(a)(2)(A)(i)(I), for having committed crimes involving moral turpitude. The applicant seeks a waiver of inadmissibility in order to reside in the United States with his U.S. citizen spouse and child.

The Field Office Director concluded that the record failed to establish the existence of extreme hardship to a qualifying relative and denied the application accordingly. *See Decision of the Field Office Director* dated May 5, 2009. On appeal, the AAO also determined that the applicant failed to establish extreme hardship to a qualifying relative and dismissed the appeal accordingly. *See Decision of the AAO*, dated December 7, 2011. On the applicant's prior motion, the AAO dismissed the motion, finding that the applicant had not satisfied the requirements for a motion to reconsider. *See Decision of the AAO*, dated March 7, 2013.

The applicant has submitted a motion to reopen and reconsider the dismissal of his 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 be supported by any pertinent precedent decisions to establish that the decision was based on an incorrect application of law or USCIS policy and establish that the decision was incorrect based on the evidence of record at the time of the decision. 8 C.F.R. § 103.5(a)(3).

On the applicant's motion to reopen and reconsider, filed on April 16, 2013 and received by the AAO on August 12, 2014, counsel submits a letter accompanying the applicant's Form I-290B, Notice of Appeal or Motion. The letter requests additional time in which to submit a brief. The record does not contain a brief or new evidence.

Upon review, the AAO finds the motion does not meet applicable requirements for motions to reopen or reconsider as set forth in 8 C.F.R. § 103.5(a)(2), (3). On motion, the applicant has not cited to any precedent decisions that establish that the AAO's decision was based on an incorrect application of law or policy. In addition, no new facts have been stated with accompanying supporting documentary evidence. As such, the motion does not meet the applicable requirements and must be dismissed. 8 C.F.R. § 103.5(a)(4).

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 (2012). Here, that burden has not been met. Accordingly, the motion will be dismissed, the proceedings will not be reconsidered, and the previous decisions of the Field Office Director and the AAO will not be disturbed.

ORDER: The motion is dismissed.