



U.S. Citizenship
and Immigration
Services

[REDACTED]

H6

DATE: **NOV 06 2012** Office: ACCRA, GHANA

FILE: [REDACTED]
[REDACTED] consolidated therein)

IN RE: [REDACTED]

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

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 AAO inappropriately applied the law in reaching its decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen in accordance with the instructions on Form I-290B, Notice of Appeal or Motion, with a fee of \$630. The specific requirements for filing such a motion can be found at 8 C.F.R. § 103.5. **Do not file any motion directly with the AAO.** Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires any motion to 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 Field Office Director, Accra, Ghana, and the matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected.

The applicant is a native and a citizen of Nigeria who 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 more than one year and seeking admission within 10 years of his last departure. The applicant is the spouse of a U.S. citizen and the beneficiary of an approved Petition for Alien Relative. He seeks a waiver under section 212(a)(9)(B)(v) of the Act, 8 U.S.C. § 1182(a)(9)(B)(v), in order to reside in the United States with his spouse.

The director concluded that the applicant had failed to establish that the bar to his admission would impose extreme hardship on a qualifying relative and denied the Form I-601, Application for Waiver of Grounds of Inadmissibility, accordingly. See *Field Office Director's Decision*, dated February 14, 2011.

On appeal, counsel asserts that the director erred in concluding that the applicant's qualifying relative would not suffer extreme hardship and submits additional hardship evidence for consideration. See *Form I-290B, Notice of Appeal or Motion*, dated March 25, 2011.

signed the Form I-290B as the applicant's attorney. The record, however, did not contain a new and properly executed Form G-28, Notice of Entry of Appearance as Attorney or Representative, signed by both the attorney and the applicant.

In accordance with the U.S. Citizenship and Immigration Services (USCIS) regulation at 8 C.F.R. § 292.4(a) as well as the instructions to the Form I-290B, a "new [Form G-28] must be filed with an appeal filed with the Administrative Appeals Office." This regulation applies to all appeals filed on or after March 4, 2010. See 75 Fed. Reg. 5225 (Feb. 2, 2010).

Without a new, fully executed Form G-28 authorizing the attorney to represent the applicant, the AAO cannot consider the appeal to have been properly filed as required by 8 C.F.R. § 103.3(a)(2)(v)(A)(2) and its subclauses. A notice was sent to the attorney on October 10, 2012. On October 25, 2012, an office assistant from the attorney's office notified the AAO through a facsimiled letter, stating that the attorney would not be able to submit a new Form G-28, because the applicant has not responded to the attorney's correspondence. As the attorney failed to submit this required document, the appeal will therefore be rejected as improperly filed, under the regulation at 8 C.F.R. § 103.3(a)(2)(v)(A)(1).

ORDER: The appeal is rejected.