



U.S. Citizenship
and Immigration
Services

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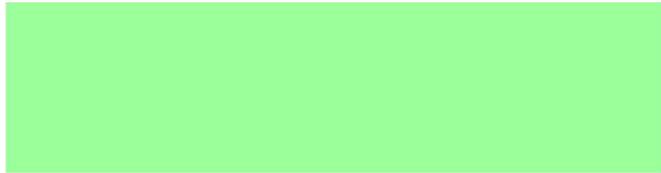
Date: **JUL 25 2014** Office: SAN BERNARDINO, CA

FILE:

IN RE: Applicant:

APPLICATION: Application for Permission to Reapply for Admission into the United States after Deportation or Removal under Section 212(a)(9)(A) of the Immigration and Nationality Act, 8 U.S.C. § 1182(a)(9)(A)

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, San Bernardino, California, denied the Application for Permission to Reapply for Admission into the United States after Deportation or Removal (Form I-212). A subsequent appeal was dismissed by the Administrative Appeals Office (AAO). The matter is now before the AAO on a motion to reconsider. The motion will be dismissed. The underlying application remains denied.

The applicant is a citizen of Mexico who file an application to waive his inadmissibility under section 212(a)(2)(A)(i) of the Act, 8 U.S.C. § 1182(a)(2)(A)(i) (2012), for having been convicted of a crime involving moral turpitude. The applicant is married to a U.S. citizen and seeks a waiver of inadmissibility pursuant to section 212(h) of the Act to live with his wife and children in the United States.

The Field Office Director found that the applicant was inadmissible pursuant to section 212(a)(9)(C)(i)(II) of the Act for having unlawfully re-entered the United States after being removed and that 10 years have not elapsed since his departure. *See decision of Field Office Director*, May 3, 2013. The application was accordingly denied. *Id.*

The AAO dismissed a subsequent appeal, finding the applicant was not inadmissible under section 212(a)(9)(C)(i)(II) of the Act, but that his 1999 conviction for violating California Penal Code § 10851(a) rendered him inadmissible for having committed a crime involving moral turpitude. *See AAO Decision*, March 18, 2014. The AAO further found the applicant's 1984 conviction for burglary, in violation of California Penal Code § 459, qualified as a violent or dangerous crime which subjected the applicant to the heightened discretionary analysis found in 8 C.F.R. § 212.7(d) (2014). *Id.* The AAO then concluded that the applicant had not demonstrated his spouse or children would experience exceptional and extremely unusual hardship if the waiver application was denied. *Id.*

On the motion to reconsider, filed by the applicant on April 15, 2014, counsel submits copies of medical records and letters from the applicant's spouse and children. No brief was submitted in support of the motion to reconsider.

Upon review, the AAO finds the motion does not meet applicable requirements for motions to reconsider as set forth in 8 C.F.R. § 103.5(a)(3) (2014). This regulation states, in pertinent part, that "[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 [U.S. Citizenship and Immigration Services] policy." *Id.* 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.

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.