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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



PUBLIC COPY

#5



Date: DEC 01 2011 Office: GUATEMALA CITY

FILE:

IN RE: Applicant:

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

ON BEHALF OF APPLICANT:

SELF-REPRESENTED

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 \$630. 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 Field Office Director, Guatemala City, Guatemala, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be summarily dismissed.

The applicant is a native and citizen of Guatemala who was found to be inadmissible to the United States under section 212(a)(2)(A)(i)(I) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(a)(2)(A)(i)(I), for having committed a crime involving moral turpitude.¹ He was also found to be inadmissible to the United States pursuant to section 212(a)(9)(C) of the Act, 8 U.S.C. § 1182(a)(9)(C), for having accrued more than one year of unlawful presence and subsequently entering the United States without being admitted.² The field office director cited section 212(a)(6)(C)(i) of the Act, 8 U.S.C. § 1182(a)(6)(C)(i), and the record shows that the applicant has been found inadmissible for seeking to procure admission into the United States by making a willful misrepresentation. The applicant seeks a waiver of inadmissibility pursuant to sections 212(h) and (i) of the Act, 8 U.S.C. §§ 1182(h), (i), in order to reside in the United States.

The field office director denied the Application for Waiver of Grounds of Inadmissibility (Form I-601), concluding that the applicant failed to establish that he is statutorily eligible for a waiver of his inadmissibility under section 212(a)(9)(C) of the Act, and that he failed to show that extreme hardship would be imposed on a qualifying relative should he reside outside the United States. *Decision of the Field Office Director*, dated July 15, 2009.

On the Form I-290B appeal, the applicant explains why he wishes to enter the United States, and he asserts that he has complied with U.S. immigration requirements and paid for his mistakes. However, the applicant does not address the decision of the field office director or otherwise identify specifically an erroneous conclusion of law or statement of fact for the appeal. The applicant does not provide any additional evidence or explanation with Form I-290B, and he indicates that no supplemental brief or evidence will be submitted. The applicant has not stated any new facts or referenced any provisions of law or precedent court or administrative decisions.

Section 212(i) of the Act provides, in pertinent part, that:

¹ The record as presently constituted does not support that the applicant has committed a crime involving moral turpitude that renders him inadmissible under section 212(a)(2)(A)(i)(I) of the Act, as official documentation showing dispositions for his criminal charges is not included. Criminal charges alone are not sufficient to sustain a finding that an applicant committed a crime. Further, the record contains no evidence that the applicant admitted the essential elements of a crime involving moral turpitude.

² The record does not support that the applicant is inadmissible under section 212(a)(9)(C) of the Act, as the applicant's conduct that served as the basis for the field office director's finding occurred prior to the enactment of section 212(a)(9)(C) of the Act. Further, the present record does not show that he has entered the United States since his removal on or about July 22, 1999, thus 10 years have passed since his last departure and the bar to admission in section 212(a)(9)(C) of the Act would no longer adhere.

- (1) The Attorney General [now the Secretary of Homeland Security (Secretary)] may, in the discretion of the Attorney General [Secretary], waive the application of clause (i) of subsection (a)(6)(C) in the case of an alien who is the spouse, son or daughter of a United States citizen or of an alien lawfully admitted for permanent residence, if it is established to the satisfaction of the Attorney General [Secretary] that the refusal of admission to the United States of such immigrant alien would result in extreme hardship to the citizen or lawfully resident spouse or parent of such an alien.

Section 212(a)(2)(A) of the Act states, in pertinent parts:

- (i) [A]ny alien convicted of, or who admits having committed, or who admits committing acts which constitute the essential elements of –
- (I) a crime involving moral turpitude (other than a purely political offense) or an attempt or conspiracy to commit such a crime . . . is inadmissible.

Section 212(a)(9) of the Act states, in pertinent part:

....
(C) Aliens unlawfully present after previous immigration violations.-

(i) In general.-Any alien who-

(I) has been unlawfully present in the United States for an aggregate period of more than 1 year, or

(II) has been ordered removed under section 235(b)(1), section 240, or any other provision of law,

and who enters or attempts to reenter the United States without being admitted is inadmissible.

(ii) Exception.- Clause (i) shall not apply to an alien seeking admission more than 10 years after the date of the alien's last departure from the United States if, prior to the alien's reembarkation at a place outside the United States or attempt to be readmitted from a foreign contiguous territory, the Secretary has consented to the alien's reapplying for admission.

The regulation at 8 C.F.R. § 103.3(a)(1)(v) states, in pertinent part:

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.

Inasmuch as the applicant has failed to identify specifically an erroneous conclusion of law or statement of fact in this proceeding, the appeal must be summarily dismissed.

In proceedings regarding a waiver of grounds of inadmissibility under sections 212(h) and (i) of the Act, the burden of proving eligibility remains entirely with the applicant. *See* Section 291 of the Act, 8 U.S.C. § 1361. Here, the applicant has not met that burden. Accordingly, the appeal will be summarily dismissed.

ORDER: The appeal is summarily dismissed.