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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**

*HS*

FILE: [REDACTED] Office: BALTIMORE, MD

Date: FEB 17 2011

IN RE: [REDACTED]

APPLICATION: Application for Waiver of Grounds of Inadmissibility under 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 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.

Thank you,

*Perry Rhew*

Perry Rhew  
Chief, Administrative Appeals Office

**DISCUSSION:** The waiver application was denied by the District Director, Baltimore, Maryland. A subsequent appeal was rejected by the Administrative Appeals Office (AAO) as untimely filed. The matter is now before the AAO on motion to reopen. The motion will be summarily dismissed.

The applicant, a native and citizen of Guyana, was found inadmissible 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 having procured entry to the United States in 1990 by fraud or willful misrepresentation. The applicant seeks a waiver of inadmissibility pursuant to section 212(i) of the Act, 8 U.S.C. § 1182(i).

The district director concluded that the applicant had failed to establish that extreme hardship would be imposed on a qualifying relative and denied the Application for Waiver of Grounds of Excludability (Form I-601) accordingly. *Decision of the District Director*, dated June 27, 2007.

The AAO, on appeal, noted that the district director issued the decision on June 27, 2007, and properly gave notice to the applicant that she had 33 days to file the appeal. The Form I-290B, Notice of Appeal, was not received by the USCIS until August 1, 2007, 35 days after the decision was issued. Accordingly, the AAO concluded that the appeal was untimely filed and further noted that the untimely filed appeal failed to meet the requirements of either a motion to reopen or a motion to reconsider, as outlined in 8 C.F.R. § 103.3(a)(2)(v)(B)(2). The appeal was rejected as untimely filed. *Decision of the AAO*, dated April 26, 2010.

On motion to reopen, counsel for the applicant lists four issues: whether the administrative appeals office erred in determining that the filing by previous counsel was untimely, whether the administrative appeals office received the brief and supporting documents submitted by previous counsel and failed to consider the brief, whether the applicant was afforded her due process rights and whether previous counsel's legal representation is tantamount to ineffective assistance of counsel. *See Form I-290B*, dated May 27, 2010.

A motion to reopen must state the new facts to be provided in the reopened proceeding and be supported by affidavits or other documentary evidence. 8 C.F.R. § 103.5(a)(2). A motion that does not meet applicable requirements shall be dismissed. 8 C.F.R. § 103.5(a)(4).

Counsel and/or the applicant have failed to state the new facts to be provided in the reopened proceeding and moreover, have failed to support said facts by affidavits or other documentary evidence in accordance with 8 C.F.R. § 103.5(a)(2). As no additional evidence is presented on motion to reopen to overcome the decision of the AAO, the appeal will be dismissed in accordance with 8 C.F.R. § 103.5(a)(4).

The burden of proving eligibility for a waiver under section 212(i) of the Act rests with the applicant. *See* section 291 of the Act, 8 U.S.C. § 1361. The AAO finds that in the present case, the applicant has not met her burden.

**ORDER:** The motion is dismissed.