

identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy

PUBLIC COPY



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**

H5

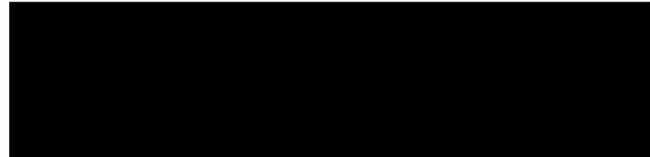


Date: **APR 20 2012** Office: KINGSTON, JAMAICA FILE:

IN RE: Applicant:

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.

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 Officer-in-Charge (OIC), Kingston, Jamaica. A subsequent appeal was dismissed by the Administrative Appeals Office (AAO). The matter is now before the AAO on a motion to reopen. The motion will be dismissed.

The applicant is a native and citizen of Nigeria who was admitted to the United States on July 28, 1998 with a B-2 nonimmigrant visa, with authorization to remain in the United States until January 27, 1999. On August 15, 1998, the applicant entered into a marriage with a U.S. citizen while still married to his first wife. On December 4, 1998, the applicant's U.S. citizen wife filed a Petition for Alien Relative (Form I-130) on behalf of the applicant. On December 11, 2003, the District Director, Charlotte, North Carolina, denied the applicant's Form I-130, finding the applicant entered into a marriage for immigration purposes. The applicant subsequently was found ineligible for an immigrant visa as a dependent of his first wife, who became a lawful permanent resident as the beneficiary of an approved immigrant worker petition. On May 7, 2007, the OIC denied the applicant's Application for Waiver of Grounds of Inadmissibility (Form I-601), finding the applicant had attempted to procure a benefit under the Act through fraud or the willful misrepresentation of a material fact and had failed to demonstrate extreme hardship to a qualifying relative. On June 4, 2007, the applicant, through counsel, filed an appeal of the OIC's decision with the AAO. On September 8, 2010, the AAO dismissed the applicant's appeal. On or about October 2, 2010, the applicant filed a motion to reopen and reconsider the AAO's decision.

The regulation at 8 C.F.R. §§ 103.5(a)(1)(iii) lists the filing requirements for motions to reopen and motions to reconsider. Section 103.5(a)(1)(iii)(C) requires that motions be "[a]ccompanied by a statement about whether or not the validity of the unfavorable decision has been or is the subject of any judicial proceeding." In this matter, the motion does not contain the statement required by 8 C.F.R. § 103.5(a)(1)(iii)(C). The regulation at 8 C.F.R. § 103.5(a)(4) states that a motion which does not meet applicable requirements must be dismissed. Therefore, because the instant motion did not meet the applicable filing requirements listed in 8 C.F.R. § 103.5(a)(1)(iii)(C), it must be dismissed for this reason.

Accordingly, the motion will be dismissed, the proceedings will not be reopened or reconsidered, and the previous decision of the Officer-in-Charge and the AAO will not be disturbed.

ORDER: The motion is dismissed.