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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



#3

Date: **APR 24 2012** Office: NEWARK, NEW JERSEY



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 Field Office Director, Newark, New Jersey. 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 applicant is a native and citizen of Guyana who applied for a B-2 nonimmigrant visa to the United States using a fraudulent employment letter. On May 20, 1999, the applicant was refused the visa. On June 13, 1999, the applicant entered the United States without inspection. On October 26, 2005, the applicant filed an Application for Waiver of Grounds of Inadmissibility (Form I-601). On July 1, 2007, the Field Office District Director denied the applicant's Form I-601, finding the applicant had attempted to procure an immigration benefit by fraud or the willful misrepresentation of a material fact and had failed to demonstrate extreme hardship to a qualifying relative. On August 3, 2007, the applicant, through counsel, filed an appeal of the Field Office Director's decision with the AAO. On January 7, 2010, the AAO dismissed the applicant's appeal. On February 8, 2010, the applicant, through counsel, filed a motion to 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 decisions of the Field Office Director and the AAO will not be disturbed.

ORDER: The motion is dismissed.