



U.S. Citizenship  
and Immigration  
Services

H5

[Redacted]

Date: DEC 17 2012 Office: MILWAUKEE, WISCONSIN FILE: [Redacted]

IN RE: Applicant: [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:

[Redacted]

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 AAO inappropriately applied the law in reaching its decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen in accordance with the instructions on Form I-290B, Notice of Appeal or Motion, with a fee of \$630. The specific requirements for filing such a motion can be found at 8 C.F.R. § 103.5. **Do not file any motion directly with the AAO.** Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires any motion to be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you,

Ron Rosenberg  
Acting Chief, Administrative Appeals Office

**DISCUSSION:** The waiver application was denied by the Field Office Director, Milwaukee, Wisconsin. An appeal was dismissed by the Administrative Appeals Office (AAO). The matter is now before the AAO on a motion. The motion will be dismissed and the underlying application remains denied.

The applicant is a native and citizen of El Salvador who was found to be inadmissible to the United States 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 into the United States by fraud or willful misrepresentation. The applicant filed an Application for Waiver of Grounds of Inadmissibility (Form I-601), and on September 3, 2008, the Field Office Director denied the applicant's Form I-601, finding the applicant had failed to demonstrate the bar to her admission would impose extreme hardship on a qualifying relative. *Decision of the Field Office Director*, dated September 3, 2008. On October 3, 2008, the applicant appealed the Field Office Director's decision to the AAO. On May 13, 2011, the AAO dismissed the applicant's appeal. On June 10, 2011, the applicant filed a motion to reopen and reconsider the AAO's decision.

In its May 13, 2011 decision, the AAO found that the applicant established extreme hardship to her qualifying relative should he join the applicant in El Salvador; however, she failed to demonstrate extreme hardship to him if he remained in the United States. On motion, the applicant, through counsel, claims that the applicant's husband will suffer extreme hardship if he is separated from the applicant because of his "declining physical and mental health." *Form I-290B, Notice of Appeal or Motion*, filed June 10, 2011. Counsel also claims that evidence of the applicant's spouse's declining health will be submitted within 30 days; however, no additional evidence was submitted. According to 8 C.F.R. § 103.5(a)(2), a motion to reopen must state new facts to be proved and be supported by affidavits or other documentary evidence. 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 Service policy. 8 C.F.R. § 103.5(a)(3). A motion that does not meet applicable requirements shall be dismissed. 8 C.F.R. § 103.5(a)(4). As the applicant has not submitted new documentary evidence to support her claim and has not stated reasons for reconsideration that are supported by precedent decisions, the motion to reopen and reconsider will be dismissed.

In proceedings for application for waiver of grounds of inadmissibility under section 212(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 AAO's dismissal of the appeal is upheld and the underlying waiver application is denied.

**ORDER:** The motion is dismissed and the previous decisions of the Field Office Director and the AAO are affirmed. The application is denied.