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U.S. Department of Homeland Security
U. S. Citizenship and Immigration Services
Office of Administrative Appeals (AAO)
20 Massachusetts Ave., N.W., MS 2090
Washington, DC 20529-2090



U.S. Citizenship
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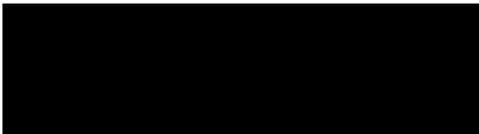
DATE: **JAN 25 2012** OFFICE: CALIFORNIA SERVICE CENTER

FILE: 

IN RE: APPLICANT: 

PETITION: 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 Director, California Service Center, and a subsequent appeal was dismissed by the Administrative Appeals Office (AAO). The applicant has filed a motion to reopen the decision of the AAO. The motion to reopen will be dismissed.

The applicant is a native and citizen of Mexico 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 attempted to procure admission to the United States through fraud or misrepresentation. The applicant is the son of a lawful permanent resident and is the beneficiary of an approved Form I-130 Petition for Alien Relative. The applicant seeks a waiver of inadmissibility pursuant to section 212(i) of the Act, 8 U.S.C. § 1182(i), in order to remain in the United States with his lawful permanent resident mother.

The Service Center Director concluded that the applicant failed to establish extreme hardship to a qualifying relative given the applicant's inadmissibility and denied the application accordingly. *See Decision of Service Center Director* dated April 22, 2008. The AAO dismissed the subsequent appeal, again finding the record failed to establish extreme hardship to the qualifying relative. *See Decision of the Chief, AAO* dated November 9, 2010.

On the motion to reopen, counsel for the applicant contends that the AAO did not address several issues in its decision. *Form I-290B, Notice of Appeal or Motion*, December 5, 2010.

Upon review, the motion shall be dismissed for failing to meet applicable requirements.

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.

Furthermore, upon review, the AAO will dismiss the motion for failing to meet the applicable requirements for motions to reopen as set forth in 8 C.F.R. § 103.5(a)(2). This regulation states, in pertinent part, that "[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." *Id.* As noted, the AAO dismissed the appeal because the applicant failed to establish extreme hardship to a qualifying relative. Counsel has failed to state any new facts or provide supporting evidence as required for the motion to reopen.

As such, the motion does not meet the applicable requirements and must be dismissed. 8 C.F.R. § 103.5(a)(4).

Motions for the reopening or reconsideration of immigration proceedings are disfavored for the same reasons as petitions for rehearing and motions for a new trial on the basis of newly discovered evidence. *See INS v. Doherty*, 502 U.S. 314, 323 (1992)(citing *INS v. Abudu*, 485 U.S. 94 (1988)). A party seeking to reopen a proceeding bears a "heavy burden." *INS v. Abudu*, 485 U.S. at 110. With the current motion, the movant has not met that burden. Accordingly, the motion will be dismissed, the proceedings will not be reopened, and the previous decisions of the Service Center Director and the AAO will not be disturbed.

ORDER: The motion is dismissed.