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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

[REDACTED]

115

DATE: JUL 02 2012

Office: MILWAUKEE, WI

FILE: [REDACTED]

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:

[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.

Thank you,

for Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The waiver application was denied by the Field Office Director, Milwaukee, Wisconsin and the Administrative Appeals Office (AAO) dismissed a subsequent appeal. The matter is now before the AAO on a combined motion to reopen and motion to reconsider. The motions will be dismissed.

The applicant, born in Jerusalem, is a citizen of Jordan who was found to be inadmissible to the United States pursuant to 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 sought a benefit under the Act through fraud or willful misrepresentation. He is the spouse and father of U.S. citizens. The applicant seeks a waiver of inadmissibility in order to reside in the United States.

The Field Office Director concluded that the applicant had failed to establish that the bar to his admission would impose extreme hardship on a qualifying relative and denied the Form I-601, Application for Waiver of Grounds of Inadmissibility, accordingly. *Decision of the Field Office Director*, dated April 15, 2011. On appeal, the AAO also found that the record did not demonstrate that the applicant's inadmissibility would result in extreme hardship for a qualifying relative and dismissed the appeal. *Decision of the AAO Chief*, dated March 27, 2012.

On motion, counsel for the applicant states that the AAO erred in finding that the applicant must establish extreme hardship to his spouse in Jordan. He also asserts that new facts and evidence support a finding of severe hardship based on the applicant's spouse's mental health and that new facts support a finding of significant financial hardship for the applicant's spouse and child. Counsel also contends that the AAO did not consider hardship to the applicant's child. *Form I-290B, Notice of Appeal or Motion*.

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 policy. A motion to reconsider a decision on an application or petition must, when filed, also establish that the decision was incorrect based on the evidence of record at the time of the initial decision. 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).

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 that does not meet applicable requirements must be dismissed. Therefore, because the instant motion does not meet the filing requirements listed at 8 C.F.R. § 103.5(a)(1)(iii)(C), it must be dismissed.

The burden of proving eligibility for a waiver of inadmissibility rests with the applicant. *See* Section 291 of the Act, 8 U.S.C. § 1361. In the present case, the applicant has not met his burden.

ORDER: The motions are dismissed.