



U.S. Citizenship  
and Immigration  
Services

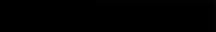


H5

DATE: NOV 06 2012

OFFICE: ACCRA

FILE: 

IN RE: 

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:

SELF-REPRESENTED

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,

Perry Rhew  
Chief, Administrative Appeals Office

**DISCUSSION:** The waiver application was denied by the Field Office Director, Accra, Ghana. A subsequent appeal was dismissed by the Administrative Appeals Office (AAO), and this matter is now before the AAO on a motion to reopen or reconsider. The motion will be dismissed.

The applicant is a native and citizen of Ghana who applied for a non-immigrant visa on February 28, 2006. A database check determined that an arrest for a drug-related offense was associated with two phonetically identical names to the applicant and also referenced a passport that belonged to the applicant. The applicant acknowledged an encounter that may implicate such a charge, but claimed that it was a case of mistaken identity. The applicant stated that he would submit a letter of clearance. The Field Office Director determined that the authority initiating the database hit confirmed that the applicant is the same person as the subject of the hit. The Field Office Director found the applicant 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 attempting to procure entry to the United States by fraud or willful misrepresentation. The applicant seeks a waiver of inadmissibility in order to reside in the United States with his U.S. citizen spouse.

The Field Office Director found that the applicant failed to demonstrate extreme hardship to his qualifying relative U.S. citizen spouse and denied the Form I-601 application for a waiver accordingly. *Decision of the Field Office Director*, dated May 28, 2008. On appeal, the AAO issued a request for evidence to the applicant on January 10, 2011, requesting the letter of clearance that the applicant stated he would provide. On May 19, 2011, the AAO issued a decision denying the applicant's appeal of his Form I-601 denial as the applicant submitted a police clearance letter from the Ghana Police, Criminal Investigation Department, while the record indicates that the applicant's arrest took place in London. See *Decision of the AAO*, dated May 19, 2011.

In his motion to reopen and reconsider, the applicant asserts on his Form I-290B that he never stated that his alleged arrest took place in the United Kingdom and rather he stated it took place in Ghana. The applicant asserts that he volunteered information concerning the alleged incident and that the Department of State record is in error. The applicant stated that a supplemental brief would follow. The AAO has not received a supplemental brief or evidence from the applicant.

A motion to reopen must state the new facts to be proved in the reopened proceeding and be supported by affidavits or other documentary evidence. 8 C.F.R. § 103.5(a)(2). The applicant, in his Form I-290B, states that his alleged arrest took place in Ghana rather than London and that he submitted a clearance letter from Ghana. However, no affidavits or other documentary evidence were attached to the 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 Service 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 applicant does not refer to any pertinent precedent decision or specify how the AAO's decision relied upon an incorrect application of law or Service policy. The evidence of record at the time of the initial decision indicates that the applicant was arrested on a drug-related charge in the United Kingdom and the record did not contain a clearance letter concerning the applicant's criminal history in the United Kingdom. Prior to the applicant's motion to reopen and reconsider, there was no allegation from *the applicant that his arrest took place in Ghana. Accordingly, the applicant has failed to establish that the AAO's decision was incorrect based on the evidence of record at the time of its initial decision.*

The AAO finds that the applicant's motion fails to identify any erroneous conclusion of law or policy and fails to identify new facts supported by evidence. The motion is therefore dismissed.

**ORDER:** The motion to reopen and reconsider is dismissed.