

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



U.S. Citizenship
and Immigration
Services

715

DATE: NOV 14 2012 OFFICE: BOSTON

FILE: [REDACTED]

IN RE: [REDACTED]

APPLICATION: Application for Waiver of Grounds of Inadmissibility under section 212(i),
8 U.S.C. § 1182(i) of the Act

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 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 with the field office or service center that originally decided your case by filing a 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, Boston, Massachusetts, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be summarily dismissed.

The applicant is a native and citizen of Brazil. He was found to be inadmissible to the United States pursuant to section 212(a)(6)(C)(i) of the Act, 8 U.S.C. § 1182(a)(6)(C)(i), for having procured a visa and admission into the United States through fraud or material misrepresentation. The applicant seeks a waiver of inadmissibility under section 212(i) of the Act, 8 U.S.C. § 1182(i), in order to reside in the United States with his U.S. citizen spouse.

On February 20, 2009, the Field Office Director denied the applicant's Form I-601 stating that the applicant failed to demonstrate that his qualifying relative would suffer extreme hardship as a result of his inadmissibility. The applicant's appeal was timely filed with the Field Office Director on March 11, 2009, however, the AAO did not receive the applicant's appeal until July 1, 2012.

On appeal, counsel for the applicant stated that that the applicant was "filing an appeal" and that her "brief and/or additional evidence is attached."

8 C.F.R. § 103.3(a)(1) states in pertinent part:

(v) *Summary dismissal.* An officer to whom an appeal is taken shall summarily dismiss any appeal when the party concerned fails to identify specifically any erroneous conclusion of law or statement of fact for the appeal.

The AAO did not receive a brief and/or additional evidence from counsel for the applicant with the appeal. Moreover, on Form I-290B, Part 3, the applicant did not *specifically* identify any *erroneous conclusion* of law or statement of fact in the Field Office Director's decision. Counsel simply stated that the applicant's spouse's "affidavit shows her hardship" and that "[s]he has had only two men in her life" and "[s]he relies on her husband for everything (sic)." Going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. *Matter of Soffici*, 22 I&N Dec. 158, 165 (Comm. 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm. 1972)). The AAO finds that the applicant's appeal failed to specifically identify any erroneous conclusion of law or statement of fact in the Field Office Director's decision.

In proceedings for an application for waiver of grounds of inadmissibility, the burden of proving eligibility remains entirely with the applicant. Section 291 of the Act, 8 U.S.C. § 1361. Here, the applicant has not met that burden. The appeal is therefore summarily dismissed.

ORDER: The appeal is summarily dismissed.