



**U.S. Citizenship
and Immigration
Services**

(b)(6)

Date: **APR 18 2013**

Office: NEWARK, NJ

FILE: [REDACTED]

IN RE:

Applicant: [REDACTED]

APPLICATION: Application for Waiver of Grounds of Inadmissibility pursuant to section 212(i) of the Immigration and Nationality Act (the 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 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, Newark, New Jersey. The Administrative Appeals Office (AAO) dismissed a subsequent appeal. The matter is now before the AAO on motion. The motion will be dismissed and the underlying application remains denied.

The record reflects that the applicant is a native and citizen of Albania who was found to be inadmissible pursuant to section 212(a)(6)(C)(i) of the Act for willful misrepresentation of a material fact in order to procure an immigration benefit. The applicant is married to a U.S. citizen and seeks a waiver of inadmissibility pursuant to section 212(i) of the Act in order to reside with his wife and child in the United States.

The field office director found that the applicant failed to establish extreme hardship to a qualifying relative and denied the application accordingly. The AAO dismissed the appeal, also finding that there was insufficient evidence in the record to show extreme hardship to a qualifying relative.

On appeal, the applicant contends the "immigration officer abused his discretionary power to reject [the] waiver without fully considering my [the applicant's] hardship." The applicant explained the circumstances surrounding his misrepresentation, admitted that what he did was wrong, and states that he is now married and loves his wife and stepson. Counsel submits a cover letter listing eleven documents in support of the motion.

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). 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).

Here, the applicant's filing does not meet the requirements of a motion. Although the motion contains some documentary evidence,¹ neither the applicant nor counsel has stated any new facts to be proved in the reopened proceedings. As such, it is unclear what the newly submitted documents purportedly establish. Therefore, the motion does not meet the requirements of a motion to reopen. In addition, the motion does not meet the requirements of a motion to reconsider. Aside from asserting that the AAO failed to fully consider the applicant's hardship, neither the applicant nor counsel state any reason for reconsideration or specify why the AAO's decision was incorrect. Moreover, the AAO notes that the applicant's hardship is not at issue as the only qualifying relative

¹ Counsel submits a Form G-28, a copy of the AAO's decision, copies of receipt notices for a Form I-130 and Form I-485, a copy of the applicant's passport and visa, an employment verification letter, a copy of automobile insurance cards, a bank account statement, copies of photographs, and a copy of a previously submitted affidavit from the applicant's wife. Although counsel states a copy of the U.S. Department of State's Country Reports on Human Rights Practices for Albania is also included, the record does not contain a copy of this report.

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in the case is the applicant's wife, Ms. [REDACTED] Counsel provides no brief or explanation for why the case should be reopened or reconsidered.

The motion does not meet the applicable requirements of a motion. Accordingly, the motion will be dismissed.

ORDER: The motion is dismissed and the underlying application remains denied.