



U.S. Citizenship  
and Immigration  
Services

(b)(6)

DATE: APR 19 2013 Office: MEXICO CITY, MEXICO

FILE: [REDACTED]

IN RE: Applicant: [REDACTED]

APPLICATION: Application for Waiver of Grounds of Inadmissibility under sections 212(a)(9)(B)(v) and 212(i) of the Immigration and Nationality Act (the Act), 8 U.S.C. sections 1182(a)(9)(B)(v), 212(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,

Ron Rosenberg,  
Acting Chief, Administrative Appeals Office.

**DISCUSSION:** The waiver application was denied by the Field Office Director, Mexico City, Mexico. The denial was appealed to the Administrative Appeals Office (AAO). The appeal was dismissed. The applicant filed a motion to reopen and reconsider the AAO decision, which is now before the AAO. The motion will be dismissed.

The applicant is a native and citizen of Mexico. She was found to be inadmissible to the United States pursuant to section 212(a)(9)(B)(i)(II) of the Act, 8 U.S.C. § 1182(a)(9)(B)(i)(II), and section 212(a)(6)(C)(i) of the Act, 8 U.S.C. § 1182(a)(6)(C)(i), for having been unlawfully present in the United States for one year or more and seeking admission within 10 years of her last departure. She is married to a United States citizen. She seeks a waiver of inadmissibility pursuant to sections 212(a)(9)(B)(v) and 212(i) of the Act, 8 U.S.C. §§ 1182(a)(9)(B)(v), (i).

The Field Office Director concluded that the applicant had failed to establish that the bar to her admission would impose extreme hardship on a qualifying relative, her U.S. citizen spouse, and denied the Application for Waiver of Grounds of Inadmissibility (Form I-601) on October 5, 2009. The AAO found that the applicant's spouse would not experience extreme hardship upon relocation to Mexico or remaining in the United States. *AAO Decision*, dated March 30, 2012. The AAO dismissed the appeal accordingly.

On motion, the applicant's spouse asserts that he will suffer extreme hardship if the applicant is not permitted to reside in the United States. *Form I-290B*, received July 16, 2012.

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: (1) 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 USCIS policy; and (2) 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).

On motion, the applicant's spouse repeats previous assertions of extreme hardship related to the conditions in Mexico, family ties in the United States, medical conditions of family members and financial and hardship. The motion includes previously submitted evidence and statements from family members. The statements from family members and friends reiterate previous assertions, and do not reveal any new facts to be proved for this proceeding. The applicant's spouse's statement also fails to make clear any new fact to be proved for this proceeding, and the AAO notes that the record still lacks sufficient evidence to establish the actual medical conditions of any family members.

The applicant's assertions regarding psychological and financial hardship were addressed in the AAO's previous decision. Based on these observations, the AAO does not find any basis upon which to grant the applicant's motion for reopening.

As a motion to reconsider, the applicant's spouse has submitted a statement asking the AAO to reconsider its conclusions because he and his children "have been and are still" experiencing a range of hardship factors related to the applicant's inadmissibility. *Statement of the Applicant's Spouse*, received July 12, 2012. The statement of the applicant's spouse fails to cite any precedent decisions or other legal authority to establish that the decision was based on an incorrect application of law or USCIS policy. Nor does the applicant's statement on the I-290B or the applicant's spouse's submitted statement indicate that the AAO's decision was wrong based on the evidence in the record at the time of the decision.

Based on these observations the applicant's Form I-290B does not meet requirements of a motion to reopen or reconsider.

Section 291 of the Act, 8 U.S.C. § 1361, provides that the burden of proof is upon the applicant to establish that he is eligible for the benefit sought. *See* section 291 of the Act, 8 U.S.C. § 1361. Here, the applicant has not met that burden. Accordingly, the motion will be dismissed.

**ORDER:** The motion is dismissed.