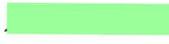


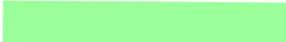


U.S. Citizenship  
and Immigration  
Services

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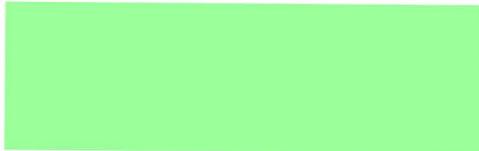


DATE: **JUL 05 2013** Office: ATLANTA, GA FILE: 

IN RE: APPLICANT: 

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:



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,

A handwritten signature in black ink, appearing to read "Ron Rosenberg".

Ron Rosenberg,  
Acting Chief, Administrative Appeals Office

**DISCUSSION:** The waiver application was denied by the Field Office Director, Atlanta, Georgia. 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 was also denied. The applicant has filed a new motion to reconsider, which is now before the AAO. The motion will be dismissed.

The applicant is a native and citizen of India who 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). The applicant does not have a qualifying relative, yet seeks a waiver of inadmissibility pursuant to section 212(i) of the Act, 8 U.S.C. § 1182(i).

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 Application for Waiver of Grounds of Inadmissibility (Form I-601), date of service June 29, 2007. On appeal, the AAO found that the applicant was inadmissible for misrepresentation and had failed to establish prima facie eligibility for a waiver under section 212(i) of the Act. *AAO Decision*, dated October 22, 2010. On motion the AAO found counsel's assertion that the applicant was not responsible for misrepresentation to lack merit and that the applicant had failed to establish that he has a qualifying relative. *AAO Decision*, dated August 13, 2012.

On motion, counsel for the applicant's continues to assert that the applicant's former attorney submitted the fraudulent documents used to obtain his visa, and states that he is submitting evidence not available at the time of the applicant's appeal. *Form I-290B*, received September 12, 2012.

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).

Assertions by counsel that the applicant's former attorney submitted a fraudulent marriage application "completely unbeknownst" to the applicant has already been examined. In fact, assertions by current counsel that the applicant's former attorney had been "convicted of immigration fraud and imprisoned" were found not to be true. Further, the AAO found it implausible that, as asserted by the applicant, the applicant hired his former attorney to file an application for immigration benefits for him but that he did not sign any petition or play any role in signing or submitting his petition. *See Brief in Support of Appeal*, [REDACTED] Esq., dated December 21, 2010 (admitting that the applicant had hired his former attorney to obtain a U.S. visa for him but that he had nothing to do the fraudulent application); *AAO Decision*, dated August 14, 2012 (finding that the applicant's former attorney likely could not have fabricated personal information and details of the fraudulent application). Restating the assertion that the applicant's former attorney is responsible for the applicant's misrepresentations is not an articulation of an incorrect application of law or USCIS policy. Neither has counsel pointed to any precedent cases which indicate that the AAO has not applied the law or USCIS policy correctly.

Counsel has asserted that testimony from a handwriting analyst was not available at the time of the appeal, but fails to explain how such evidence could not be obtained. Counsel's assertions do not demonstrate that the AAO's decision was incorrect based on the evidence in the record at the time of the appeal and subsequent motions. Counsel's assertions fail to meet the requirements of a motion to 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 to reconsider will be dismissed.

**ORDER:** The motion is dismissed.