



U.S. Citizenship
and Immigration
Services

(b)(6)

[Redacted]

Date: **SEP 04 2013**

Office: ST. PAUL, MINNESOTA

FILE: [Redacted]

IN RE: Applicant: [Redacted]

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:

[Redacted]

INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office (AAO) in your case.

This is a non-precedent decision. The AAO does not announce new constructions of law nor establish agency policy through non-precedent decisions. If you believe the AAO incorrectly applied current law or policy to your case or if you seek to present new facts for consideration, you may file a motion to reconsider or a motion to reopen, respectively. Any motion must be filed on a Notice of Appeal or Motion (Form I-290B) within 33 days of the date of this decision. **Please review the Form I-290B instructions at <http://www.uscis.gov/forms> for the latest information on fee, filing location, and other requirements. See also 8 C.F.R. § 103.5. Do not file a motion directly with the AAO.**

Thank you,

For

Ron Rosenberg
Chief, Administrative Appeals Office

DISCUSSION: The waiver application was denied by the Field Office Director, St. Paul, Minnesota. An appeal was dismissed by the Administrative Appeals Office (AAO). A subsequent motion was granted and the decision of the AAO was affirmed. The matter is again before the AAO on motion. The motion will be dismissed.

The applicant is a native of Somalia and a citizen of Australia who was found 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 having procured entry into the United States by fraud or willful misrepresentation. The applicant filed an Application for Waiver of Grounds of Inadmissibility (Form I-601), and on October 16, 2007, the Field Office Director denied the applicant's Form I-601, finding the applicant had failed to demonstrate extreme hardship to a qualifying relative. *Decision of the Field Office Director*, dated October 16, 2007.

On November 13, 2007, the applicant appealed the Field Office Director's decision with the AAO. On June 17, 2010, the AAO dismissed the applicant's appeal, concluding that extreme hardship to a qualifying relative had not been established. *See Decision of the AAO*, dated June 17, 2010.

In July 2010, the applicant filed a motion to reconsider the AAO's decision. The motion was granted but the AAO's decision was affirmed as the AAO found that extreme hardship to a qualifying relative had not been established. *See Decision of the AAO*, dated November 7, 2012.

On December 10, 2012, the AAO received a motion to reopen and reconsider. On motion, counsel indicates that a brief and additional evidence will be filed within 30 days. *See Form I-290B*, dated December 4, 2012. As of today, no brief and/or additional evidence with respect to the instant motion has been received by the AAO. The record is thus considered complete.

8 C.F.R. § 103.5(a) provides, in pertinent part:

(2) *Requirements for motion to reopen.*

A motion to reopen must state the new facts to be provided in the reopened proceeding and be supported by affidavits or other documentary evidence.....

(3) *Requirements for motion to reconsider.*

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.

(4) *Processing motions in proceedings before the Service.*

A motion that does not meet applicable requirements shall be dismissed.

(b)(6)

NON-PRECEDENT DECISION

Page 3

On motion, the applicant does not assert that the decision of the AAO was based on an incorrect application of law or Service policy and does not provide any pertinent precedent decisions in support of the motion. Further, no new facts are asserted and no affidavit or documentary evidence is submitted. As the motion does not meet the requirement of a motion to reconsider or a motion to reopen, it must be dismissed.

In application proceedings, it is the applicant's burden to establish eligibility for the immigration benefit sought. Section 291 of the Act, 8 U.S.C. § 1361. Here, that burden has not been met.

ORDER: The motion is dismissed.