



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

(b)(6)

DATE: **JUL 17 2014** OFFICE: LAWRENCE, MA

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:

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,

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

Ron Rosenberg
Chief, Administrative Appeals Office

DISCUSSION: The waiver application was denied by the Field Office Director, Lawrence, Massachusetts. A subsequent appeal was remanded to the Field Office Director, and then it was dismissed by the Administrative Appeals Office (AAO). The matter is now before the AAO on a fourth motion. The motion will be dismissed pursuant to 8 C.F.R. § 103.5(a)(4) (2014).

The applicant is a native and citizen of Ghana who has resided in the United States since February 23, 2005 when she presented a Belgian passport in the name of [REDACTED] which did not belong to her to procure admission into the United States. She 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) (2012), for having procured admission to the United States through fraud or misrepresentation,. The applicant was also found to be inadmissible under section 212(a)(6)(C)(i) of the Act for misrepresentations made in a 2004 nonimmigrant visa application. The applicant is the spouse of a U.S. citizen and is the beneficiary of an approved Petition for Alien Relative (Form I-130). The applicant seeks a waiver of inadmissibility pursuant to section 212(i) of the Act, 8 U.S.C. § 1182(i), in order to remain in the United States with her U.S. citizen spouse and children.

The Field Office Director concluded that the applicant failed to show her qualifying relative would experience extreme hardship given the applicant's inadmissibility and denied the application accordingly. *See Decision of Field Office Director* dated August 21, 2011. On appeal the AAO affirmed, finding the record lacked sufficient evidence to demonstrate that the applicant's spouse would experience extreme hardship either in the event of separation from the applicant or relocation to Ghana. *See AAO Decision*, May 10, 2012.

On the applicant's first motion, the AAO found although the applicant had submitted sufficient evidence to show her spouse would experience extreme hardship in the event of separation, she did not establish he would suffer extreme hardship upon relocation to Ghana. *See AAO Decision on motion*, July 3, 2013. The prior AAO decision was affirmed. *Id.*

On the second motion, the AAO affirmed that the applicant failed to demonstrate that her spouse would experience extreme hardship in the event of relocation to Ghana. *See AAO Decision on second motion*, November 5, 2013. The prior decision of the AAO was again affirmed. *Id.*

Pursuant to the applicant's third motion, the AAO once more found the applicant did not meet her burden of proof in establishing her spouse would experience extreme hardship in the form of immigration-related and other difficulties, upon relocation to Ghana. *See AAO Decision on third motion*, January 28, 2014.

On this fourth motion, counsel submits a statement on the Notice of Appeal or Motion (Form I-290B). Therein, counsel contends the applicant's spouse would experience extreme hardship upon relocation to Ghana because his lawful permanent resident mother, who resides in the United States, relies heavily on the applicant and her spouse given her serious medical conditions. In addition, counsel reiterates that the spouse would have difficulties because he is a naturalized United States citizen, and he would consequently have difficulties finding employment

in Ghana. Counsel indicates that additional evidence in support of the motion would be provided, but no such documentation is present in the record.

Upon review, the motion shall be dismissed for failing to meet applicable requirements.

The applicant has not met the requirements for motions to reconsider as set forth in 8 C.F.R. § 103.5(a)(3). This regulation states, in pertinent part, that "[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 [U.S. Citizenship and Immigration Services] policy." *Id.* On this fourth motion, counsel has not cited to any precedent decisions that establish that the AAO's decision was based on an incorrect application of law or policy.

The motion also does not meet the requirements for a motion to reopen as delineated in 8 C.F.R. § 103.5(a)(2). This regulation states, in pertinent part, that "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." Although counsel indicates the spouse's mother relies on the applicant and her spouse, and has serious medical conditions, the applicant did not supplement the record with any additional evidence.

As such, the motion does not meet the applicable requirements and must be dismissed. 8 C.F.R. § 103.5(a)(4).

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. Accordingly, the motion will be dismissed, the proceedings will not be reconsidered or reopened, and the previous decisions of the Field Office Director and the AAO will not be disturbed.

ORDER: The motion is dismissed.