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U.S. Department of Homeland Security  
U.S. Citizenship and Immigration Service  
Administrative Appeals Office (AAO)  
20 Massachusetts Ave., N.W., MS 2090  
Washington, DC 20529-2090

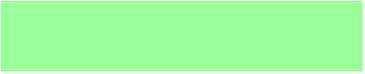


U.S. Citizenship  
and Immigration  
Services



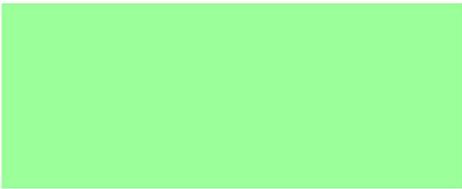
DATE: **JUN 09 2014** OFFICE: NEWARK

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 (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, Newark, New Jersey, the Administrative Appeals Office (AAO) summarily dismissed an appeal, and the matter is before us on motion to reopen and reconsider. The motion will be dismissed.

The applicant is a native and citizen of Morocco who was found to be inadmissible to the United States pursuant to section 212(a)(6)(C)(i) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(a)(6)(C)(i), for procuring a visa and admission to the United States by fraud or misrepresentation. The applicant seeks a waiver of inadmissibility in order to remain in the United States with his family.

The field office director found that the applicant failed to establish extreme hardship to his U.S. citizen spouse and denied the Application for Waiver of Grounds of Inadmissibility (Form I-601), accordingly. *Decision of the Field Office Director*, August 31, 2012. On appeal, counsel for the applicant did not provide a basis for the appeal, indicated she would file a brief and/or additional evidence within 30 days, and failed to do so. *Notice of Appeal or Motion (Form I-290B)*, September 17, 2012. The AAO summarily dismissed the appeal pursuant to 8 C.F.R. § 103.3(a)(1) (“An officer ... shall summarily dismiss any appeal when the party concerned fails to identify specifically any erroneous conclusion of law or statement of fact for the appeal.”), *Decision of the AAO*, May 10, 2013. Counsel filed a new Form I-290B on November 19, 2013 moving the AAO to reopen or reconsider and requesting 30 days to provide additional evidence. The AAO has not received any brief or additional evidence.

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

Any motion to reconsider a proceeding before the Service filed by an applicant or petitioner must be filed within 30 days of the decision that the motion seeks to reconsider. Any motion to reopen a proceeding before the Service filed by an applicant or petitioner must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires, may be excused in the discretion of the Service where it is demonstrated that the delay was reasonable and was beyond the control of the applicant or petitioner.

The AAO notes that the summary dismissal decision advised the applicant of the time limit for filing, yet counsel filed the motion more than 190 days after the date of the dismissal. Despite being untimely by more than five months, the motion contains no explanation for the delay.

The AAO finds that, as the applicant’s motion is untimely and no basis is given for the lateness, the delay is not excused. Accordingly, the motion must be dismissed.

**ORDER:** The motion is dismissed.