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



U.S. Citizenship  
and Immigration  
Services

Date: **MAY 23 2014**

Office: LAS VEGAS, NV

FILE: [REDACTED]

IN RE:

Applicant: [REDACTED]

APPLICATION:

Application for Waiver of Grounds of Inadmissibility pursuant to section 212(i) of the Immigration and Nationality Act (the 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 that reads "Ron Rosenberg".

Ron Rosenberg

Chief, Administrative Appeals Office

**DISCUSSION:** The waiver application was denied by the Field Office Director, Las Vegas, Nevada. The Administrative Appeals Office (AAO) dismissed a subsequent appeal and two motions. The matter is now before the AAO on a third motion. The motion will be dismissed and the underlying application remains denied.

The record reflects that the applicant is a native and citizen of India who was found to be inadmissible pursuant to section 212(a)(6)(C)(i) of the Act for willful misrepresentation of a material fact in order to obtain an immigration benefit, and section 212(a)(9)(B)(i)(II) of the Act for having been unlawfully present in the United States for more than one year. The applicant is married to a U.S. citizen and seeks a waiver of inadmissibility pursuant to sections 212(i) and 212(a)(9)(B)(v) of the Act in order to reside with his wife and children in the United States.

The field office director found that the applicant failed to establish extreme hardship to a qualifying relative and denied the application accordingly. The AAO dismissed the appeal and two subsequent motions, also finding that the applicant failed to establish extreme hardship to a qualifying relative. The applicant has now filed a third motion.

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 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. 8 C.F.R. § 103.5(a)(3). A motion that does not meet applicable requirements shall be dismissed. 8 C.F.R. § 103.5(a)(4).

Here, the applicant's filing does not meet the requirements of a motion. In response to the question asking for the basis for the motion, the Form I-290B states, in its entirety, "Applicant submits that the AAO erred in denying his Form I-601 application for waiver of grounds of inadmissibility." Although counsel submitted a letter with the Form I-290B, the letter merely recites the procedural history of the case, attaches the brief and accompanying exhibits from the previous motion, and requests thirty days to provide additional information and exhibits. However, to date, the AAO has not received a brief or any other additional evidence in support of the current motion. Counsel has not stated any new facts to be proved in the reopened proceedings and has not made any new legal argument. There is no contention that the AAO's last decision was based on an incorrect application of law or Service policy. Therefore, the motion does not meet the applicable requirements of a motion. Accordingly, the motion will 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 and the underlying application remains denied.