U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

MATTER OF C-A-M-P-

DATE: DEC. 18, 2015

MOTION OF ADMINISTRATIVE APPEALS OFFICE DECISION

APPLICATION: FORM I-601, APPLICATION FOR WAIVER OF GROUNDS OF INADMISSIBILITY

The Applicant, a native and citizen of El Salvador, seeks a waiver of inadmissibility. *See* Immigration and Nationality Act (the Act) § 212(i), 8 U.S.C. § 1182(i). The Director, Los Angeles Field Office, denied the application, and we dismissed the subsequent appeal. The Applicant filed a motion to reconsider our decision to dismiss the appeal. We granted the motion but affirmed the decision dismissing the appeal. The matter is now before us on a second motion to reopen and reconsider. The motion will be denied.

The Director denied the waiver application, finding that the Applicant did not establish that his mother, who is a qualifying relative in this case, would experience extreme hardship if the application was not granted. On appeal, we also determined that the Applicant did not demonstrate extreme hardship to his mother upon denial of his waiver application and dismissed the appeal accordingly. On motion, the Applicant submitted additional evidence consisting of a brief, psychological evaluation of his mother, and some financial documents. We granted the Applicant's motion in order to consider this new evidence. However, we ultimately affirmed our decision to dismiss the appeal, finding that the evidence considered in the aggregate was insufficient to establish that the Applicant's mother would experience extreme hardship upon denial of his waiver application.

The Applicant now submits a second motion to reopen and reconsider with the previously submitted psychological evaluation of his mother dated September 26, 2014, and a brief, in which he raises essentially the same issues as in the brief accompanying the first motion. Specifically, the Applicant reiterates that his mother, who is a lawful permanent resident, and his U.S. citizen daughter would experience extreme hardship if his waiver application is denied. In addition, the Applicant asserts that he is not responsible for the misrepresentations on the immigration petition he had previously submitted that resulted in determination of his inadmissibility. The Applicant claims that he did not willfully misrepresent any facts on the petition because it was prepared on his behalf by someone else.

The regulations at 8 C.F.R. § 103.5(a)(4) state, in pertinent part:

> *Processing motions in proceedings before the Service.* A motion that does not meet applicable requirements shall be dismissed.

The regulations at 8 C.F.R. § 103.5(a)(2) state, in pertinent part:

> *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.

The Applicant in the present case does not state new facts or provide evidence to support a motion to reopen. Rather, the Applicant resubmits the documents that he previously submitted and presents arguments that we previously considered in rendering a decision on his first motion and the underlying appeal. As these documents and arguments were part of the record prior to the filing of the instant motion, they cannot be deemed as new facts or evidence. Therefore, the Applicant has not satisfied the requirements of a motion to reopen. Accordingly, we must deny the Applicant's motion to reopen.

In addition, the regulations at 8 C.F.R. § 103.5(a)(3) state, in pertinent part:

> *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.

We have again reviewed the arguments regarding the determination of the Applicant's inadmissibility to the United States and the claims of hardship to his lawful permanent mother and U.S. citizen daughter. We addressed the Applicant's assertion that he did not willfully misrepresent facts in our previous decisions and concluded that the Applicant did not demonstrate that when he signed the petition, he was unaware of the misrepresentations it contained. The Applicant has not presented new evidence with the instant motion that would support a different conclusion. Going on record without supporting documentation will not meet the Applicant's burden of proof in this proceeding. *See Matter of Soffici,* 221&N Dec. 158, 165 (Comm. 1998) (citing *Matter of Treasure Craft of California,* 14 I&N Dec. 190 (Reg. Comm. 1972)).

Moreover, in our previous decision we explained that the Applicant's daughter is not a qualifying relative in the context of an application for a waiver under section 212(i) of the Act. We considered all relevant evidence and concluded that it was insufficient to show that hardship to the Applicant's daughter would elevate his mother's hardship to the level of extreme. The Applicant submits no new evidence that would cause us to reexamine this finding. As these arguments have been

previously presented by the Applicant in his briefs, we find no basis for reconsideration of our prior decisions. The instant motion does not present new evidence and does not identify any precedent decisions or misapplication of law or Service policy sufficient to overcome determination of the Applicant's inadmissibility to the United States or lack of evidence to establish extreme hardship to his mother. Moreover, the Applicant has not shown that our decision was incorrect based on the evidence of the record at the time of the initial decision. Accordingly, we must deny the Applicant's motion to reconsider.

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 to reopen is denied.

FURTHER ORDER: The motion to reconsider is denied.

Cite as *Matter of C-A-M-P-*, ID# 14874 (AAO Dec. 18, 2015)