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U.S. Department of Homeland Security
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



tlc

DATE: JUN 28 2011 Office: NEW YORK CITY, NEW YORK

Date: [Redacted]

IN RE: Applicant: [Redacted]

APPLICATION: Application for Waiver of Ground of Inadmissibility under section 212(a)(9)(B)(v) of the Immigration and Nationality Act, 8 U.S.C. § 1182(a)(9)(B)(v)

ON BEHALF OF APPLICANT:



INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office in your case. All of the documents related to this matter have been returned to the office that originally decided your case. Please be advised that any further inquiry that you might have concerning your case must be made to that office.

If you believe the law was inappropriately applied by us in reaching our decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. The specific requirements for filing such a request can be found at 8 C.F.R. § 103.5. All motions must be submitted to the office that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion, with a fee of \$630. Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires that any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you,

Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The waiver application was denied by the District Director, New York City, New York, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The record reflects that the applicant is a 32-year-old native and citizen of the Dominican Republic who was found to be inadmissible to the United States pursuant to section 212(a)(9)(B)(i)(II) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(a)(9)(B)(i)(II), for having been unlawfully present in the United States for more than one year and seeking readmission within ten years of his last departure from the United States. The applicant is married to a United States citizen (USC) 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(a)(9)(B)(v) of the Act, 8 U.S.C. § 1182(a)(9)(B)(v), in order to reside in the United States with his United States citizen spouse.

The District Director found that the applicant had failed to establish extreme hardship to a qualifying relative, and denied the Application for Waiver of Grounds of Inadmissibility (Form I-601) accordingly. *Decision of the District Director*, dated October 11, 2008.

On appeal, counsel asserts that the decision denying the Application for Waiver of Ground of Inadmissibility (Form I-601), is incorrect factually and as a matter of law and that the adjudicator failed to take into account that the applicant had an inadequate or ineffective assistance of counsel. *See Form I-290B, Notice of Appeal*, dated November 9, 2008. Counsel indicated on the Form I-290B that he will submit a brief and/or additional evidence to the AAO within 30 days. On April 11, 2011, the AAO sent a request to counsel to submit a brief and/or additional evidence as indicated. As of the date of this decision, no additional evidence has been received from counsel.

The regulation at 8 C.F.R. § 103.3(a)(1)(v) states that the AAO "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." In this case, counsel made very general statements and did not provide any specific erroneous conclusion of law or statement of facts as stated in 8 C.F.R. § 103.3(a)(1). Inasmuch as the counsel has failed to specifically articulate any erroneous conclusion of law or a statement of fact in this proceeding, the appeal must be summarily dismissed.

A review of the decision reveals that the director accurately set forth a legitimate basis for denial of the application. On appeal, counsel has not presented additional evidence in support of the waiver application. Nor has he adequately addressed the grounds stated for denial.

Section 291 of the Act, 8 U.S.C. § 1361, provides that the burden of proof is on the applicant to establish eligibility for the benefit sought. Here, the applicant has not met that burden. Accordingly, the appeal will be summarily dismissed.

ORDER: The appeal is summarily dismissed.