



U.S. Citizenship
and Immigration
Services



H6

DATE: DEC 03 2012

Office: NAIROBI, KENYA

FILE:



IN RE:



APPLICATION: Application for Waiver of Grounds 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:

SELF-REPRESENTED

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.

Thank you,

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

Ron Rosenberg
Acting Chief, Administrative Appeals Office

DISCUSSION: The waiver application was denied by the Field Office Director, Nairobi, Kenya, and the matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected.

The applicant is a native and a citizen of Ethiopia 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 admission within 10 years of his last departure. The applicant is the spouse of a U.S. citizen and the beneficiary of an approved Petition for Alien Relative. He seeks a waiver under 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 spouse.

The director concluded that the applicant had failed to establish that the bar to his admission would impose extreme hardship on a qualifying relative and denied the Form I-601, Application for Waiver of Grounds of Inadmissibility, accordingly. *See Field Office Director's Decision*, dated January 31, 2011.

On appeal, counsel stated that he would file a written brief to the AAO within 30 days. *See Form I-290B, Notice of Appeal or Motion*, dated March 1, 2011. However, as of the date of this decision, the AAO has not received counsel's brief. The record, therefore, is considered complete.

signed the Form I-290B as the applicant's attorney.¹ The record, however, does not contain a new and properly executed Form G-28, Notice of Entry of Appearance as Attorney or Representative, signed by both the attorney and the applicant.

In accordance with the U.S. Citizenship and Immigration Services (USCIS) regulation at 8 C.F.R. § 292.4(a) as well as the instructions to the Form I-290B, a "new [Form G-28] must be filed with an appeal filed with the Administrative Appeals Office." This regulation applies to all appeals filed on or after March 4, 2010. *See 75 Fed. Reg. 5225 (Feb. 2, 2010)*.

Without a new, fully executed Form G-28 authorizing the attorney to represent the applicant, the AAO cannot consider the appeal to have been properly filed as required by 8 C.F.R. § 103.3(a)(2)(v)(A)(2) and its subclauses. The appeal will therefore be rejected as improperly filed, under the regulation at 8 C.F.R. § 103.3(a)(2)(v)(A)(1).

ORDER: The appeal is rejected.

¹ The AAO notes that in 2006 entered an appearance in this case. *See Form G-28, Notice of Entry of Appearance of Attorney or Representative*, dated December 27, 2006. was suspended for six months from practicing law before the Department of Homeland Security and the Executive Office for Immigration Review on 24, 2012. *See In re: Attorney*, <http://www.justice.gov/eoir/discipline.htm>