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



H6

DATE: JUL 05 2012 OFFICE: VERMONT SERVICE CENTER FILE:

IN RE:

APPLICATION: Application for Waiver of Grounds of Inadmissibility pursuant to 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.

If you believe the AAO inappropriately applied the law in reaching its decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen with the field office or service center that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion, with a fee of \$630. The specific requirements for filing such a motion can be found at 8 C.F.R. § 103.5. **Do not file any motion directly with the AAO.** Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires any motion to 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 Director, Vermont Service Center, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be summarily dismissed.

The applicant, who is a native and citizen of Mexico, was found inadmissible under 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 ten years of his last departure from the United States. The applicant seeks a waiver of inadmissibility (Form I-601) 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 U.S. lawful permanent resident father.

On August 10, 2010, the Director denied the applicant's Form I-601 stating that the applicant failed to submit any evidence to demonstrate that his qualifying relative would suffer extreme hardship as a result of his inadmissibility. The applicant appealed that decision and on January 12, 2011, the Director rejected the applicant's appeal as improperly filed pursuant to 8 C.F.R. §§ 1003.3(a)(1)(iii)(B) and 1003.3(a)(2)(v), finding that the Form I-601 and appeal was improperly filed by the qualifying relative. The applicant then re-filed the appeal on February 9, 2011.

On the re-filed appeal, the applicant states that the initial appeal was filed pursuant to the instructions provided at the U.S. Consulate. The applicant submitted a new I-601 signature page signed by the applicant. The AAO notes that the applicant's initial I-601 was properly filed, where it was signed by the qualifying relative, as either the applicant or the qualifying relative may sign Form I-601.

On the initial appeal, Form I-290B, however, the applicant indicated that a brief and/or evidence would be submitted to the AAO within 30 days of the filing of the appeal. Pursuant to 8 C.F.R. § 103.3(a)(2)(vii) and (viii), an affected party may request additional time to file a brief, which is to be submitted directly to the AAO. The applicant stated that he would "be presenting all supporting documents such as medical diagnostic of my spouse's critical condition" and "evidence of financial crisis" within 30 days of filing the initial appeal. The AAO did not receive any additional evidence from the applicant.

8 C.F.R. § 103.3(a)(1) states in pertinent part:

(v) *Summary dismissal.* An officer to whom an appeal is taken 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.

The AAO finds that the applicant's appeal failed to specifically identify any erroneous conclusion of law or statement of fact in the Director's decision denying Form I-601. The applicant failed to identify any basis for extreme hardship to the qualifying relative and did not submit any supporting evidence to demonstrate extreme hardship. The two statements submitted by the applicant and his qualifying relative with the initial I-601 application fail to address the issue of

extreme hardship, as cited by the Director in his decision denying the waiver application. As stated above, the applicant failed to submit any additional evidence or identify any erroneous conclusion of law or statement of fact on appeal. Therefore, even if that appeal has not been rejected by the Director, the AAO would have summarily dismissed it. In the current appeal while the applicant has attempted to rectify the problem with the Form I-601, he still failed to submit any evidence to establish extreme hardship to a qualifying relative.

In proceedings for an application for waiver of grounds of inadmissibility under section 212(a)(9)(B)(v) of the Act, the burden of proving eligibility remains entirely with the applicant. Section 291 of the Act, 8 U.S.C. § 1361. Here, the applicant has not met that burden. The appeal is therefore summarily dismissed.

ORDER: The appeal is summarily dismissed.