



**U.S. Citizenship
and Immigration
Services**

**Non-Precedent Decision of the
Administrative Appeals Office**

MATTER OF H-O-B-

DATE: SEPT. 26, 2016

MOTION ON ADMINISTRATIVE APPEALS OFFICE DECISION

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

The Applicant, native and citizen of Mexico, seeks a waiver of inadmissibility for unlawful presence. *See* Immigration and Nationality Act (the Act) section 212(a)(9)(B)(v), 8 U.S.C. § 1182(a)(9)(B)(v). A foreign national seeking to be admitted to the United States as an immigrant or to adjust status to lawful permanent residence must be admissible or receive a waiver of inadmissibility. U.S. Citizenship and Immigration Services (USCIS) may grant this discretionary waiver if refusal of admission would result in extreme hardship to a qualifying relative or qualifying relatives.

The USCIS Field Office Director, San Bernardino, California denied the application. The Director found that the Applicant was inadmissible under section 212(a)(9)(C) of the Act for entering the United States without being admitted after having accrued unlawful presence in the United States for an aggregate period of more than one year. She found that because the Applicant was currently not eligible to apply for the waiver for this ground of inadmissibility, there was no purpose in granting her waiver for unlawful presence. We summarily dismissed a subsequent appeal because the Applicant did not identify any erroneous conclusion of law or statement of fact in the Director's decision.

The matter is now before us on a motion to reopen and a motion to reconsider. In the motion, the Applicant states that our summary dismissal was made in error because the Applicant did submit a brief and additional evidence with her appeal.

The regulation at 8 C.F.R. § 103.5(a)(2) states that 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 regulation at 8 C.F.R. § 103.5(a)(3) states that 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.

The Applicant states that our summary dismissal was made in error because the Applicant did submit a brief and additional evidence and that these documents were attached to her appeal and

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must have been lost when the filing was transferred to our office.¹ She did not submit a copy of the brief or additional documentation with the motion and did not specify what documents were submitted with the appeal or explain what assertions were made in those documents. In addition, the Applicant does not identify any precedent decisions or misapplication of law or USCIS policy to support her claim that she is eligible for the relief requested. The Applicant's motion to reopen and motion to reconsider will therefore be denied.

The Applicant's motion does not meet the requirements as stated in 8 C.F.R. § 103.5(a). The motion to reopen and the motion to reconsider are denied.

ORDER: The motion to reopen is denied.

ORDER: The motion to reconsider is denied.

Cite as *Matter of H-O-B-*, ID# 17708 (AAO Sept. 26, 2016)

¹ Although the Applicant states on motion that the brief or additional evidence was attached to the Notice of Appeal, on the Notice of Appeal the Applicant indicated that a brief or additional evidence was not attached, but would be submitted in 30 days.