



U.S. Citizenship
and Immigration
Services

Lg

[REDACTED]

FILE: [REDACTED]
MSC 05 251 10649

Office: NEW YORK

Date: DEC 08 2009

IN RE: Applicant: [REDACTED]

APPLICATION: Application for Waiver of Grounds of Excludability

ON BEHALF OF APPLICANT:

[REDACTED]

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. If your appeal was dismissed or rejected, all documents have been returned to the National Benefits Center. You no longer have a case pending before this office, and you are not entitled to file a motion to reopen or reconsider your case. If your appeal was sustained or remanded for further action, you will be contacted.


Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The Form I-690 Application for Waiver of Grounds of Excludability was denied by the director, New York. The decision is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The applicant submitted a Form I-690, Application for Waiver of Grounds of Excludability. As reason for excludability, the applicant noted that he was unlawfully present in the United States for a period of over one year. The applicant further stated that he should be granted a waiver for humanitarian reasons, because he is medically disabled. The director denied the application stating that the applicant failed to include information or evidence as to why a waiver should be granted. The director further stated that the applicant's Form I-687 had been denied on January 16, 2008 on grounds unrelated to his admissibility, and that the application was, therefore, moot.

On appeal, counsel states that the applicant is mentally retarded and cannot afford the medical fees to prove his case, and that he needs additional time to find counsel who will represent him on a pro bono basis. Counsel asks that the case be remanded with a new deadline so that the applicant may "pursue what appears at the moment to be a promising avenue of relief."

As stated in 8 C.F.R. § 103.3(a)(3)(iv), any appeal that fails to state the reason for appeal, or is patently frivolous, will be summarily dismissed.

A review of the decision reveals that the director accurately set forth a legitimate basis for denial of the application. The applicant did not specifically address the basis of the director's denial, that the applicant had submitted no evidence in support of his application. The applicant merely stated that he could not afford to prove his case. The appeal must, therefore, be summarily dismissed.

It should be further noted that the applicant's Form I-687, Application for Status as a Temporary Resident Under Section 245A of the Immigration and Nationality Act, was denied on grounds unrelated to the applicant's admissibility. As such, the waiver of excludability issue is moot. Also, the issue of unlawful presence is inapplicable to legalization applicants with pending legalization applications.

ORDER: The appeal is dismissed. This decision constitutes a final notice of ineligibility.